



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

Administrative Law Court
(New Candidate)

Full Name: Anthony Robert Goldman

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1. Do you plan to serve your full term if elected?

Yes.

2. Do you have any plans to return to private practice one day?

It is very unlikely that I will engage in private practice considering that I have not thus far.

3. Have you met the statutory requirements for this position regarding age, residence, and years of practice?

Yes, I have.

4. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

At no time during the pendency of a case is it appropriate for a judge to engage in discussing the merits of the issues with a party unless all parties are present or can appear at the same time. Furthermore, a judge must refrain from discussing, in a public forum, any case that is pending on appeal or in another jurisdiction.

While Canon 3(B)(7)(a) of Rule 501, SCACR, permits a judge to engage in *ex parte* communications with a party for scheduling, it is my philosophy that such conversations should be avoided and that parties should be advised that all communications regarding administrative issues should be directed to the judge's judicial law clerk. It has been my

experience as a judicial law clerk that, even for scheduling matters, it is advisable to include all parties in these discussions.

The only circumstance in which I foresee possibly engaging in an ex parte communication would be under the scope of Canon 3(B)(7)(c), Rule 501, SCACR, while discussing an issue with another Administrative Law Court judge or administrative staff.

Although Canon 3(B)(9), Rule 501, SCACR, allows for public statements that are made in an official capacity or are intended to explain the procedures of the court, I would choose to refrain from doing so. I believe that such discretion is important to maintain the integrity, independence, and impartiality of the court. It is very easy for statements to be taken out of context.

5. 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?

It is paramount to maintain the impartiality of the Court. Therefore, if the Clerk of Court assigns a case to my office, and I am aware of facts that could reasonably call into question my impartiality, it would be my responsibility to disclose the information to the parties, even if I do not believe there is any real basis to recuse myself from the case.

Upon disclosing the circumstance to the parties, on the record, I would ask each party their preference regarding whether I should disqualify myself from the case or if I have their consent to continue to preside over the matter. If I do not have unanimous consent, then I would inform the Clerk of Court and request that the case be reassigned to another judge.

However, if the parties mutually consent that disqualification is not necessary, and I am still willing to hear the case, then I would incorporate such an agreement into the record.

6. If elected, what standards would you set for yourself regarding the acceptance of gifts or social hospitality?

Generally, a judge shall not accept, and shall urge his family and his household not to accept, a gift from anyone. However, a gift may be accepted where it is incident to a business, profession or other activity of a spouse or other family member, so long as accepting the gift is not

reasonably perceived as intended to influence the judge in the performance of his judicial duties.

While the Code of Judicial Conduct allows for judges to accept social hospitality, I will always be mindful of the propriety or appearance of impropriety in all activities. Therefore, I would have to make a determination on a case-by-case basis whether I can reasonably accept the social hospitality.

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

In a situation where I become aware and have knowledge that a lawyer has engaged in misconduct that is in violation of Rule 407 of the Rules of Professional Conduct, then I have the duty to inform the Office of Disciplinary Counsel. As Canon 3(D)(2), Rule 501, SCACR, sets forth, a judge shall inform the appropriate authority where there is knowledge that a violation has occurred. Similarly, under Canon 3(D)(1), my responsibilities required that I take such action if the knowledge of misconducted pertains to another judge.

However, if I receive information that suggests there is a substantial likelihood that a lawyer or a fellow judge has engaged in misconduct, then I would evaluate the situation and take appropriate action. Such action may include reaching out to the lawyer or judge directly or some other action depending upon the nature of the misconduct. However, I will reach out to the Office of Disciplinary Counsel if I believe in good faith that the misconduct rises to a level that warrants such action.

As the Preamble to the Rules of Professional Conduct set forth, the legal profession is largely a self-governing body overseen by the courts and, in order to maintain its independence and relative autonomy from government oversight, it is our duty as lawyers to ensure that all lawyers observe the rules of professional responsibility. Thus, we need to self-police and hold each other accountable to exercising the professional standards that come with being officers of the court.

In circumstances where there is the appearance of infirmity of a lawyer or fellow judge, I would evaluate the situation and take such appropriate action that is most likely to help the lawyer or judge address the infirmity and prevent any harm to the justice system. Depending upon the disability or impairment, I may contact the lawyer or his superior directly. In more serious situations, I would refer the lawyer or fellow judge to an assistance program, such as Lawyers Helping Lawyers or the South Carolina Bar.

8. Are you affiliated with any political parties, boards or commissions that, if you are elected, would need to be re-evaluated?

No, I am not.

9. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? Please describe.

No, I have not.

10. How would you handle the drafting of orders?

Generally, I plan to draft orders myself, with input from support staff, after a thorough review of the facts in the record and the law and regulations. However, circumstances arise where it is worthwhile to allow a party(s) to prepare a draft order for the court's review. However, this situation is the exception to the rule and often reserved for more complex litigation. In such a situation, where the court requests that a party prepare a draft order, the other parties must be given an opportunity to respond to the proposed findings of fact and conclusions of law.

11. What method would you use to ensure that you and your staff meet deadlines?

As a judicial law clerk for the past thirteen years, I have found that the best method for managing deadlines and adjudicating matters in an efficient and thorough manner has been through the use of sharing a calendar with the judge and leveraging the use of the Administrative Law Court's case management system, which tracks the status of its cases.

Some deadlines are imposed by statute and others by the Rules of Procedure for the Administrative Law Court, such as the deadline for ruling on a Motion for Reconsideration. It is important to properly note, in the case management system and in shared calendar, when the motion has been filed and when the reply is due to be filed. By keeping track of the status of cases in such a manner, I will be able to properly prioritize the workload with for my office.

