



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

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

Full Name: James Otto Spence

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Suite 204, Lexington, S.C. 29072

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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? We (our office) are careful to constantly tell folks- lawyers and parties-that we can't talk to them unilaterally about the case or give legal advice. We discourage phone calls or in person conversation and direct folks to send emails to court and all parties and to do REPLY ALL on each email chain. We try to be very diligent about this practice because failure to do so can create a bad understanding of how legal matters are to be handled properly. We constantly remind/ educate both attorneys and pro se parties about this issue. We discuss it at Status conferences and whenever else is appropriate. The only time *ex parte* communications are allowed is when there is some type of emergency injunction etc. because there is requirement for hearing shortly afterwards or for ministerial or scheduling issues—when is hearing held? Which Court room etc.—questions like that.

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 believe that what the party requesting recusal believes about my impartiality is more important than what I think in my heart because it is the appearance that is critical. I would grant the motion. I want each side to believe they are getting a fair trial.
6. What standards have you set for yourself regarding the acceptance of gifts or social hospitality? Don't do it with parties or lawyers litigating before you.
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 rules allow for different things to do based on what type of act has occurred. I would try- pursuant to rules- to discuss and listen before report. Our Court Administration and Bar has done a wonderful job educating us about lawyer infirmity and all the ways to address these issues.
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? Some I do on FORM 4 (short). Some I will send Decision Memo and ask attorney to draft and circulate proposed Order. Mostly, I meet with attorneys at trial's end to confirm Undisputed/ Disputed Facts—agreed legal causes of actions and defense and respective relief demanded. I send them a Format Order based on this post trial discussion. We file an Order indicating when Transcript to be completed –when P and D to exchange proposed WORD Order, and then after this exchange P and D send C and each other final version of Proposed Word Order. I review pursuant to my chalk board process steps, do Grammar, Spelling and WORD RAKE edit, additional research when required. Court Admin. And SC Bar working on how AI impacts this process.

10. What methods do you use to ensure that you and your staff meet deadlines? Court Administration has a monthly report. When we receive a new case, we set a status conference to determine if it is contested or uncontested. If uncontested we assign to a specific staff person to monitor and coordinate with the parties to set a hearing and send notice. That staff person sets reply by dates to that we can keep parties focused on moving the case forward. If it is a contested case, we establish a Trial Schedule Order with dates certain for different steps- discovery complete, motions filed, Mediation, Motions heard and Trial date and time.
11. What is your philosophy on “judicial activism,” and what effect should judges have in setting or promoting public policy? Judges should follow the law that the legislature has passed since legislation reflects the will of the people through legislation and laws. Statutes and previous judicial decisions normally provide clear guidance on what relief a court can grant. If unclear, the court can carefully consider the public policy as set forth in previous cases or legislation. While some believe an equity court has unbridled right to do what the judge considers “right,” I do not. I am very cautious about decisions because equity is supposed to follow the law. A South Carolina citizen should not have his or her rights decided differently around the state simply because one judge’s “stomach” feels different than another’s.
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 work with state CLE as the MIE liaison to help plan our yearly seminars where we try to address current issues and develop best practices to educate both Bench and Bar. We have a local Lexington Bench- Bar seminar that meets 3 times a year- after Circuit court annual meeting, after Annual Judicial Conference and MIE Bench- Bar and year end meeting where we discuss case development and information presented at seminars to ensure lawyers and judges as up to date as can be. We have further developed our County Web site where we have information for both Lawyers and Non-Lawyers about the legal process. I am invited to speak about legal issues at various groups. I have rotated off Access to Justice and will soon rotate off Commission on Profession. Both these Commissions do outstanding work addressing both tactical and strategic issues facing the legal system in South Carolina. During the Pandemic a new

method developed of watching webinars with both the National Judicial College South Carolina Court Administration. Finally, normal CLE requirements.

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? Sometimes it does when you have to stress to family that you can't repeat or talk about anything in court because it is unethical and may cause recusal. Mostly, not so much anymore because they all know the answer.
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? No. I would not if I was aware. I have a statement in our Trial Schedule Order that requests that the attorneys, parties and witnesses discuss fact that I am the judge and to alert anyone to any conflict issues.
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? Being a judge is like being a husband and/ or a father –it is 365 24/7. We are stewards of the best legal system in the world because people still- for the most part—believe in it. We are all flawed. When wrong- change. When right- be easy to live with. Meekness is the spirit that makes correction a stimulant and not a

depressant. Everyone has a story. A judge never knows all the story. Be firmly respectful and courteous.

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. Anger implies a lack of control. A judge should always strive to be focused and in control. A judge can be forceful and respectful at the same time.

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

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Sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)  
Notary Public for South Carolina

My commission expires:\_\_\_\_\_