

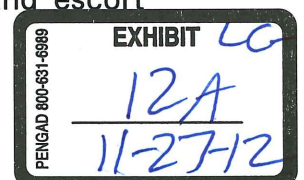
JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Master-in-Equity
(Incumbent)

Full Name: Curtis G. Clark
Business Address: 414 Monument Street, Suite A
Greenwood, South Carolina 29646
Business Telephone: (864) 223-8907

1. Do you plan to serve your full term if re-appointed? Yes.
2. Do you have any plans to return to private practice one day?
I am a part-time Master in Equity and currently practice law.
3. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes.
4. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

Canon 3 of the Code of Judicial Conduct, particularly Canon 3B(7), is a useful source of information and guidance on this topic. Having served as a Probate Court Judge in a medium sized Probate Court, I had to be very much aware of ex-parte communications and the possible appearance of prejudice or impropriety from contact with a family or family members involved in an estate, or other matters before the Court. Most of the work in probate courts deal with estate administration and is not contested or adversarial, but is administrative. The probate court works very closely with most families or fiduciaries to timely accomplish the administrative and procedural requirements in an estate. In a meeting with a family or estate representative; a problem might arise such as a contested claim, question of testacy (identifying the heirs under a will or law), or whether the estate representative or an heir has acted appropriately or has to authority to perform a certain act, or some other like issue. When that occurred, I had to be aware a potential contest or adversarial problem might be forthcoming. In the meeting to get documents filled out and filed, or in conversation it may become evident that a problem may arise, particularly if someone came to see me, and started to tell me "their side". When this occurred, I would immediately stop the conversation and explain what an ex-parte communication is, and why I could no longer talk with them regarding the matter. I recommended they consult an attorney. If they continued to try to talk, I either would call a staff member into the room, or leave the office and send a staff member in to re-explain and escort



them out. The more difficult problem was phone contact, particularly when a party attempted to have a mutual friend contact me and give me a character reference or other statement of support.

Similar circumstances occur in Master/Referee cases. Sometimes when hearing notices are sent out, a party will contact me when they see my name as the hearing officer. The contacting party may want some general knowledge, such as to know what the hearing will be about, or how the sales process works, or how long they can stay in the house if a sale is ordered. Sometimes they want "help". Being a very part-time Master, I do not have a formal courthouse office or any court staff to intervene between me and the public. Further, this type of public contact is difficult to guard against when you operate a law office as well. My office receptionist tries to screens calls and visitors to determine subject matter of the contact. After all, the person may be a new client contacting me seeking attorney services when they call to set an appointment on a "problem with their property".

Courthouse offices, in general, refer people and questions received there about foreclosures, tax sales, and other issues they perceive to be in my "area" of the law directly to me and my office. If the question is a procedural one, my staff tries to answer general knowledge or procedural questions on topics such as judicial sales, and determine whether the request is even something that I may be involved with (such as tax sales, which the county delinquent tax collector conducts). Many contacts are not by parties to a case, but are members of the public who are interested in buying property at judicial sale. The number of programs on purchasing property at cheap prices in recent years on television and the internet has caused regular inquiries by the public about foreclosure and tax sales.

If a party wants to talk about their case, or seek some substantive advantage; and I am the person they are talking to (because in a small office, I still need to help answer the phone at times), I stop them and tell them I will be glad to hear them at the hearing when all parties can participate, or possibly through a conference call with the other parties, if that appears a possibility. Most people honor this request. At any hearing thereafter, or at a meeting with attorneys for the parties in a particular case, I notify all parties of any prior contact and allow them the opportunity to ask questions about the contact and any prejudice that may exist or appear from such contact. A party certainly may ask for a recusal; and if appropriate, it would be granted, or I may decide on my own that too much contact has occurred to keep the appearance of impartiality on its face, and I make the decision to recuse myself. If the contact is a post hearing contact, and is significant enough (most frequent

example, a document, usually a letter, from a non-attorney party making a request of me as judge and the other party or parties are not copies), then I notify the other party or parties of the contact and allow time for any response or motion.

Finally, I can see some limited *ex parte* communications being tolerated. Canon 3B(7)(a) states if no party gains a procedural or tactical advantage because the judge notifies all other parties and allows them an opportunity to respond, then such communications may be tolerated. Similarly, this Canon allows *ex parte* communications for scheduling and administrative purposes or emergencies that do not deal with the substantive matters or issues on the merits.

