

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

**Family Court**  
**(New Candidate)**

Full Name: Karen F. Ballenger  
Business Address: PO Box 490  
Walhalla, South Carolina 29691  
Business Telephone: (864) 638-2930

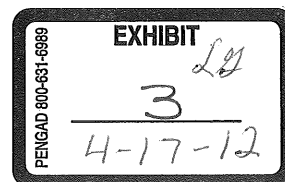
1. Why do you want to serve as a Family Court Judge?

Becoming a family court judge would allow me to continue to grow and serve my community in a field about which I am very passionate. As an attorney, my practice has always maintained a significant focus on family law. Approximately 10 years ago, I decided to devote the majority of my practice to family law because I found helping clients work through challenges in domestic litigation personally rewarding. A successful family court judge that can best serve their community is one who is passionate for family law, understands the intricacies of domestic actions and can handle the unique challenges that exist in family court. I believe that I embody all of these qualities.

I have over 22 years of experience in family court issues. I have experience handling every legal issue involving the family court. I have years of experience handling divorce actions, equitable division of marital property cases, adoption cases, child abuse and neglect cases, and juvenile cases. Serving as a guardian *ad litem* and making sure that the best interest of our children are protected has been a major area of my practice. In reviewing my legal career, I feel that I have had many opportunities and experiences that have led me to where I am today and have guided me to the decision to seek this family court position.

Last, I feel that I have the personality to be a good family court judge. I believe that my success as a family court attorney has been largely due to my ability to relate to people with diverse backgrounds. I feel that I am someone who is able to relate to people regardless of their status or station in life. As a family court judge, it would be my duty and goal to treat everyone with respect, ensure that every litigant has a full and fair hearing and utilize my years of experience in family court to reach a just and equitable result.

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?

Canon 3, Rule 501, SCACR, specifically states that "A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. A judge shall not initiate, permit, or consider *ex parte* communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding. "In the commentary to this rule, it specifically states that to the extent reasonable possible, all parties or their lawyers shall be included in any communications with a judge.

After stating the rule, Canon 3 goes on and states that a judge may initiate or consider any *ex parte* communication when expressly authorized to do so. Examples when an *ex parte* communication may be expressly authorized by law includes the issuance of a temporary restraining order and the issuance of temporary orders related to child custody and support where conditions warrant (Section 63-17-390 of the South Carolina Code of Laws). Another example of when a family court judge can consider *ex parte* communication is in cases involving abuse and neglected children. Section 63-7-740 of the South Carolina Code of Laws allows the family court to issue an *ex parte* order that a child be taken into emergency protective custody provided the family court judge determines that there is probable cause to believe that the child is in imminent and substantial danger due to abuse and/or neglect.

As a family court Judge, I would only consider *ex parte* communications under extreme circumstances and in accordance with these rules.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

Canon 3(e) of the Code of Judicial Conduct specifically states that "A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned . . . "

The Rules gives specific times when a judge must recuse or disqualify himself. Those times include when the judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge may be a material witness.

There is no reason that a judge cannot hear a case where there is a lawyer-legislator, or when a former law partner is involved unless his law partner was handling the case at the time of his association with the judge.

However, I feel that a good practice is that when you as a judge have any reason to believe that someone may raise the issue of impartiality then it is always best to disclose on the record information that the judge believes the parties or their lawyers might consider relevant to the question of disqualification, even if the judge believes there is no real basis for the disqualification (as stated in the commentary).

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?

If there was the appearance of bias and a party requested my recusal, I would grant the recusal. As stated in the preamble of the Code of Judicial Conduct, our legal system is based on the principle that a fair and impartial judge will apply the law to the cases before him or her.

However, in small counties, I can see the situation where "necessity may override the rule of disqualification" (a term used in the commentary). I can envision an emergency situation being before me and having to hear the emergency situation and give a temporary ruling until the matter could be heard by another judge (as soon as possible). But, I would do this in cases where I felt that I could hear the case impartially. But, I would not hear the matter even on an emergency basis if the matter fell within the specific circumstances set forth in the canon which clearly would disqualify me from hearing the matter.

8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

Canon 3 is very clear. The bottom line is I would recuse myself if my impartiality might be questioned due to any basis.

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

Canon 4 specifically states that a judge shall not accept, and shall urge members of the judge's family residing in the judge's household, not to accept, a gift, bequest, favor or loan from any one. The rule goes on and gives examples of where it is proper and acceptable to accept a gift.

As a judge, you would never want to put yourself in position where someone could allege that something was given to you to influence your decision in a case. As a judge, you would never want

anyone to be able to claim that you treated the attorney giving you the gift differently than the other attorneys appearing before you.

Therefore, as a judge, I would never accept a gift, favors or loans from an attorney or any person that may be coming before me on the bench.

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

Canon 3(d)(1) specifically states that "a judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code [Code of Judicial Conduct] should take appropriate action. A judge having knowledge that another judge has committed a violation of this Code that raises a substantial question as to the other judge's fitness for office shall inform the appropriate authority".

Canon 3(D)(2) specifically states "A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct contained in Rule 407, SCACR, should take appropriate action. A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority".