It has been my experience, as well, the parties appearing before the Court play a role in ensuring that deadlines are met. For example, upon the assignment of a contested case, the Administrative Law Court sends out a procedural order to gain further understanding of the underlying issues, but also to inquire as to the availability and needs of the parties. Using this

process, the Court can properly schedule hearings and balance its caseload so that no particular case drains too much of the court's resources. This process allows the judge's office to remain focused and productive.

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

The role of the court is to decide cases that come before it based upon the laws of the state and the facts that have been entered into the record. The court should abstain from making decisions in cases that attempt to promote policy or broaden the law beyond the intent of the legislature, except where permitted by law. See S.C. Code Ann. § 1-23-600(H)(4)(a)(Setting forth that, in ruling on a motion to lift the automatic stay, the court shall consider, among several factors, whether doing so is in the public interest). A judge who fails to follow the law violates his oath to be a good steward of the law.

13. 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?

Over the past thirteen (13) years, while working at the Administrative Law Court ("ALC"), I have learned a great deal about Administrative Law and about advocacy in the legal forum. I would like to pass along this knowledge and experience to future lawyers so that the legal community continues to cultivate new and upcoming talent.

Furthermore, I would like to participate, where possible, in making improvements to the substantive and procedural law of South Carolina. During the course of my employment at the ALC, I have offered input for the improvement of the court's rules and, as a judge, I would like to expand upon this activity where possible.

And, if possible, I would like to explore opportunities to do some public speaking in the legal community.

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

I do not feel that the pressure would strain my personal relationships. As a judicial law clerk at the Administrative Law Court, my family and friends have respected my position and understand the boundaries that I have set, particularly those who are members of the legal community.

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

No.

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

As previously stated in question 5, the impartiality of the court is paramount to my personal interests and, thus, I would exercise the utmost caution, even in circumstance where a family member maintains a *de minimis* financial interest. Under Canon 3(E)(1)(c), Rule 501, SCACR, I may continue to preside over a case, as long as the financial interest of the family member is nothing more than *de minimis*. However, in such a situation, I will give careful thought to the situation and make a determination if I should disclose this information, on the record, and ask each of the parties individually their preference regarding whether I should continue to preside over the case.

17. Are you a member of any organization or association that, by policy or practice, prohibits or limits its membership on the basis of race, sex, religion, or national origin? If so, please identify the entity and explain if this organization practices invidious discrimination on any basis.

No. I have not and never will.

18. Have you met the mandatory minimum hours requirement for continuing legal education courses for the past reporting period?

Yes, I have.

19. What percentage of your legal experience has dealt with cases that appear before the Administrative Law Court? Please describe to the Commission your experience in these areas.

I have been working at the Administrative Law Court ("ALC" or "Court") for the past thirteen (13) years. Throughout this time, I have worked on hundreds of cases dealing with numerous legal issues within the Court's jurisdiction. In appellate matters, my responsibilities include reviewing the record on appeal, reading the appellate briefs, and researching the law and regulations surrounding the issues before the

Court. Upon completion of these tasks, I generally draft an order for the presiding judge. Often the process involves discussions with the judge regarding the case, so that the Court can arrive at the correct decision. In matters before the Court as a contested case for de novo review, my responsibilities include preparing the case for a hearing, as well as appearing behind the bench with the presiding judge to provide legal and administrative assistance. Similar to appellate cases, my responsibilities with contested cases can involve extensive legal research and writing to assist with the preparation and issuance of a final order and decision.

Unlike attorney's who appear before the Court while representing clients, I have gained extensive experience in the operation of the Court, as well. In addition to using my training as an attorney, my responsibilities include performing many administrative tasks that are integral to the success of the Court, as an administrative agency. This includes acting as a liaison between the Court and the state agencies that appear before it. As a result, I have gained extensive experience not only in the adjudication of cases that reach the ALC, but I have also become familiar with the procedural and substantive processes at the various state agencies before that come up for the ALC's review.

20. What do you feel is the appropriate demeanor for a judge and when do these rules apply?

Whether in a professional setting or in personal matters, a judge must maintain a higher standard of behavior and refrain from conduct than may be burdensome bear by a member of the general public. It is important that a judge's conduct does not create the perception of the inability to perform the judicial responsibilities with integrity, impartiality and competence.

Furthermore, a judge should not act in such a way that attempts to leverage the prestige of the judicial office as a means for personal gains and treatment that would not be afforded to others.

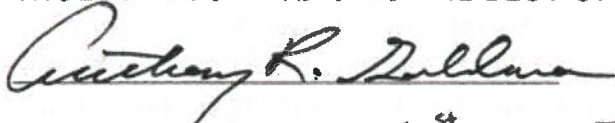
21. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you? Is anger ever appropriate in dealing with attorneys or a pro se litigant?

Anger toward members of the public or attorneys and pro se litigants is never appropriate. In order to maintain order and decorum in the courtroom it is particularly important for the judge to set an example for others.

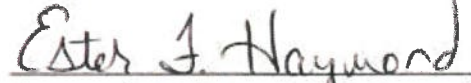
As Canon 3(B)(4), Rule 501, SCACR, sets forth, "a judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, and of staff, court officials and others subject to the judge's direction and control."

However, as the comments to Canon 3(B) state, the duty to act fairly and with patience is not inconsistency with comporting oneself in a businesslike manner. Therefore, while anger is never appropriate, a judge may act with a level of authority that allows the court proceedings to flow smoothly and efficiently.

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



Sworn to before me this 21st day of July, 2020.



Notary Public for S.C.

My Commission Expires: 4-25-2029