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

Canon 3B(1) states that a judge shall hear and decide matters assigned to the judge except those in which disqualification is required. Canon 3E provides that a judge shall disqualify himself in a proceeding in which the judge's impartiality might reasonably be questioned, and gives some instances or examples where recusal should be considered or what to do. It is the appearance (emphasis mine) of impartiality, favoritism, or bias to a party by the judge that is to be avoided; whether impartiality or favoritism actually exists or not.

The commentary to Canon 3E provides beneficial guidance. First, "under this rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned regardless whether any of the specific rules apply." Then: "A judge should disclose on the record information that the judge believes the parties or their lawyers might consider relevant to the question of disqualification, even if the judge believes there is no real basis for disqualification."

I have practiced law alone, and have not had any partners. My past business associates are deceased or left the state, so I have no parties that I am close to, other than family, that I would immediately recuse myself from a case in which that person appeared. Even if no perceived bias exists, but it is well known that a party or the party's attorney and I, as judge, may be friends or have had some past business or other relationship or contact; then, as judge, I first have a duty to disclose that current or past relationship or contact, particularly if the other party or parties is not from the area and may not be aware of the closeness or prior association. Next, if the party asks for a recusal and can give some reason for the request, even if not an overwhelming or extremely good reason, then I believe Canon 3 requires a recusal; because it is the appearance (emphasis mine) of

impropriety that is sought to be avoided; and not the impropriety or bias itself.

6. 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?

As stated in the answer to question 5 above, the commentary to Canon 3E states that "a judge is disqualified (emphasis mine) whenever the judge' impartiality might reasonably be questioned". Under this standard, unless there is an emergency or other compelling circumstance when no other judge is available, then I believe that if the party requesting my recusal could give some reasonable basis for questioning my ability to hear the case without bias or impartiality. To be honest, I do not recall a motion for my recusal being made. But, as stated, if good reasons could be cited as a basis for my recusal, I probably would grant the request; remembering that under Canon 3E the standard is not what the judge believes or feels about him or herself; but when the impartiality might be questioned based on reasons that can be set forth, even if the reasons are not extremely powerful. It is the appearance of impartiality or bias that is to be avoided.

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

Canon 4D(5) of the Code of Judicial Conduct states that a judge should not accept, and shall urge members of the judge's family residing in the judge's household not to accept, a gift, bequest, favor or loan from anyone except for: (a) a gift incident to a public testimonial, or an invitation to attend a bar-related function or activity devoted to the legal system, improvement of the law, or the administration of justice; (b) a gift, award, or benefit incident to the business, profession, or separate activity of the spouse or other family member, provided the gift could not reasonably be perceived as intended to influence the judge in performance of judicial duties; (c) ordinary social hospitality; (d) gifts from family and friends for special occasions such as birthdays, weddings, or anniversary if the gift is commensurate with the occasion and the relationship; (e) a gift, bequest or loan from a relative or close friend whose appearance in a case would require disqualification; and any other gift, bequest, favor or loan only if the donor is not a party or other person who has come or is likely to come before the judge, and if its value exceeds \$150.00 the judge reports the compensation as required by the reporting requirements of the Code of Judicial Conduct.

On very infrequent occasions I may have a cup of coffee or a lunch with an attorney or attorneys, when no case is pending before

me that involves the attorney(s). I am a part time Master, or judge, who also practices law part of my time; and sometimes it is beneficial to get together with another attorney on a case, to work on and try to resolve or complete the case or issues in a case while in a more informal setting. If not involved in a case, I believe occasional social activity or contact is allowed under Canon 4.D.(5) of the Code of Judicial Conduct, as ordinary social hospitality. Greenwood County has a relatively small and close Bar. Abbeville County currently has 6 attorneys. To avoid impropriety, I would not have the meal or similar social contact if I felt there could be any "strings" attached or it contributes to a perception of close relationship, or future benefit for the attorney, or would give an inappropriate appearance to another observer or individual in the community. If a case was pending before me or scheduled to be heard by me; I would not engage in, or would severely limit, any social activity to avoid the appearance of partiality, favoritism, or impropriety. No lodging, thing of value, or expensive meal or drinks would be accepted under any circumstances. Attending a larger or formal social function, as part of the Bar or some other public group devoted to the improvement of the law, would be acceptable as long as my holding judicial office is not touted, and the purpose of the function has a law related purpose, and is not political in nature.

