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

Circuit Court
(Incumbent)

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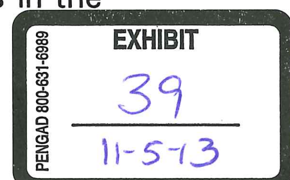
1. Why do you want to serve another term as a Circuit Court Judge?

   My initial term as Circuit Court Judge was my first venture in to full-time public service. During my 30 years of private practice my goal was to provide a comfortable life for my family. As I matured I began to need a higher goal. I wanted to participate in the evolution of society in a more meaningful way. Seeking my judgeship was in the nature of a moral awakening. I wanted my life to have been more. Following my election I embarked on the most rewarding journey of my life. I have no doubt that a circuit judge may do great harm. However, the potential for good, the ability to right a wrong, has provided me with the most meaningful six year of my adult life. Who else has a greater opportunity to influence the lives of so many people? I interact with attorneys, witnesses, jurors, parties, and court staff every day. I have the ability to demonstrate compassion, to instill confidence in the legal system, and to show leadership on a daily basis. I can not imagine a more rewarding occupation.

2. Do you plan to serve your full term if re-elected? Yes.
3. Do you have any plans to return to private practice one day? No.
4. Have you met the Constitutional 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?

   Ethically a judge is required not only to perform his duties impartially and diligently but to avoid the appearance of impropriety in the performance of those duties. Ex parte communications are an open door to the appearance of impropriety even under the best of circumstances. The Code of Judicial Conduct recognizes limited circumstances where ex parte communications might necessarily be permitted.

   The efficient administration of the Court justifies ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues in the



case. Even in such cases the Judge should assure himself that no party will gain a procedural or tactical advantage as the result of the communication. Furthermore, the Judge should require the ex parte communication and any decisions made thereon to be reduced to writing and promptly provided to the opposing parties. This practice will not only assure that the opposing parties have notice of scheduling or administrative matters, but they will also have an opportunity to respond. If the judge's ex parte communication only involves his Law Clerk, the Clerk of Court, his Administrative Assistant or others involved in the daily administration of the business of the Court and the communication is only for those purposes, the ex parte communication is generally permissible. Although the prohibition against ex parte communications is clear, there are limited exceptions to the general rule. Certain ex parte communications are expressly authorized by law. For instance, the issuance of a temporary restraining order may involve an ex parte communication. I have noticed over the years that judges have become reluctant to issue a temporary restraining order without notice. Except in extreme emergencies I believe this to be the best policy. Another example of authorized ex parte communications is found in the defense indigent capital defendants. It is common practice and authorized by Statute for counsel to appear ex parte before the assigned judge for matters concerning fees and expenses in the case of indigent defendants. Under certain other exigent circumstances, it may be proper for a judge to have ex parte communications concerning the issuance of a writ of supersedeas, or the issuance of a temporary order as related to child custody and support and the issuance of seizure orders regarding delinquent insurers. These are instances where the judge is statutorily given the expressed authority to issue an ex parte order. If presented with a petition for an ex parte order, the Court should look very carefully at the Statute under which the request is made to insure the propriety of allowing the ex parte communication.

A judge is required to dispose of the cases before him promptly, efficiently and fairly. The requirement of efficiency would permit the judge to engage in efforts to mediate or settle a case. In this regard, a judge may, with the consent of the parties, confer separately with the parties and their attorneys with a goal towards settlement of the case. However, the judge should use extreme care to preserve public confidence in the impartiality of the judiciary. Excessive pressure to settle the case may be construed as impartiality.

Any philosophy concerning ex parte communications must also address the judge's communication with third parties. Clearly, a judge must not make any public or non-public comment that might reasonably be expected to effect the outcome or impair the fairness of

a trial hearing. Likewise, the judge must not initiate any independent investigation of a case before him. It would be improper for a judge to have ex parte communications with witnesses or persons who may have knowledge of the facts concerning a case before him. Nevertheless, a judge may seek the advice of a legal expert on a particular matter of law. The Rules of Judicial Conduct permit this type of communication if the judge gives the parties notice of the person with whom he is consulting, provides the parties with the substance of the advice given and provides any offended party an opportunity to respond to the legal expert's advice It was the opinion of the speaker that it would be improper for a judge to communicate with any judicial officer who might possibly have appellate authority over the trial judge. Having an appellate judge hear a matter upon which he had already issued a legal opinion would obviously require the recusal of that judge or justice on appeal.

