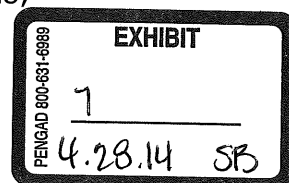


JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Court of Appeals
(New Candidate)

Full Name: ROCHELLE Y. CONITS
Business Address: P.O. BOX 757
GREENVILLE, SC 29602
Business Telephone: 864-467-5841

1. Do you plan to serve your full term if re-elected?
I do plan to serve my full term if elected to the South Carolina Court of Appeals.
2. Do you have any plans to return to private practice one day?
I do not plan to return to the private practice of law.
3. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice?
I have met the Constitutional requirements for this position.
4. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?
My philosophy regarding *ex parte* communications is consistent with Canon 3(B)(7)(a-e). I believe this is one of the most important Canons to allow for a fair and impartial adjudication and the right to be heard by everyone who has an interest in the matter. I do not initiate, permit, or consider *ex parte* communications, or consider other communications made to my outside the presence of the parties concerning a pending or impending proceeding except where allowed under the exceptions to this Canon. There are circumstances, as set forth in Canon 3(B)(7)(a-e), which allow for *ex parte* communications under certain circumstances and with protective measures and conditions in place. I allow *ex parte* communications necessary for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits, provided I believe that no one will gain a procedural or tactical advantage. I make provisions immediately to notify all parties of the communication and allow all parties the opportunity to be heard on the matter. If I need the advice of an expert, who, of course, has no interest in the pending litigation, I will seek his advice, giving notice to all parties of his identity and his advice, and giving all parties an opportunity to respond. In Family Court, there are often requests for *ex parte* temporary restraining orders and temporary custody involving the safety of children. I make exceptions, as allowed by law, for these orders, while setting the matter on the docket on an emergency basis,



thereby giving all litigants the right to be heard fully and completely on an expedited and immediate basis.

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

I believe strongly that all litigants must leave the courtroom feeling that they have been given the opportunity to be heard, fully and completely, by an impartial judge. There could be no worse feeling than to believe that something so personal as issues involving one's marriage, money, and children have been handled by someone who may be prejudiced and partial to the other side. I did not hear cases involving my former associates and law partners for at least one year after I took the bench in September 2006. I have readily recused myself in all cases where any litigant or attorney raised an issue which would question my impartiality. I have advised litigants and attorneys immediately if I had some knowledge of the litigants before me, no matter how remote. I have never encountered a problem with a lawyer-legislator appearing before me as these attorneys always have conducted themselves in a highly professional manner above reproach.

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?

I immediately would grant such a motion. As stated, the perception is what is important. I want all litigants to leave the courtroom with the feeling that they have been heard by an impartial judge. Litigants may not like the ruling, but a ruling that feels partially handed down is intolerable; in my opinion, and no litigant should have to live with such a ruling.

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

My standards for gifts and social hospitality are consistent with Canon 4(D)(5)(a-i). I do not accept gifts and social hospitality that fall outside the scope of the exceptions outlined in (a-i). I married Spero Conits on December 7, 2007, a year after I was sworn in to the Family Court bench. We had a very small wedding and reception with only family and close friends. We did not have wedding showers. All wedding gifts received were well within exception (d) regarding special occasions. In December 2009, our daughter, Heather Elizabeth, was born. I did receive baby gifts from family and friends. All gifts were well within exception (d) regarding special occasions as well. In my opinion, ordinary social hospitality is appropriate if it is consistent with the social hospitality extended to others (i.e., being invited to a holiday gathering). However, I do not believe it is

appropriate for a judge to allow others to purchase dinner, beverages, lunch, or other meals for the judge. I do not consider such purchases to be "ordinary social hospitality". I always make sure I have sufficient cash with me so that I am never in a situation where someone would have to purchase something for me. I recuse myself from adjudicating the matters of any litigant with whom I previously socialized or accepted gifts.

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

I would handle these situations pursuant to Canon 3(D)(1-4). If I became aware of misconduct of an attorney or fellow judge, I would inform the appropriate authority (i.e., the authority responsible for initiation of disciplinary process). If I became aware of misconduct by an attorney, I would report it to the Commission on Lawyer Conduct. If I became aware of misconduct by a fellow judge, I would report it to the Commission on Judicial Conduct.

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

I am not affiliated with any political parties, political boards or commissions, having resigned from all such activity when I took the bench in September 2006. I am the Recording Secretary for the St. George Greek Orthodox Cathedral Dance Troupe Adelfia, where my daughter participates as part of her religious and cultural education.

10. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations?

