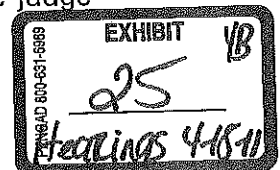


JUDICIAL MERIT SELECTION COMMISSION  
Sworn Statement to be included in Transcript of Public Hearings

Family Court  
(New Candidate)

Full Name: Diane P. DeWitt  
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1. Why do you want to serve as a Family Court Judge? I have the knowledge, skills and temperament necessary to provide every litigant with the opportunity to be meaningfully heard and to render well reasoned and fair decisions based on admissible evidence and applicable law. I recognize the need to balance the constitutionally protected rights of parents with the need to protect children and vulnerable adults. I have the legal and life experiences necessary to fairly consider the evidence and positions of all parties and to render thorough and thoughtful decisions, especially when determining what is in a child's best interests. I have a sincere interest in serving the state's citizens as a Family Court judge .
2. Do you plan to serve your full term if elected? Yes.
3. Do you have any plans to return to private practice one day? No.
4. Have you met the statutory requirements for this position regarding age, residence, and years of practice? Yes.
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated? I would not initiate, consider or permit *ex parte* communications, or consider any other communication made to me outside the presence of all counsel and the parties concerning a pending or impending proceeding except as permitted by law. Exceptions permitted include communications, in certain circumstances, for scheduling, administrative purposes, or emergencies not dealing with substantive matters or issues on merits provided there is reasonable belief that no party will gain an advantage as a result of the communication and where provision is made to promptly notify all other parties of the substance of the *ex parte* communication and be given an opportunity to respond. Another exception allows for a judge to obtain advice of a disinterested expert on the law applicable to a proceeding if the judge gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond. A judge may consult with court personnel whose duties include assisting the judge



in carrying out adjudicative responsibilities, or with other judges. A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to mediate or settle matters pending before the judge. A judge may initiate or consider any ex parte communications when expressly authorized by law. Ex Parte Orders are frowned upon but are permitted in emergency DSS removal child and vulnerable adult cases; in issuing orders authorizing law enforcement to assist a social services investigator in gaining access to a child for interview or inspection purposes so that a complaint of child abuse or neglect may be investigated, and in emergency situations involving the removal or endangerment of a child upon application with sufficient prima facie evidence of irreparable harm if the order is not issued. In these situations, I would schedule an emergency hearing and direct immediate service of the order and notice of hearing and also allow the aggrieved party the opportunity to move to vacate the ex parte order upon 24 hours advance notice to the applicant. I would disclose any ex parte communications to all parties and/or counsel involved.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you? I would treat lawyer-legislators with the same degree of courtesy and respect that all litigants and attorneys would receive, without favor. I have no former associates or law partners. I would base decisions on the facts and law without favoritism shown or granted to particular counsel.
7. 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 disqualify myself if I disclosed anything that had the appearance of bias. The public's confidence in our court system is based on the hearing of cases by impartial, fair and unbiased judges.
8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative? I would ask the parties and their lawyers to consider, out of my presence, whether to waive disqualification. I would not hear the case and would recuse myself unless all parties and counsel agree that I should not be disqualified, assuming I was still willing to participate.
9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality? I would not accept gifts from lawyers, litigants, or anyone who might have business or cases before me. I would accept ordinary social hospitality at social functions where other judges and lawyers are afforded the same hospitality, or for the same price that I pay to attend, such as bar association functions. I

