

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

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

Full Name: James Otto Spence  
Business Address: 205 East Main Street, Suite 204  
Lexington, S.C. 29072  
Business Telephone: (803) 785-8291

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 Constitutional requirements for this position regarding age, residence, and years of practice?

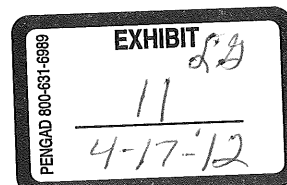
Yes. I am 52 years old ( 32) and am a citizen of USA and state of South Carolina, County of Lexington, and I practiced law for 20+ years before appointment for 2007-2012 term.

4. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

I tell all parties in court that they cannot talk to me, email me or otherwise correspond, without copying all parties. Judicial ethics/canon etc allow for *ex parte* if (1) things like scheduling or admin, type questions if nobody gains an advantage, all sides are notified of contact and have ability to respond. Commentary also mentions emergency things like TRO's etc and details procedure to follow after action.

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

Cases come to MIE by Order of Reference. I require all Orders of Reference to be sent to our office with attached copies of affidavits of service, default, answers etc. This step allows first level conflict screening since I can see who parties and attorneys are. If the case is contested or if a defendant files an answer, I have a status conference where form order states where I worked as attorney and ask all attorneys to verify with client and party, lawyer, issue or witness conflict. If I have any whiff of a recusal, then I advise parties and they get a Special Referee. I try very hard to remember that it is not what I think, but what the parties and attorneys think about appearance etc. that governs.



As Rules of Judicial Conduct and commentary, and ethics advisory opinion note, these questions are very fact dependant, but I think that you don't get close.

Just because you can does not mean you should.

6. 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?

Absolutely. I would recuse myself. It's not about what I think. The parties, the attorneys and the public must believe they have received a fair and impartial trial

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

As code mentions, you can accept birthday Christmas stuff from family, but I don't accept anything of value from anyone other than family ( except SC BAR gives all CLE speakers a discount coupon for book purchase)

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

If you think something has happened you have duty to discuss; if you know a violation has occurred, then you have to report.(Canon 3(D)1-2

9. Are you affiliated with any political parties, boards or commissions that need to be re-evaluated?

No. I don't think so. Just belong to Lexington United Methodist Church, attend Pelion United Methodist Church

10. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? No.

11. How do you handle the drafting of orders?

I review my trial notes, and after I make a decision, I send a decision memorandum asking party to draft and copy all others as required by rule. I have a form Order that discusses Rule 52, Elements, Burden of Proof, and a nice CLE statement from Justice Kittredge about drafting fair and objective orders.

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

Rhonda Driggers in our office has monthly court report to file. We have a place where we put file with outstanding orders do. About once or twice a month I review files and send out mass email to attorneys reminding them when Orders etc are due.

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

Judges are not supposed to use their stewardship/judicial post to advance or impose their personal political etc view points. We are supposed to enforce the law. Public policy is to be set by executive and legislative branches, it's not in our(judicial) job description.

14. 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 speak at Bridge the Gap and help CLE folks as MIE program Planner for yearly MIE Bench Bar seminar. We also have a Lexington County Bench Bar Committee that meets 4 times a year to discuss these issues.

Clerk of Court comes and gets me ( when I'm not in court) to speak to various school or other groups touring the court house. That's always a lot of fun because the young folks are so fired up and serious about the law!

15. 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?

I'm blessed with my wife Natalie. We started dating when we were 16, We have two great kids, Will ( 21) and Caleb (15). Most of our family is in Lexington-Columbia area. My mother-in-law is the most wonderful person in the world. We have a great church. I try to exercise and eat right, but mostly I pray a lot.

All my family supports me and lifts me up when I get a little discouraged after hearing so many foreclosure and supplemental proceeding cases.

Finally, I work with three of the finest people I could—Rhonda Driggers, Gail Faircloth, and Leslie Shealy. We work well together-they handle their work load and the public with grace and diligence.

Most nights I go home thanking God that he didn't smack me for whining and worrying about things that are pretty trivial when compared to losing home, your child or getting divorced or put in jail.

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

No. My dad, and brother Russell and I (25%) own BDS, Inc. – as real estate corp. that owns 30 + acres in Pelion SC. We may sell it. I don't think that would involve any appearance of impartiality unless we sold it to someone who regularly appeared before our court.

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

I think Canon 3 D says that it has to be more than a *de minimis* interest or . For ex. If the ruling would substantially impact value or would create appearance of impropriety then I would not.

18. Do you belong to any organizations that discriminate based on race, religion, or gender? No.
19. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.
20. What do you feel is the appropriate demeanor for a judge?  
I think you have to be fair and respectful to everyone. So many people are losing homes through foreclosure –I believe you have to respect them, explain everything, best case-worst case scenarios, listen to questions etc so that when they leave, even if they have lost their home, they will understand the legal process, they had a chance to have their say, ask questions and they were treated with dignity. That’s simply the right thing to do. ,
21. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or do these rules apply seven days a week, twenty-four hours a day?  
24/7. You are a judge just like you are a husband and father.
22. 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. People in desperate life situations, say and do a lot of things that they may not really mean or understand. You have to give both pro se and attorneys the ability to vent a little sometimes. You can do this and at the same time protect the dignity and decorum of the court.
23. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees?  
None other than stamp and envelope money for letters of reference. (Under \$100)
24. While campaigning for this office, have you used judicial letterhead or the services of your staff for your campaign? No.
25. Have you sought or received the pledge of any legislator prior to this date? No.
26. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.
27. 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. Not to my knowledge
28. Have you contacted any members of the Judicial Merit Selection Commission?  
Yes. I called Jane Shuler about the date I needed to tell them I would seek reappointment.

29. 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/James O. Spence

Sworn to before me this 10<sup>th</sup> day of February, 2012.

Notary Public for S.C.

My commission expires: 2-2-2014