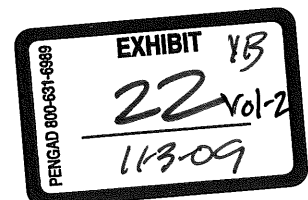


**JUDICIAL MERIT SELECTION COMMISSION**  
**Sworn Statement to be included in Transcript of Public Hearings**

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

Full Name: Phillip K. Sinclair  
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1. Why do you want to serve as a Family Court Judge?  
I have been privileged to serve as a Law Clerk, an Assistant Solicitor and in private law practice. I've also served on numerous boards and commissions and as a member of the South Carolina House of Representatives. I believe that I have the life experiences, knowledge and temperament to serve successfully as a Family Court Judge. Serving on the Judiciary is a high honor and I would like to end my legal career 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?  
One can never say what the future holds. However, it would be my hope to serve as Family Court Judge until I retire.
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?  
Generally, *ex parte* communications should not be tolerated. The Judicial Canons set forth limited circumstances that might require *ex parte* communications. These communications may be tolerated for scheduling, administrative purposes and emergencies that do not deal with substantive matters. It might even be necessary to tolerate communications with just one attorney in the case of a Temporary Restraining Order where the party cannot be located and has not retained counsel. Generally speaking, my philosophy is that *ex parte* communications, except in very unusual circumstances, should not be allowed nor tolerated.
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 believe each case would have to be evaluated as it occurred. However, one purpose of the Judicial Canons is to avoid not only actual bias but the appearance of bias. Any relationship with Legislators, former associates or law partners should be divulged on the record to all parties. If either party asks for a recusal, I would likely err on the side of recusing myself.

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?

Again, each such motion should be considered independently. Other factors that might bear on a decision would include whether the matter could be scheduled in front of another Judge and if a continuance were granted, the length of time before the parties could get back before the Court. Weighing these factors, I would likely err in favor of granting such a motion.

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

In order to avoid the appearance of impropriety, I would likely grant a motion to recuse. I would first disclose to the parties and their attorneys any financial or social involvement of my spouse or a close relative. I would then allow the parties to discuss the issue outside the presence of the Court. If either party had reservations, I would recuse myself.

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

The ethical canons set out with specificity that a Judge may not accept gifts, bequests, favors or loans from anyone, except as set out in Canon 4(C)(2)(d)(5). Even then, Judges should be extraordinarily cautious in accepting any sort of gift.

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

If I had knowledge that another Judge or a lawyer has committed a violation of the Judicial Code or Code of Professional Responsibility that raises a substantial question as to the Judge or lawyer's fitness, I would inform the appropriate authority.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be evaluated?

Yes. I am currently a member of First Monday, a Republican Organization in Spartanburg County. I feel it would be appropriate to resign from this group. I am also currently a member of the Croft Fire Commission and the Safe Homes/Rape Crisis Coalition Board. In light of the fact that Croft Fire Commission is a governmental agency and

- Safe Homes/ Rape Crisis Coalition has employees who regularly appear in Family Court, I would resign from both of these Boards.
12. Do you have any business activities that you would envision remaining involved with if elected to the bench?  
I do not have any business activities outside of my private law practice. I would wind down my law practice prior to being sworn in as a Judge.
13. Since family court judges do not have law clerks, how would you handle the drafting of orders?  
In most instances, I would issue instructions for the drafting of Orders and ask one of the attorneys to prepare a proposed Order. In some instances, I will draft Orders myself.
14. If elected, what method would you use to ensure that you and your staff meet deadlines?  
I currently keep two calendars regarding deadlines. I would anticipate keeping the same sort of tickler system "calendars" with regard to Orders and other deadlines in the Family Court.
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?  
I served in the House of Representatives when the private Guardian ad Litem bill was enacted. The statute is modeled on the dictates set forth in Patel v. Patel. In each case in which a Guardian ad Litem is serving, I would have a list of requirements that would be checked off at a Pretrial Conference or some other time prior to the actual trial of the case.
16. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?  
I believe that public policy should be set by the Legislature, not by the Judiciary. It is the responsibility of Judges in the Family Court to determine the facts and apply the appropriate law. It is not the prerogative of Judges to either set or promote public policy. It is their responsibility to apply the law as it is written.
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 be available to speak or lecture occasionally on topics concerning the law or the legal system. Likewise, I would be available to serve on any committees or commissions concerned with the improvement of the law. Having served in the Legislature, I could possibly serve in an informal role concerning issues that involve the Family Court that may come before the Legislature. However, any such role should be under the direction of the Chief Justice.

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 believe that serving as a Judge would unduly strain personal relationships. I previously served as a Legislator when my children were younger. My wife, children and other relatives proved remarkably independent and capable without my daily presence. However, I think this is an area where you have to be sensitive to the needs of close relatives to make sure that job pressures are not taking a toll on your family life.
19. Would you give any special considerations to a *pro se* litigant in family court?  
While it is not the responsibility of a Family Court Judge to provide legal advice to a *pro se* litigant, I believe that the Judge should be dealt courteously and fairly with *pro se* litigants, understanding that they are attempting to navigate unfamiliar waters. I believe that the Judge should make *pro se* litigants aware of where they can find the appropriate materials to handle a legal matter competently. Recently, Court Administration published a packet of forms to be used by *pro se* litigants in Family Court. These forms are very comprehensive and should be made available to anyone seeking to handle an uncontested divorce. That said, the best advice that a Judge can give a litigant is to seek competent legal counsel.
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?  
If the interest is in fact "*de minimis*" I would hear the case. Regardless, I would advise the parties of any financial interest that I or a family member might have.
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: Approximately 2/3 of my time is spent on Family Court matters. Most of those cases involve divorce and equitable distribution. Accordingly, I believe that probably 50% of my total time is spent dealing with divorce and equitable distribution areas.

- b. Child custody: Many of the cases which I handle involve child custody. I would estimate that perhaps 25% of the Family Court cases that I handle involve issues of child custody.
  - c. Adoption: Approximately 10% of the Family Court cases that I handle are adoption cases. Many of the adoptions that I currently handle are step-parent and grandparent adoptions. However, I am, as of the time of preparation of this document, handling one new infant adoption.
  - d. Abuse and neglect: Abuse and neglect cases constitute a smaller part of my Family Court practice, I would estimate that less than 10% of my Family Court practice involves abuse and neglect cases. However, in the course of my career, I have handled many abuse and neglect cases.
  - e. Juvenile cases: I rarely handle juvenile cases currently. However, I handled them in previous years. Over the last few years, I have probably handled no more than a dozen juvenile defense cases.
25. What do you feel is the appropriate demeanor for a judge?  
I believe that a Judge should at all times be patient, dignified and courteous to all persons with whom he or she deals, especially litigants. A Judge should at the same time make sure that his court room is conducted in an orderly fashion. Above all, a Judge should impart to all of those with whom he deals an attitude of impartiality and fairness.
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?  
I believe it is important that a Judge conduct himself, both on and off the bench, in a way that brings credit to the Judicial system. Accordingly, I would try to apply these rules 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?  
I believe that anger is never appropriate in dealing with attorneys or litigants. Family Court is the one Court with which virtually all people have some contact. I believe it is critical that Family Court Judges treat everyone with patience and courtesy.
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 \$72.16 on postage for a letter of introduction. I have not made a report to the House and Senate Ethics Committees.
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  
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/ Phillip K. Sinclair

Sworn to before me this 10<sup>th</sup> day of August, 2009.

Notary Public for South Carolina

My commission expires: 04-06-2015