- would not allow my children or family members to accept gifts from lawyers, litigants, or cases that might come before.
10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge? I am required to report information indicating a substantial likelihood that another judge has violated the Judicial Code of Ethics that raises a substantial question as to his or her fitness for office. I am required to report information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct if the conduct raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer. I would take appropriate action in situations involving possible misconduct of a lesser degree such as conduct bordering on violating the ethics codes. My actions could include reporting the conduct to another appropriate authority or agency, assigning a mentor, or direct communication with the lawyer or judge in an effort to determine what action is needed.
  11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be evaluated? I serve on the S. C. Legal Services Board of Directors. I would need to resign.
  12. Do you have any business activities that you would envision remaining involved with if elected to the bench? No. I have no business activities outside of my law practice.
  13. Since family court judges do not have law clerks, how would you handle the drafting of orders? I would use form "slip" orders at the conclusion of hearings when needed to issue restraining orders, visitation rights or custody, to be followed and supplemented by more thorough and complete orders. I would use these at the conclusion of temporary hearings, or trials, if needed, and when a case is taken under advisement. I would use form contempt and child support orders and Orders of Protection from Domestic Violence. I would use the "slip" orders at the conclusion of DSS cases when children are placed and have it supplemented with a complete order from the hearing. In other cases, I would have the party who appears to be most "prevailing" or the represented party prepare a proposed order with a copy to the other party and ask that the order or a form I have be signed as "seen and approved" or "seen and disagree to the following: \_\_\_\_\_". Upon receipt I would compare the order to my notes and correct any errors or prepare the order myself. If the parties disagree, I would have both submit proposed orders by email and choose or edit the order to comply with my ruling. There are instances in which I would prepare the order myself.
  14. If elected, what method would you use to ensure that you and your staff meet deadlines? I would use a dual calendaring system, on paper and computer, which my secretary or the clerk would duplicate.

15. If elected, what specific actions or steps would you take to ensure that the guidelines of the Guardian Ad Litem statutes are followed during the pendency of a case? Upon appointment, I would issue a supplemental order setting forth the guardian's duties and responsibilities, fees, retainer, division of fees, recordkeeping and such all as set forth in the Private Guardian ad Litem statute. At motion hearings and pre-trial conferences, I would want to know the status of the guardian's work and that he or she is in compliance, and has filed the affidavit as to qualifications and conflicts.
16. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy? Judges are to apply the law as written and have little or no say in setting or promoting public policy.
17. 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? I would write and lecture on legal topics at law conferences and seminars if requested and as time permits. I would serve on any committees that the Chief Justice may request me to be on. On a daily basis I would, by example, mentor lawyers, especially new graduates, so that they continue to respect and love the law and learn from their experiences.
18. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you plan to address this? I do not anticipate any strained relationships as my children are adults and I never discuss business or cases at home or with family or relatives.
19. Would you give any special considerations to a *pro se* litigant in family court? I would treat *pro se* litigants with courtesy and respect and allow them the opportunity to be heard in a meaningful manner. I would make sure *pro se* litigants are notified of all proceedings, and participate in pre-trial conferences and the like. I would try to speak in layman's terms when ruling on evidence and legal issues and the reasons for the rulings. I would not allow a *pro se* litigant to ask questions solely to harass or intimidate a witness or allow contemptuous or threatening conduct in the courtroom. The family court is a court of equity. As such fairness and the interests of justice should prevail.
20. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?  
No.
21. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved? I would recuse myself

- if , after consultation of the parties and counsel outside my presence, all parties do not agree to waive the disqualification.
22. Do you belong to any organizations that discriminate based on race, religion, or gender? NO
  23. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.
  24. What percentage of your legal experience (including experience as a special appointed judge or referee) concerns the following areas? If you do not have experience in one of these areas, can you suggest how you would compensate for that particular area of practice?
    - a. Divorce and equitable distribution: 35%
    - b. Child custody: 35%
    - c. Adoption: 5%
    - d. Abuse and neglect: 20%
    - e. Juvenile cases: 5%
  25. What do you feel is the appropriate demeanor for a judge? I judge should be courteous, patient and dignified. A judge should be impartial and fair and never manifest bias on any basis, by words or conduct.
  26. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day? The same rules apply at all times. A judge should do nothing that casts doubt on his capacity to act impartially as a judge, or that would demean the judicial office, or interfere with the proper performance of judicial duties.
  27. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or a pro se litigant? No. It is never appropriate to be angry with anyone, including a criminal defendant, attorney or pro se litigant.
  28. How much money have you spent on your campaign? If the amount is over \$100, has that been reported to the House and Senate Ethics Committees? n/a \$75.44 in postage
  29. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? N/A
  30. Have you sought or received the pledge of any legislator prior to this date? No
  31. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No
  32. 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? No

33. Have you contacted any members of the Judicial Merit Selection Commission? No
34. 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 HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

S/W. Diane P. DeWitt

Sworn to before me this 7<sup>th</sup> day of March, 2011.

Notary Public for South Carolina

My commission expires: 5/5/19