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

Canon 3B of the Code of Judicial Conduct states, at 3B(4) that a judge shall be patient, dignified and courteous to litigants, lawyers and other with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, staff, court officials and others subject to the judge's direction and control. At 3B(5), the Canon provides that the judge shall perform judicial duties without bias or prejudice, and shall not permit staff, court officials and others subject to the judge's direction and control to do so. Canon 3B(6) states a judge shall require lawyers in proceedings before the judge to refrain from manifesting by words or conduct any bias or prejudice against parties, counsel or others. 3B(7) states a judge shall not permit ex parte communication or consider communications made to the judge outside the presence of the parties; and at 3B(9), a judge shall not, while a proceeding is pending, make any public comment that might reasonably be expected to affect the case outcome or impair its fairness or a fair trial.

Therefore, there are a number of situations that may constitute misconduct for violation of these and other elements of the Code of Conduct. The misconduct may range from relatively minor breach, such as a judge or attorney not fully thinking or reacting poorly; to

something much more serious. Canon 3D of the Code of Judicial Conduct addresses disciplinary responsibilities. The commentary indicates that "appropriate" action may include direct communication with an offending judge or attorney (for a more minor infraction). However, the Canon is clear that a judge who receives information indicating that another judge or and attorney has committed a serious violation of the Code of professional conduct shall inform the appropriate authority where such violation is so severe that a substantial question of another judge's fitness for office or an attorneys honesty, trustworthiness or fitness as a lawyer is a substantial likelihood. Exactly where this falls on the scale of "seriousness" of the violation, is somewhat speculative; and I hope that I do not ever have to make that evaluation. But should the circumstances occur, I would do my best to follow the Canon and make a report to the appropriate officials.

9. Are you affiliated with any political parties, boards or commissions that need to be re-evaluated? No.
10. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? No.
11. How do you handle the drafting of orders?

I have no court staff, so I rely mostly on the attorneys in the case to prepare orders. It is not unusual to hear thirty, forty, or more cases a month as a part-time judge. Most of my hearings are uncontested hearings and either the attorney submits a proposed order, or I ask the attorney to draft an order. If the matter is contested, and even if a party appears without an attorney, I will ask the drafting attorney to submit the proposed order to the other party or parties for input.

If the matter is contested, I may send a letter, e-mail, or communicate a ruling and outline of what I consider to be the important and supporting facts for the ruling to all the parties, but ask one of the attorneys to prepare an order, and again submit a copy to the other parties, particularly attorneys. On the rare occasion there is no attorney involved, I prepare the Order, which I try to accomplish as soon as possible.

I personally review and sign all orders submitted. I spend a lot of time on stacks and boxes of hearing documents. One of my important roles in a case is to insure that the attorney or his staff did not accidentally make a mistake in the submitted order that makes the Order incorrect and adversely affects a party (sometimes the drafting attorney's client), goes beyond the issues or does not fully or appropriately address the issues of the case, reports a different result that was requested or ordered, is missing a referenced attachment, or is silent as to an issue; among other things.

12. What methods do you use to ensure that you and your staff meet deadlines?

I have no court staff, but use some of my law office staff as support staff. My office uses a computer based calendar and "tickler" system. I also have a report that is printed each week of activities and "things to do" (important upcoming events, but also lists items that need completion). In the fall of 2011, Court Administration trained and provided access for me, as Master in Equity, to participate in the Case Management System of Court Administration. This system lists and allows me to access all of the cases assigned to me as Master and to monitor them for age and activity.

I have also developed a "case sheet" for each case that provides a summary of the activities in that case. For pending cases, these are kept in a rolling file cabinet that is generally accessible to me and staff. I also have several special areas in my office, where cases are segregated or placed while awaiting a document or order, is waiting to have an order or sales documents signed, or is awaiting some other item. This allows a quick visual inspection to determine if there are cases that need attention; as well as contributes to staff knowledge of where to go to look for such cases.

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

Black's Law Dictionary, 5th Ed., defines "judicial activism", in part as, "judicial philosophy which motivates judges to depart from strict adherence to judicial precedent in favor or (sic - of) progressive and new social policies which are not always consistent with the restraint expected of appellate judges". *US Legal.com*, reports "Judicial activism is the view that the Supreme Court and other judges can and should creatively (re)interpret the texts of the Constitution and the laws in order to serve the judges' own visions regarding the needs of contemporary society. Judicial activism believes that judges assume a role as independent policy makers or independent 'trustees' on behalf of society that goes beyond their traditional role as interpreters of the Constitution and laws. The concept of judicial activism is the polar opposite of judicial restraint."