The Commentary for this Rule specifically states that appropriate action may include direct communication with the judge or lawyer who has committed the violation, other direct action if available, and reporting the violation to the appropriate authority or other agency or body.

As a judge, I would follow the Code of Judicial Conduct and the Rules of Professional Conduct.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be evaluated? No
12. Do you have any business activities that you would envision remaining involved with if elected to the bench? No
13. Since family court judges do not have law clerks, how would you handle the drafting of orders?

Due to the volume of cases before the family court, family court judges often instruct one of the attorneys in the case to draft the order. If this happens, I would be reviewing the order to ensure that the attorney drafted the order as instructed.

As an attorney, I have a very strong work ethic. I will take this same strong work ethic with me to the bench. Therefore, I would envision that there would be times when I would want to draft the order myself. For example, I would want to draft the order myself in cases that it was important to me that the findings of fact accurately

state the basis for my decision. I also feel that it is very important that in contested cases where there was the real possibility of the case being appeals that I draft the order myself. In these cases, I feel that it is important that the Order contain findings of fact that support my decision. I also feel that it is important in those orders that the findings of fact include my observation and my findings as to the credibility of the witnesses and parties since this is an important issue for the appellate court in their review process.

14. If elected, what method would you use to ensure that you and your staff meet deadlines?

Of course, the first thing that I would do is to seek the advice of other judges that have already tackled this problem.

As an attorney, I use electronic calendars with notes and reminders. I also use Excel spreadsheets. I do not know if these electronic calendars would work with keeping track of the judicial docket and the order submissions but this is where I would start.

At this point, I cannot give a definite answer to the question. The general answer would be that I would want to set up a very methodical process. It would be a system that would require me to furnish information to my secretary so that she would know what attorney is going to be preparing the order. Any system would require cooperation and collaboration with my secretary. The system would also have to include a notice requirement where my secretary is calling or writing attorneys requesting the orders in a timely fashion.

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?

Having served as guardian *ad litem* for years, I am very familiar with the Guardian *Ad Litem* statute. In my practice, I have always found that guardians comply with the statute. At least in my area of the state, guardian *ad litem*s take their role in the family court system very seriously and serve a crucial role in cases involving children by being an advocate for the best interests of the children.

To specifically answer the question, I feel that putting the specific language from the statute in the Order appointing the guardian *ad litem* is a good way of ensuring that the guardians comply with the Guardian *ad Litem* statute such as meeting the deadlines and sending bills to the parties in a timely basis.

In cases before me, I would always make sure that the guidelines for the Guardian *ad Litem* statute are followed because I feel that doing otherwise would reflect badly on the judicial system.

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

Black's Law Dictionary defines judicial activism as a "philosophy of judicial decision making whereby judges allow their personal views about public policy, among other factors, to guide their decisions". Judicial activism has no place in family court.

Family Court is a court of equity. Family court is a court of limited jurisdiction. Family court judges are required to apply the law to the situation before the Court. Canon 3, Rule 501, SCACR, specifically states that a judge shall be faithful to the law. It also specifically states that a judge shall not be swayed by partisan interests, public clamor or fear of criticism.

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?

The first thing that comes to my mind (which is not a direct answer to the question) is that I plan to conduct my duties as the Family Court Judge for the Tenth Judicial Circuit in such a manner that I improve the legal system by my actions in my judicial capacity.

I agree with the commentary in Canon 4 where it specifically states that complete separation of a judge from extra-judicial activities is not possible and is probably not wise. As the judge, I will continue to be a part of my community. I will continue to attend my church. I will continue to be an active member of this community. Through my actions as a part of this community, I will continue to be a person of integrity which will positively reflect on the legal system.

As a judge, I will take advantage of any and every opportunity that I have to improve the legal system by participating in judicial conferences and other legal activities that are offered by the South Carolina Bar Association and the Supreme Court.

The docket in the family court in Oconee County is very backlogged. I would like to work with the Family Liaison Committee with the Oconee County Bar and the other Tenth Judicial Circuit Family Court Judges to come up with some ideas of how to tackle this problem. Having a court system in our county where cases can be heard in a reasonable length of time will greatly improve the public's perception of our legal system in Oconee County.

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? No

As I stated earlier, it just appears to me that things have happened in my life for a reason. This opportunity to serve as a family court judge could not come at any better time for me. My daughter is in college. At this time, I feel that I can give my complete attention to serving this state as a family court judge. I have no personal relationships that would impact upon my judicial role.

As for the stress, I have practiced family court law for over 24 years. I have learned to deal with stress.

19. Would you give any special considerations to a *pro se* litigant in family court?

The answer to that question depends upon the meaning of "special considerations".

Using my interpretation of that question, my answer would be yes. I feel as a family court judge that I am to perform my duties fairly. Therefore, I am going to treat *pro se* litigants fairly. I will be patient with them and courteous to them. I will assist them in any way that I can without violating the Canons of Judicial Conduct. I feel that it is my role as judge to make the judicial system available to all litigants.

