



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

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

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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 do not allow *ex parte* communication. On one or two occasions while I have been a judge, a party's attorney has communicated with me about a procedural issue without including the other party or lawyer. I can only recall this happening in cases involving pro se parties.

In such situations, however, I instruct the lawyer to send our communication immediately to the pro se party (typically, pro se will not have email, which is usually why the correspondence comes to me *ex parte*).

In my 8 years on the Bench, I have only experienced pro se parties attempting to communicate with the Court. When a pro se initiates an *ex parte* communication, I always advise it is unacceptable to communicate with the me directly, and on the occasion where it happens, I send that communication to adverse

party's counsel. The bright line of lawyer ex parte communication is simply not breached in my experience.

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 have had this scenario occur, actually. Here is what happened and how I handled it as I recall.

I held a status conference with attorneys on a consumer debtor versus institutional creditor case. The status conference was generally designed to bring me current on the case, discuss obstacles to a trial, and discuss pending motions for relating to discovery.

During the conference, Debtor's attorney alleged South Carolina judges, generally, are biased against consumer debtors. The debt in controversy was less than \$5,000.00. As the conference was winding down, I addressing both lawyers, I mentioned the cost - benefit analysis of litigation generally.

The Debtor's attorney in a later procedure, asked for my recusal. He alleged I held a bias against consumer debtors, including his client, basing his argument on my status conference comment relating to cost - benefit. The lawyer further argued the South Carolina Consumer Protection Code provided for an award of attorneys fees and cost for unconscionable conduct of the creditor. The lawyer also alluded to this statutory remedy as it gave him leverage to challenge creditors to procure favorable debt reduction for his clients in other cases of the nature of that which was before me.

I am pleased that I did not recuse myself. Primarily, the underlying facts alleged, even if true, would not support in my opinion unconscionable conduct. Secondly, I do not believe that lawyers should use the Courts as a means of exacting a costs from an adverse party on an unfounded, sometimes spurious, claim. I practiced law using the latter principal as a guidepost.

In short, the request for recusal because of an alleged bias should be taken seriously. But, I submit the Court should look at the underlying lawsuit as well to see if the litigant has a fairly grounded suit. If so, and I have demonstrated a bias, then recusal should be granted to avoid the appearance of impropriety.

The Court has to balance the duty to hear what is before the Court against the substance of the alleged bias, and the basis of the

underlying claims asserted in the lawsuit. A Court should not bend to a tactical maneuver, designed to delay, perhaps to run up costs to the adverse party. The bias must be objectively measurable and easily demonstrated to warrant recusal.

This is how I handled the actual occasion posited hypothetically in this question.

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

I don't accept gifts. I have accepted a social hospitality but only in a circumstance that would be generally acceptable, or ordinary, were I not a judge. I would never accept a social hospitality that exceeds an amount in value commensurate to the occasion.

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?

I will report misconduct that I become aware of or an appearance of infirmity of a lawyer or a judge.

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?

I have drafted most orders in contested cases before me. In some contested cases, I have asked a lawyer to draft the order and for the order to be shared with adverse counsel before submitting to me.

I ask that, in cases in which the parties do not agree to the language of the order, the lawyers report in writing to me the disagreement. If I deem it appropriate to amend the language of the proposed order, then I will draft that portion of the order, sign it, and let the lawyers move for reconsideration or amendment.

In pro se litigant cases, I draft the order.

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

I have one assistant. We communicate daily, and through-out the day; via text, telephone and email.

E-filing has been a God-send. She keeps me informed daily of tasks I need to complete and advises me to check my queue. She maintains the operation of my Court and administrative functions we must perform with my oversight as needed. She has been my assistant for nearly as long as I have been on the bench.

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

“Judicial Activism” as a means of setting or promoting public policy is inappropriate. A judge should not legislate from the bench. A judge should not take on the role of the executive branch of government. As a judge of facts and law, I strive to look carefully at the facts, consider both sides of the case before me, and apply the law to the best of my ability. As a trial judge, I do not make-up the law, I apply what precedent in the law I can find to the facts as I contrue them. I remain keenly aware that as a judge of facts and law I have the inherent power to do all things reasonably necessary to ensure that just results are reached to the fullest extent possible. [Ex Parte Dibble, 279 S.C. 592, 595, 310 S.E.2d 440, 442 \(Ct.App.1983\)](#)

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 enjoy presenting at continuing legal education programs. For instance, I’ve been asked to participate in a program sponsored by the Lowcountry Center for Heirs' Property Preservation. I have responded to that invitation favorably provided I can properly schedule it.

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?

No.

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

No.

I am a member of Jurisprudence, LLC, along with my former law partner. We each own a 50% membership interest in at will limited liability company. He is presently the Dorchester County in-house counsel. When he appears before me (although he has to date always advised me that he has advised all counsel of our former relationship and current financial relationship), I explain the potential appearance of impropriety. I allow the parties to discuss this disclosure outside of my presence. I recuse, if requested. I proceed to hear the case, if consent is obtained by all parties.

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

No.

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?

The appropriate demeanor for a judge is to be kind, fair, humble, and to treat others as you would want to be treated. These values are a continual state of being. As rules to govern oneself as a judge they apply all the time.

19. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you? No. Is anger ever appropriate in dealing with attorneys or a pro se litigant? No.

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:_____