My personal philosophy is that any judicial activism should best be left to, the appellate level courts who may specifically be asked, as part of the case before it, to consider a challenge as to an existing legal principle or precedent. At that level, and with the resources available to the appellate courts, some review of policy or societal reasons for a standard may be considered, or not, depending on the court and judges on that court. My role as a trial level judge is to attempt to determine the existing applicable legal standards or controlling principles, from statutes, court rules, case law, or other

applicable source(s); and then to attempt to apply these standards or principles to the facts presented, or the issue or in the case before me. Please remember that good lawyers usually can and do arrive at different standards to apply; all being based on the same or quite similar laws, cases, contract between the parties, or other applicable or guiding source(s).

At the trial level, I am not involved to determine what the "policy" or societal reasons for the statute(s) or precedent were; nor the current validity of the policy reasons. I have no staff and limited resources to help conduct any research necessary to determine the applicable standard or precedent to apply, much less the "needs or desires" of contemporary society. Any change as to an existing statute, rule, or other precedent in any order issued by me as a judge would purely be based on my personal view or opinion of the standard and its necessity – a position that I am personally extremely uncomfortable with.

As further example, please note my explanation for the first case reported in my answer to Question 23 of the Personal Data Questionnaire, five of my most significant Orders. That case involved a claim of an "omitted child's share" in an estate. I noted in my explanation that I felt the (then applicable) statute needed to be amended; but I followed the statute in my Order, which was upheld on appeal. Later, when I served on a probate code revision committee, I was able to get the committee to recommend changes to the statute that the legislature adopted. I believe this was the more appropriate course of action or way to change the statute; through contact with the legislative branch whose duty it is to enact laws, and not attempting to amend or make law in a judicial ruling.

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

I have no specific plans or anticipated activities to improve the legal system. That said, a review of some of my responses to questions on the Personal Data Questionnaire, reflects that I am willing to give of my time and energy and participate in activities to improve the law and legal system when contacted or asked. In Opinion 7-2012, the Advisory Committee on Standards of Judicial Conduct quoted from the Commentary to Canon 4B, stating, in part "As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system and administration of justice. To the extent that time permits, a judge is encouraged to do so independently or through a bar association, judicial conference or other organization dedicated to the improvement of the law."

In my answer to question 11 of the Personal Data Questionnaire (PDQ), I listed a number of continuing legal education seminars that I moderated and/or participated in. At question 12 of the PDQ, I reported that I served on the review or editorial board for the S C Bar CLE Division, at Division request, for the Foreclosure Law Manual. Finally at question 50 of the PDQ, I listed at least seven (7) legislative, bar, or other legislation study committees that I participated on. I feel that it is a privilege and a duty to contribute to the legal and justice system if I can do so, and have something to offer.

15. Do you feel that the pressure of serving as a judge strains personal relationships (i.e. spouse, children, friends, or relatives)? How do you address this?

Judges are humans, and experience human problems. The demands on a judge and his or her time to hear cases, issue orders, make schedules and other administrative duties, at times seeming to be an attempt to "herd cats", by attempting to somewhat control an ever changing docket and similar issues can easily frustrate a judge and exacerbate and strain relationships with family, other relatives, and close friends. Frustration can not always be left at the office door, and may follow a judge home to either be taken out on family and friends, or interfere with the patient and ability needed to address family problems, and differences that may occur (such as teenage children) – sometimes all too frequently.

My recommendation is to attempt to find some way of dealing with the pressure and frustration through a hobby, exercise, or other means. Explain to family and friends that, like them, some days seem to heighten rather than resolve problems; and when that occurs, some recognition and co-operation is beneficial and appreciated. With advance notice and education, the family or good friends might become capable of recognizing the "not so good" days and take steps on their own to be supportive or help the judge to unwind. If the pressures of work wind up being stacked on other pressures, such as family members who require some regular attention or care, then counseling may be beneficial. Judges can not necessarily be experts in solving all problems. Sometimes the problems are too close to a person to fully be able to solve by oneself.

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

No.

17. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?