However, I fully understand that there is a line that I cannot cross. I cannot act as an attorney for the litigant. I cannot give *pro se* litigants legal advice.

But, it would be my goal to treat everyone that comes before me whether they are represented by an attorney or a *pro se* litigant with humility, grace and patience.

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

The Oconee County Guardian *ad Litem* leases office space from me, and I receive \$500.00 per month as rent. The lease expires in April 2012.

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

Canon 3(E)(1) specifically states that a judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonable be questioned, including but not limited to instances where the judge knows that he or she, individually or as a fiduciary, or the judge's spouse, parent or child wherever residing, or any other member of the judge's family residing in the judge's household has an economic interest in the subject matter in the controversy or in a party to proceeding or has any more than *de minimis* interest that could be substantially affected by the proceeding.

According to the rules, since the interest is a *de minimis* financial interest then I could hear the case. But, I feel that the better practice is to disclose the relationship on the record and then follow the procedure under Canon 3(f). However, if any of the parties objected and it was a reasonable objection, then the better practice is to disqualify myself and let another judge hear the matter. My belief is that it is always better to be safe.

22. Do you belong to any organizations that discriminate based on race, religion, or gender?

No. I am a member of a woman's literary group called the "Paul Hayne's Circle". To my knowledge, no man has never asked to be a member.

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: 25%;
- b. Child custody: 40%;
- c. Adoption: 12%;
- d. Abuse and neglect: 20%;
- e. Juvenile cases: 3%.

25. What do you feel is the appropriate demeanor for a judge?

In my opinion, the appropriate demeanor for a judge is that of a "judicial servant". A judge should be patient, dignified and courteous to litigants, lawyers and witnesses. A judge should perform his or her duties impartially and fairly. A judge should love the law and want to perform his or her judicial duties honorably.

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?

These rules apply 7 days a week and 24 hours per day.

Even though a judge may not be wearing his black robe, he is a member of the judiciary both on and off the bench. A judge must avoid all impropriety and appearance of impropriety at all times.

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?

Public confidence in the judiciary is eroded by improper judicial conduct. Anger is never appropriate for a judge toward a litigant or attorney. It is imperative for the judicial system that a judge carries out his or her responsibility with integrity, impartiality and competency. Canon 3(b)(4) specifically states that a judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals with in an official capacity.

There are times that a judge needs to be stern. The above canon specifically states that the judge shall require similar conduct of lawyers and staff. In other words, one of the responsibilities of a judge is to ensure that attorneys and litigants act in an appropriate manner –



dignified and courteous. The judge shall require order and decorum in proceedings before the judge. At times, this may require the judge to be stern and businesslike. But, it never should require him to be rude or unprofessional.

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?

I have spent \$7.42 on a lapel pin.

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?

I have not asked any third parties to contact members of the General Assembly on my behalf. I have had attorneys, former clients and friends ask me if they can contact members of the General Assembly on my behalf. When asked, I advise them of the rules relating to this process.

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/Karen F. Ballenger

Sworn to before me this 5th day of March, 2012.

Notary Public for South Carolina

My commission expires: 05-14-2013

**Karen F. Ballenger**

30 Short Street  
PO Box 490  
Walhalla, SC 29691  
(864) 638-2930  
FAX (864) 638-2922

April 11, 2012

Jane O. Shuler, Chief Counsel  
Post Office Box 142  
Columbia, South Carolina 29202

Re: Karen F. Ballenger  
Family Court Judicial Candidate, Tenth Judicial Circuit, Seat 2

Dear Ms. Shuler,

The purpose of this letter is to respectfully request to supplement Answers 10 and 33 of my Personal Data Questionnaire which I have previously submitted to the Judicial Merit Selection Commission.

As to Answer 10, I will be attending a continuing legal education seminar titled "Legal Education Seminar" on April 13, 2012. The seminar is being sponsored by the Oconee County Bar Association. The course number is 123256.

As to Answer 33, I would like to advise you that the South Carolina Department of Revenue is in the process of expunging the tax lien that I reported to the Commission.

If you have any questions, please contact me at the number listed above. You can also contact me at (864) 888-5208 which is my cell phone number.

Thank you very much for your assistance in this matter.

Sincerely,

Karen F. Ballenger

**SOUTH CAROLINA DEPARTMENT OF REVENUE**  
**545 N. Pleasantburg Dr. Suite 300**  
**Greenville, SC 29607**

April 12, 2012

**To Whom It May Concern:**  
**From: SC Department of Revenue**  
**Subject: Tax Liens, Warrants, Judgments**

<b>Warrant Number(s)</b>	<b>Amount</b>
3 51312994 9	\$ 645.19


**Name:**  
**KAREN BALLENGER**  
**SSN # 250-92-7082**

**Address:**  
**PO BOX 490**  
**WALHALLA SC 29691**

**File:**  
**70096832**

This is to verify that the above is satisfied this date. Expungement will be sent to the Clerk of Court of the respective county in due time by the Columbia Office.

You may use this letter for proof of expungement of the lien above.

  
**Pamela Giles, Revenue Officer**  
**Greenville Dist Office**  
**(864) 552 4918**