

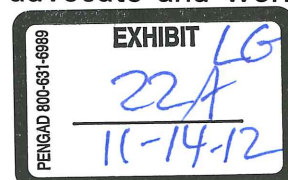
JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Family Court
(New Candidate)

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1. Why do you want to serve as a Family Court Judge?

I love my practice, but I want to analyze issues from all sides, not just one side. I am a people's lawyer and I can serve our citizens in a different way as a Judge than I can as an attorney. I am only interested in a family court judgeship. My desire to leave the practice of family law as an attorney and become a Family Court Judge stems not only from the "people" aspect of this position but also the equitable nature of the Court. From the public standpoint, I believe as a Family Court Judge I would have a greater impact in protecting the State's most vulnerable wards (children and vulnerable adults) through the abuse and neglect cases. Many of my cases deal with children who, inevitably, end up suffering the most in family breakup and I want to serve these children. Further, as a Family Court Judge, I would be one of the early interveners for children in the criminal justice. Recidivism is expensive for any state, as is the prosecution and detention of juvenile offenders. I am interested in juveniles in the system being rehabilitated and redirected to become productive citizens of this State. As a Family Court Judge I would be in the unique position to have a direct impact on the rehabilitation and redirection of juvenile delinquents, the protection of children that are victims of abuse and neglect, and at the end of a private custody case, I would be able to ensure that the best interest of the children are protected. Finally, with regard to the equitable nature of the Court, my focus in my practice is to bring as much stability and comfort to clients during their family court litigation. There are few things more debilitating than marital discord and my practice has given me a unique perspective on this. I appreciate that our Family Court is a court of equity and is non-jury. This affords families the best opportunity to become whole again after a break-up knowing that their very personal issues will not be aired before a jury of their peers but will be kept in the confines of a judge. A judge can rule based on the law, equities and fairness. As an attorney, I can only advocate and work for one party. As a guardian, I can only advocate and work for



the children. As a Family Court Judge, I can impact an entire family unit and further this State's interest of administering our laws in Family Court in a fair, impartial and equitable manner. I consider the role of our family court judges to be sacred and I do not apply for this lightly. It is a natural progression for me to become a Family Court Judge where I can use my skills, knowledge and interest in family law at a higher level.

2. Do you plan to serve your full term if elected? Yes.
3. Do you have any plans to return to private practice one day? No.
4. Have you met the statutory requirements for this position regarding age, residence, and years of practice? Yes.
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

Ex parte communications are unacceptable and undermine the integrity and honor of our judicial system. In Family Court, *ex parte* orders to grant emergency or expedited hearings are sometimes necessary and appropriate to protect children from harm or a threat of harm or to protect a spouse from imminent physical harm.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

First, I have a duty to hear and decide the matters assigned to me. Second, I have to perform my duties without bias, prejudice or partiality. These duties must both be considered in situations concerning recusal. I would recuse myself if a former partner or associate appeared before me. With regard to attorney-legislators, I would expect that attorney to act in the best interest of his/her client and not try to use their position to influence my decision. In the same manner, I would attend to performing my duties without bias, prejudice or partiality. If I could not do so, I would recuse myself.

7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

I would weigh the basis of the motion with preserving the integrity of the legal system from the litigant's standpoint and with my ability to render an impartial, fair decision. I would be willing to err on the side of caution and grant the motion if the interest of protecting the integrity of our justice system outweighed my duty to hear the cases assigned to me. I understand for litigants, it is critical that their confidence in our family court system be preserved by removing any hint of bias.

8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

I would recuse myself.

9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?

I will not accept gifts. With regard to social hospitalities, although the Canons do permit me to accept ordinary hospitalities, I would not adopt a blanket rule of accepting this type of hospitality. I would consider the situation, the extent of the hospitality and the offering party before accepting. If acceptance would conflict with the ethical rules governing members of the judiciary, I would graciously decline their offer.

10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

Upon becoming aware, I would report the misconduct to the appropriate disciplinary authority.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be evaluated? No.

12. Do you have any business activities that you would envision remaining involved with if elected to the bench? No.

13. Since family court judges do not have law clerks, how would you handle the drafting of orders?

One benefit of my extensive experience in family law is my form and research files. I would utilize these during my judgeship. At the conclusion of a hearing, I would issue a ruling in the form of a memorandum, or verbally if appropriate, that includes findings of facts and conclusions of law along with certain statutory or case law I may want included. Both attorneys would be simultaneously notified of my ruling. I would assign drafting a proposed order to one of the attorneys who would be required to submit the draft to opposing counsel for review prior to submission to the Court. I would then review, revise or edit the proposed order as I saw fit. I would also have no problem drafting my own orders and doing my own research if the circumstances warranted it. With the rise of the self-represented litigant, this may become even more necessary and I can draft orders quickly and efficiently.

14. If elected, what method would you use to ensure that you and your staff meet deadlines?

Another benefit of my family law practice is my docketing system and control. I could easily have multiple hearings scheduled in any given month in different counties, as well as deadlines on discovery and pleadings, and deposition schedules. My electronic docketing system is accessible 24/7 and is cross checked with the paper files on a weekly basis. I would implement a similar system with

my judiciary staff. We would have a shared calendar with reminders set and a weekly or bi-weekly cross check audit. I would consult with experienced sitting judges who may have developed efficient docketing systems for other ideas.