Probably. The commentary to Canon 4D(1) of the Code of Judicial Conduct states that participation of a judge in financial or business dealings is subject to the general prohibitions in Section 4A

against activities that tend to reflect adversely on impartiality, demean the judicial office, or interfere with the proper performance of judicial duties. However, "*de minimus*" is generally defined as being something that is so small, tiny, or trifling that the law does not take notice of it and will not consider it. So a *de minimis* financial interest would be one so small that the law would not consider. Even if it were an extremely small financial interest, If it came to my attention as judge when reviewing the case file, then I would at least attempt to disclose such investment or involvement to all parties, because just the fact that I thought of it once, does not mean that it might not come to mind again later in considering the case.

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

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

Yes. I even have obtained my required hour for substance abuse/mental health issues in the legal profession (1 hour every 3 years).

20. What do you feel is the appropriate demeanor for a judge?

A person's demeanor is their outward behavior or bearing, Reader's Digest.Oxford Compete Word Finder. Canon 1 of the Code of Judicial Conduct states, in part, "A judge should participate in establishing, maintaining and enforcing high standards of conduct and shall personally observe those standards." Canon 2A states that "a judge shall... act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary"; and 2B notes that "a judge shall not allow family, social, political or other relationships to influence the judge's judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others... "Canon 4A cautions that a judge shall conduct all of the judge's extra-judicial activities so that they do not cast doubt on the judge's capacity to act impartially, do not demean the judicial office, nor interfere with proper performance of judicial duties.

Judges do not have to live in boxes, only to come out for court; nor do they have to apply for the judicial priesthood. But the Canons are clear that judges should always be aware that the world may, and usually is, watching; particularly in a time of social media. A demeanor or conduct by a judge that does not uphold or demonstrate integrity or capability to be impartial to the public outside of the courthouse; undermines the judge's ability to command respect and carry out the judge's duties later, while inside the courthouse and courtroom. Thus a conservative demeanor, mindful of the impact that it has on others, is best.

21. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or do these rules apply seven days a week, twenty-four hours a day?

The Commentary to Canon 4A of the Code of Judicial Conduct notes that "complete separation of a judge from extra-judicial activities is neither possible nor wise; a judge should not become isolated from the community in which the judge lives." The rules set forth in answer to question 20; particularly the rules of Canon 4A, and this commentary, support that the Code of Judicial Conduct recognizes that judges have lives outside of the courthouse or courtroom. The judge should be mindful of the public appearance and perception of that extra-judicial life on his activities in the courthouse and courtroom. Thus, while possibly slightly relaxed away from the courthouse, the rules clearly do apply all the time.

22. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you? Is anger ever appropriate in dealing with attorneys or a pro se litigant?

Anger with a party is never beneficial, for the party nor the judge. As stated earlier, judges are humans too. Things are going to happen to cause all of us to be angry at times. It may be a series of frustrations or aggravations that build on the person. But a judge cannot allow control of the case to slip from his or her fingers. Once that occurs, the judge has lost control of the case. Canon 3B(3) of the Code of Judicial Conduct stated "a judge shall require order and decorum in proceeding before the judge."

Canon 3B(4) of the Code of Judicial Conduct states, in part, that "A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity"; and Canon 3B(7) states, in part, "A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law."

Anger may not be appropriate, and is certainly not beneficial, but it does occur. The person who is causing the problem may not even be the sole source of the anger, but may happen to be the "last straw". When that happens, the judge should suspend the proceedings in order to take time to allow the judge to compose him or herself, achieve some focus, and then reconvene the case.

23. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees?

I have spent no money on my campaign to seek re-election as Abbeville Master in Equity.

24. While campaigning for this office, have you used judicial letterhead or the services of your staff for your campaign?

I have not campaigned for this office, and therefore have not used judicial letterhead. Being a part time Master in Equity, I have no court staff.

25. Have you sought or received the pledge of any legislator prior to this date?

I have neither sought nor received pledges from any legislator.

26. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening?

I have not sought, nor been offered, a conditional pledge of support by any legislator.

27. 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?

I have not asked any third parties, friends or colleagues to contact members of the General Assembly on my behalf, nor am I aware of any other persons who have attempted to do so without my asking them.

28. Have you contacted any members of the Judicial Merit Selection Commission? No.

29. 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 am familiar with the 48-hour rule, and will comply with it.

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

Curtis G. Clark

Sworn to before me this 31 day of July, 2012.