I am the Recording Secretary for the St. George Greek Orthodox Cathedral Dance Troupe Adelfia, in which my daughter participates as part of her religious and cultural education. There are fund-raising luncheons, which the Board hosts in order to fund dance costumes and activities for the children. I have participated in hosting these luncheons (setting up tables, utensils, donating food, serving, clean-up, etc.). I have not solicited funds in any manner whatsoever other than by participating in hosting these luncheons within our church community.

11. How do you prepare for cases that come before you?

I review filed pleadings and motions so that I have some sense of the issues to be decided prior to the litigants and attorneys entering the court room in an effort to maximize the allocated court time. I research statutes and caselaw prior to issuing decisions so that my decision is consistent with the laws and policies of this State. I read Advance Sheets and attend continuing legal education classes and seminars.

As a Court of Appeals judge, I would thoroughly research the statutory and caselaw involved in an appeal, especially areas of the law outside of my field of expertise and experience.

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

I believe judges should be cautious in setting public policy, especially in Family Court. I believe the matters in Family Court are so fact specific that the Family Court judge must not box herself in to an inflexible position by advocating one way or the other on issues of public policy. What is in the best interest of the litigants in one case may be harmful for the litigants in another case. On the other hand, I believe a Family Court judge is in a unique position to promote the established and stated public policy. For example, it is the stated and established public policy of this State to preserve and protect marriage. As a Family Court judge, I believe I would have the duty to preserve and protect marriage where possible and to encourage divorce litigants to explore reconciliation, where possible.

As a Court of Appeals judge, my philosophy on “judicial activism” would be slightly different in that I would no longer be a trial judge, with such direct contact to litigants. My duty as an appellate judge simply would be to follow the laws and established public policy as promulgated by the Legislative Branch of our government. My philosophy on “judicial activism” at the appellate court level is that there is no place for judicial activism in the role of an appellate court judge.

13. 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 teach and attend seminars and continuing legal education classes to attorneys and related professionals as outlined in my complete application. I serve as a presiding judge at the Carol N. Ney National Mock Trial Competition and have served as a judge at the S.C. Bar High School Mock Trial Competition to encourage high school and college students interested in a legal career. I host a law student to sit with me for a two-week period each summer to get court experience. I speak to high school and middle school students during Law Week about Family Court and the judicial system.

14. 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?

For 11 years, I was the single mother of my son, Capers Williamson. I had an extensive support network of family and friends to assist me in getting Capers to his activities and appointments. I limited my social life to caring for Capers when I was not at work. I have now remarried, and my husband and I have a 4 year- old daughter, along

with the children in our blended family. My husband is involved as a co-primary caretaker of our daughter and home. I do not feel that the pressure of serving as judge strains relationships any more than any other working professional. I have worked full-time my entire adult life, and I have learned to balance personal responsibilities with professional obligations.

15. Are you currently serving on any boards or committees? If so, in what capacity are you serving?

I am the Recording Secretary for the St. George Greek Orthodox Cathedral Dance Troupe Adelpia, in which my daughter participates as part of her religious and cultural education

16. Please describe your methods of analysis in matters of South Carolina's Constitution and its interpretation by explaining your approach in the following areas. Which area should be given the greatest weight?

- a. The use and value of historical evidence in practical application of the Constitution:

Historical evidence can be of significant value in interpreting the appropriate application of South Carolina's Constitution. The General Assembly's records can explain the purpose of amendments to the Constitution, which can be helpful in applying the Constitution in current matters at hand. The words of the Constitution should be given their ordinary meaning unless there is some ambiguity, in which case the historical evidence can help clarify legislative intent.

- b. The use and value of an agency's interpretation of the Constitution:

I would give no weight or value to an agency's interpretation of the Constitution, as interpreting the Constitution is a function of the judiciary, not an agency function.

- c. The use and value of documents produced contemporaneously to the Constitution, such as the minutes of the convention.

Historical data, such as the minutes of a Constitutional Convention, can be of significant value in interpreting and applying the Constitution and its amendments. Accordingly, where the plain and ordinary meaning is clear from the wording of the Constitution, that meaning should apply. However, where there is ambiguity or room for interpretation, reference can and should be made to historical documents, such as convention minutes, to assure that the legislative intent is honored as much as possible.

17. Is the power of the South Carolina General Assembly plenary in nature unless otherwise limited by some specific Constitutional provision?

Yes. The power of the South Carolina General Assembly is plenary in nature unless otherwise limited by a specific Constitutional provision.

18. Presuming that the three branches of government have plenary power for their responsibilities, do any other levels of government (i.e. local governments) have plenary authority, or do all grants of authority to other levels of government flow from the state level in our Constitution and statutes?

