



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

**Master-in-Equity
(Incumbent)**

Full Name: Mikell Ross Scarborough
Business Address: 100 Broad St., Ste. 266 Charleston SC 29401
Business Telephone: (843) 958-5074

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? No
3. Have you met the statutory 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?

I believe that *ex parte* communications are harmful to the legal process since they tend to bring the profession into disrepute. The only *ex parte* communications I envision would come in the context of an emergency such as a need for a Temporary Restraining Order in which the opposing attorney is unknown or in the need to schedule matters for hearing.

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?

I would attempt to express my position as clearly on the record as possible, if still the motion is before me, more likely than not, I would recuse myself based upon my belief that the court should not be the basis for an appeal or motion due to a perceived bias, prejudice or conflict of interest. I draw a distinction between the type of disclosure presented by myself versus one presented by another person. Clearly, if it was significant enough for me to disclose, it is something that I would likely grant.

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

I do not accept gifts or favors as a judge. As to social hospitality, I have kept my friends whom I hold dear, however, I am vigilant as to any perceived attempt to influence my behavior based upon offers of social hospitality and have declined these invitations.

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

The question implies actual knowledge of the misconduct rather than a substantial likelihood of misconduct. First, I would attempt to ascertain the basis for the alleged misconduct. Then, I would seek to address it with the lawyer or judge if the conduct was not in my presence. Once I am convinced a substantial question of fitness for office, honesty or misconduct is involved, I would report the misconduct to either the committee on lawyer conduct or judicial conduct.

8. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? Please describe. No
9. How do you handle the drafting of orders?
As Master in Equity hearing mostly non-jury matters, I prefer to rule from the bench if I am clear on the facts and the law applicable to the case; however, I generally request proposed Orders from each side or a memorandum of law on a particular issue I need guidance on to help me decide the matter. I request these orders be submitted in Word format so that I can alter and edit them to suit my specific ruling. I seek to issue written rulings within thirty days of receipt of the proposed orders or the conclusion of the matter before me.
10. What methods do you use to ensure that you and your staff meet deadlines?
I have an established office policy to ensure that everyone knows and understands the timetable under which my office needs to operate in a timely fashion. I have a Clerk of Court and office assistants to help monitor this policy on a daily, weekly and monthly basis. My calendar tickler system is run in 2 formats to monitor these deadlines.
11. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?
I am philosophically opposed to judicial activism which seeks to promote a particular public policy. The judicial system exists for the purpose of deciding disputes and enforcing laws but not setting public policy which is the purpose of the legislative and executive branches of government.
12. 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 seek to promote the legal system by speaking to various community groups when asked about what we do as Master in Equity. I have spoken to numerous groups while on the bench – both lawyers and non-lawyers- and most often on matters of current interest. During the Great Recession timeframe, I spoke often to real estate interests and still do. After passage of the Senator Clementa Pinckney Heirs Property Act I spoke to many different groups on this statutory change to our Partition laws. I have been the Judicial Member of the Board for the James L. Petigru Inn of Court which is affiliated with the Charleston School of Law as a way to introduce potential young lawyers to the local bar through educational presentations on topics of current interest.
13. 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?
It can. The most difficult aspect of serving as a judge is having to make decisions which directly impact peoples' lives – clearly the parties before the court, but the community also. As my office does almost all the foreclosures in Charleston County, my stated philosophy in the courtroom is "the policy of this

court and this state is to keep homeowners in their homes” as it benefits society as a whole. Sometimes, however, the difficult decision to foreclose is necessary under the law. I sincerely believe that my family and friends understand this.

14. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?
No.

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

The Canons of Ethics state that so long as the interest is *de minimus* it is not necessary to withdraw; however, as in question five above, if there was any question as to my impartiality on the question before me, I would withdraw.

16. 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 these bases.
No.

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

Yes.

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

A judge should be pleasant in demeanor, knowledgeable on the law, both procedure and substance, and allow lawyers to present their cases in a thorough and expeditious manner. A judge should be firm and decisive in the courtroom without bullying or attempting to control the outcome of the matter before him.

19. 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?

No, I believe you can be fair, firm and consistent without being angry.

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 ____ day of _____, 2021.

(Signature)

(Print Name)
Notary Public for South Carolina

My commission expires: _____