15. If elected, what specific actions or steps would you take to ensure that the guidelines of the Guardian Ad Litem statutes are followed during the pendency of a case?

The Guardian would be appointed by Order and the scope of his/her duties and investigation would be clearly delineated in the Order. If other professionals are court appointed, the Order would specify his/her duties, the scope of involvement in the case and specific areas or issues to investigate that might be important to the Court in rendering a decision. One important way to supervise is to require written interim reports prior to any contested hearings and to require the Guardian or professional to bring an interim report to pre-trial hearings/status conferences. This will provide the attorneys with valuable information and will enable me to ensure the investigation is moving along and being done impartially. Final reports must be filed in the time frame delineated in the statute. Guardians and testifying professionals will also have to adhere to the applicable Rules of Family Court, Rules of Evidence and Civil Procedure.

16. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?

I oppose judicial activism. The legislators are vested with the authority to enact statutory law and our appellate courts interpret that law and have the duty of dictating the common law of our State. My duty is to administer the law, based on the individual facts of the case before me. If an issue is novel, then I am under an obligation to address it after diligent research and consultation and to ensure that my ruling conforms to the public policy of our State and that it conforms with the basic tenets of our statutory and common law. I do not want to, nor is it my job to, set public policy. Public policy is recognized by our legal system where appropriate and where it conforms to the tenets of our law. I am comfortable with promoting the public policy of our State that has already been adopted. For instance, our State has an interest in the preservation of marriage which stems from public policy and therefore I have a duty to promote that public policy through making a diligent finding that parties cannot reconcile their marriage before I grant their divorce.

17. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities would you plan to undertake to further this improvement of the legal system?

I will ensure that the people appearing before me are afforded civility and fairness to improve the public image of our family court

system. I will continue to participate in CLE's and seminars as both a student and instructor. Not only do I want to enhance my legal knowledge but as an instructor, I want to promote the administration of justice to the lawyers appearing in family court and to help mentor young lawyers. I would like my courtroom to be technologically friendly to include video conferencing where appropriate. I also want to work on ensuring that Guardians in private custody cases are paid in full and on time.

18. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you plan to address this?

I do not believe the pressure of serving as Judge will strain my personal relationships. As a sole practitioner for over 15 years and a small business owner, my law practice is extremely pressured and stressful. I am not an expert on stress relief but I have learned to deal with the stress so that it does not interfere with my personal relationships. I eat well, exercise, take time off when needed and spend time with my family to relieve the stress and pressure of my practice and will continue to do the same as a Judge. My family wholeheartedly supports my goal to become a Family Court Judge.

19. Would you give any special considerations to a *pro se* litigant in family court?

I would hold them to the same procedural and evidentiary standards as I would an attorney appearing before me. I would take the time to ensure that they had the opportunity to consult with and hire an attorney if they wanted to and I would thoroughly question them on their competency to represent themselves. They would understand that I could not give them any legal advice. I would also take the time to explain terms or procedures of the courtroom to a *pro se* litigant. I would show these litigants the same courtesy and respect I would show the attorneys appearing before me.

20. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?

No.

21. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved? No.

22. Do you belong to any organizations that discriminate based on race, religion, or gender? No.

23. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.

24. What percentage of your legal experience (including experience as a special appointed judge or referee) concerns the following areas? If you do not have experience in one of these areas, can you suggest how you would compensate for that particular area of practice?

With regard to abuse and neglect and juvenile cases, I will contact CASA and DJJ for recommendations of resources to review and any available training programs. I use CLE study, case experience, advance sheet review and personal study to gain the knowledge I need regarding my main areas of practice.

- a. Divorce and equitable distribution: Almost all of my cases involve these two issues to some degree, 80% approximately.
 - b. Child custody: 70% (including guardian work)
 - c. Adoption: 10%
 - d. Abuse and neglect: 10% including APS cases.
 - e. Juvenile cases: 0
25. What do you feel is the appropriate demeanor for a judge?
Patient, impartial, controlled/even tempered, attentive, dignified, professional, courteous, friendly and respectful of other people's time.
26. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?
They apply on the bench, in chambers and in the view of public. To some extent, these attributes apply in the privacy of my home even though my role at home is quite different. But certainly, I advocate that the qualities of patience, courtesy, friendliness and a calm demeanor are conducive to a successful home and should be normal attributes of a person with good character no matter where they are.
27. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or a pro se litigant?
It is never appropriate to use anger or give the appearance of anger in the courtroom. Anger is not an acceptable part of judicial temperament.
28. How much money have you spent on your campaign? If the amount is over \$100, has that been reported to the House and Senate Ethics Committees?
At the time of signing this application, I have spent \$20 on name tags, \$9 on stamps, \$30 on business cards and \$20 on paper and envelopes.
29. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? n/a

30. Have you sought or received the pledge of any legislator prior to this date? No.
31. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.
32. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?
My friends and colleagues are aware of my intent to run for family court judge and may have contacted members of the General Assembly about me, but not to my direct knowledge.
33. Have you contacted any members of the Judicial Merit Selection Commission? No.
34. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted? Yes.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Monét S. Pincus

Sworn to before me this 9 day of August, 2012.

Notary Public for South Carolina

My commission expires: 12/01/21