Other levels of government, such as local governments, can have plenary authority in certain, specific issues. The Constitution recognizes the "Home Rule" authority of local governments to deal with issues specific to their jurisdiction. However, if the State mandates an area of authority for State government control, all other levels have only that power and control which is granted by the State government, if any at all.

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

I am not involved in any active investments from which I derive additional income that might impair my appearance of impartiality. My husband owns and operates 2 restaurants in Greenville. I am very careful not to allow patrons to approach me to discuss any legal matters whatsoever.

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

I do not belong to such organizations.

21. Have you met the mandatory minimum hours requirement for continuing legal education courses?

I have met the mandatory minimum hours requirement for continuing legal education courses.

22. Have you written any scholarly articles?

I have served on the Editorial Board for Marital Litigation in South Carolina Substantive Law Third Edition Roy T. Stuckey (S.C. Bar CLE 2001).

I have served as contributing editor for the South Carolina Access to Justice Commission *Frequently Asked Question for Pro Se Litigants in Child Support Modification*.

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

I feel a judge needs to be patient, dignified and courteous to everyone. I feel the judge needs a quiet, compassionate, and interested demeanor. I believe a judge should maintain a formal and respectful demeanor. I feel the tone of a courtroom needs to be serious and quiet. Litigants need to feel that the judge, staff, and attorneys take the matters before the Court seriously. The courtroom is not a place to joke and make light of the facts and situations, which bring litigants before the Court. I feel the judge needs to insist that the attorneys,

litigants, court officials, staff and anyone else in the courtroom act in the same manner. I have learned during my years on the bench that a judge must sometimes be firm and take control of the courtroom. I have learned that a judge must adhere to the scheduled docket, and require litigants to reschedule their cases if they failed to request sufficient docket time in order to move the cases along and not keep other litigants and attorneys waiting.

24. Do 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?

These rules apply seven days a week, twenty-four hours a day. I believe a Family Court judge should be seen by community members as a serious, compassionate, patient, dignified and respectful person. I do not believe a judge can act one way during working hours and act in a totally different or inconsistent manner during non-working hours. A judge is a community member and at all times represents the integrity and dignity of the judicial system.

25. Is there a role for sternness or anger with attorneys?

I do not believe anger is ever appropriate with attorneys or anyone else for that matter. While I certainly have heard testimony and evidence involving inappropriate, criminal, and outrageous conduct, I believe the interest of justice can only be served by a judge who remains calm, collected and in control. The law affords remedies for inappropriate, criminal and outrageous conduct; and anger is not necessary or appropriate in any circumstance. Rulings issued out of anger can never be the best rulings. I do not believe anger is ever appropriate in dealing with attorneys, nor do I believe that anger is even necessary to carry out the duties of this office. I most certainly do not believe anger is appropriate for *pro se* litigants, and I believe *pro se* litigants should be afforded the highest level of patience, courtesy, and respect. Having been on the bench for a number of years, I do understand the need, at times, to be firm and in control of my courtroom. However, being firm does not require me to be angry or to act in an inappropriate or rude manner. The issues adjudicated in Family Court are of the most sensitive, personal, and intimate nature. Issues involving a person's children, money, and property are always sensitive. Sternness is necessary in order maintain the appropriate atmosphere of respect, dignity, and professionalism. As a Court of Appeals Judge, there is no role for anger with attorneys for all the same reasons anger is inappropriate at the trial level. There may be the necessity of sternness with attorneys in order to maintain the appropriate atmosphere of respect, dignity, and professionalism at the appellate court level.

26. 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?

I have not spent any money on my campaign.

27. While campaigning for this office, have you used judicial letterhead or the services of your staff for your campaign?

I have not used judicial letterhead for my campaign. My secretary has maintained a running list of my judicial and extra-judicial activities over the years of my service on the bench.

28. Have you sought or received the pledge of any legislator prior to this date?

I have not sought or received the pledge of any legislator prior to this date.

29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening?

I have not sought or received a conditional pledge of support by any legislator pending the outcome of my screening.

30. 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? If so, give details

I have not asked any third party to contact members of the General Assembly on my behalf before the final and formal screening report has been released. I am not aware of any friends or colleagues contacting members of the General Assembly on my behalf.

31. Have you contacted any members of the Judicial Merit Selection Commission?

I am familiar with the 48-hour rule, which prohibits me from seeking pledges for 48 hours after the draft report has been submitted.

32. 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?

I am familiar with the 48-hour rule, which prohibits me from seeking pledges for 48 hours after the draft report has been submitted.

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

s/Rochelle Y. Conits

Sworn to before me this 6th day of March, 2014.

Linda J. Sullivan

Notary Public for S.C.

My Commission Expires: 3/16/17