Ann D Seymour

Notary Public for South Carolina

My commission expires: 02/26/18

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October 27, 2012

Ms. Jane O. Shuler, Esquire
Chief Counsel
Judicial Merit Selection Commission
Post Office Box 142
Columbia, South Carolina 29202

RE: Submission of Amended Answer to Question 13 of my
"Sworn Statement to be included in Transcript of Public Hearing"
Application of Curtis Clark for re-appointment as Abbeville County Master

Dear Ms. Shuler:

On October 15, I meet with Ms. Bonnie Anzelmo, staff attorney for the Judicial Merit Selection Commission. In that interview, Ms. Anzelmo stated she had some difficulty in fully understanding my answer to Question 13 of the "Sworn Statement", or the Ethics Questionnaire" as she referred to the document. The question seeks my philosophy on "judicial activism". After stating my philosophy, and reviewing my answer, I agreed with Ms. Anzelmo that the answer could have been better worded. She was then gracious to state that she and the Commission would allow me to submit an amended answer to that question.

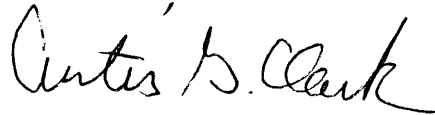
Attached please find my amended answer to Question 13 (on judicial activism) of the "Sworn Statement to be included in Transcript of Public Hearing". I apologize for the delay in sending this amended answer, but this document was stored on my home computer, and I have had to have my home computer worked on for a problem. Therefore I did not have access to the stored document for a period of time.

If I need to send my amended answer to you, Attorney Anzelmo, Laurie Traywick, or someone else as an attachment to an E-mail so it will be available in electronic form; please feel free to contact me at my E-mail address of: ~~XXXXXXXXXXXXXXXXXXXX~~ and I will immediately provide my amended answer as a word attachment to the named recipient.

I thank you, Ms. Anzelmo, Ms. Traywick, and your staff for your professionalism; and for the personal courtesies that have been extended to me in processing and reviewing

my re-application to continue service as Abbeville County Master in Equity.

Cordially yours,

A handwritten signature in black ink that reads "Curtis G. Clark". The signature is written in a cursive style with a large initial 'C' and a distinct 'G'.

Curtis G. Clark
Abbeville County Master in Equity

enclosure: Question 13 of Sworn Statement with amended answer

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

Black's Law Dictionary, 5th Ed., defines "judicial activism", in part, as "judicial philosophy which motivates judges to depart from strict adherence to judicial precedent in favor or (sic - of) progressive and new social policies which are not always consistent with the restraint expected of appellate judges". *US Legal.com*, reports "Judicial activism is the view that the Supreme Court and other judges can and should creatively (re)interpret the texts of the Constitution and the laws in order to serve the judges' own visions regarding the needs of contemporary society. Judicial activism believes that judges assume a role as independent policy makers or independent 'trustees' on behalf of society that goes beyond their traditional role as interpreters of the Constitution and laws. The concept of judicial activism is the polar opposite of judicial restraint."

As a Master in Equity, I am a trial judge. My personal philosophy is that judicial activism has no place in the trial court. My role as a trial level judge is to attempt to determine the existing applicable legal standards or controlling principles, from statutes, court rules, case law, or other applicable source(s); and then to attempt to apply these standards or principles to the facts presented, or the issue(s) presented, in the case before me. Please remember that good lawyers usually can and do arrive at and promote different standards to be applied to the same case and facts; all being based on the same or quite similar laws, cases, contract between the parties, or other applicable or guiding source(s).

I am not involved as a trial judge to determine what the "policy" or societal reasons for the statute(s) or precedent were; nor the current validity of the policy reasons. I have no staff and very limited resources to help conduct any research necessary to determine the applicable standard or precedent to apply, much less the "needs or desires" of contemporary society. I am personally extremely uncomfortable with any change to an existing statute, rule, or other precedent – or their current application - in a decision by me as a judge if that change is based solely on my personal views or opinion of what the standard or application should be; if different from the current statute, standard, or application.

As further example, please note my explanation for the first case reported in my answer to Question 23 of the Personal Data Questionnaire, five of my most significant Orders. That case involved a claim of an "omitted child's share" in an estate. I noted in my explanation that I felt the (then applicable) statute needed to be amended; but I followed the statute in my Order, which was upheld on appeal. Later, when I served on a probate code revision committee, I was able to get the committee to recommend changes to the statute that the legislature adopted. I believe this was the more appropriate course of action or way to change the statute; through contact with the legislative branch whose duty it is to enact laws, and not by attempting to amend or make law in a judicial ruling.