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

Public confidence in the judicial system should be the primary concern of any judge considering recusal. A judge should strive to avoid even the appearance of impropriety. Parties, litigants and court room observers are reassured of the fairness of judicial proceedings when they hear a judge openly and candidly discuss any interest, prejudice or bias that he may have in a case. Certainly if a judge has a personal bias or prejudice for or against a party or his attorney he should disqualify himself.

The difficult question arises in a situation where a judge may not have any bias or prejudice concerning a party or his attorney but there may be a perception that prejudice or bias exists under the circumstances of the case. In cases where the judge has no prejudice or bias for or against either a party or his attorney but the circumstances of a relationship that the judge may have to a party or his attorney are such that his impartiality may be reasonably questioned, the judge should put this information on the record and inform the parties whether or not he feels that he could fairly and impartially hear the matter. The parties should then be given the opportunity, without participation of the judge, to decide if they feel comfortable with the judge. If the judge feels that he has made a full and fair disclosure to all the parties and if the parties agree that the judge can be fair and impartial, the judge may hear the case. Notwithstanding the agreement of the parties, a judge should not hear a case if he feels that he has a personal bias or prejudice for or against one of the parties or his attorney.

Cases involving lawyer-legislators, former associates or law partners do not necessarily require recusal. An argument could be made that there is an appearance of prejudice or bias every time a lawyer-legislator appears before a Judge. The lawyer-legislator either voted for or against the trial judge. The general rule must be followed. The Judge must disqualify himself if he believes that he would have a prejudice or bias against or in favor of the lawyer-legislator, former associates or law partner. If the Judge does not believe that he would be prejudice or biased for or against the lawyer, he should still advise the parties of the nature of his relationship with the lawyer. The parties should be given the opportunity to either consent or object to the Judge's participation in the trial.

There are obvious circumstances when a Judge simply must recuse himself. An example would be where the Judge or a member of his old firm represented one of the parties or a third party in the matter or controversy before the Court. The Judge should ask himself if he can fairly and impartially try a case involving the attorney with which he has had some prior association. If he has any doubts about impartiality he should recuse himself. If he feels that the nature of the relationship is such that it might raise a reasonable question of the Judge's impartiality, he should fully and fairly reveal to all parties, on the record, the nature of his relationship to the attorney. If the Judge feels that the nature of his relationship is such that it requires disclosure then the Judge should be ready to recuse himself on either party's objection.

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 believe my position has been set forth in response to question six. For the sake of clarity, let me state, that Cannon 3 of the Rules of Judicial Conduct requires the disqualification of a Judge in a proceeding where his impartiality might reasonable be questioned. If I felt strongly enough about the appearance of prejudice or bias in a case to bring the basis of my concerns to the attention of the parties, I would be inclined to recuse myself on the offended parties' motion. If I did not believe that I would be of biased or prejudiced, I would try to convince the parties of the same. Failing to do so, I would most likely be compelled to grant the motion. The decision to recuse myself would be based upon my concern about the damage done to the judicial system when a non-prevailing party leaves the courtroom feeling that he was not given a fair trial. Thirty years of trial experience has convinced me that whether a party wins or loses is not as important as whether he feels that he received a fair trial. The

public perception of the legal system is one of the most critical problems facing attorneys and judges today.

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

The Cannon 3(e)(a) of the Code of Professional Responsibility clearly addresses the appearance of impropriety caused by financial involvement of a spouse or close relative. The Cannon clearly states that a Judge shall disqualify himself in a proceeding in which his impartiality might reasonably be questioned including, but not limited to, instances where the Judge's spouse or persons within a third degree of relationship is a party to the proceedings or is known by the Judge to have more than a de minimis interest that could be substantially affected by the proceeding. I would obviously recuse myself if a spouse or relative was a party in a matter before me. In the situation where a spouse or close relative has a financial involvement in the outcome of the case, that financial interest should be fully disclosed to all parties. If it is only a de minimis interest, recusal may not be necessary. For instance, the judge's spouse may have a small amount of stock in a large corporation which is being sued for a relatively small amount. The spouse's interest would be very small and the effect of the potential judgment would not substantially affect its value. Another example would be where a bank was being sued and a spouse or relative only maintained a checking account at the bank. As the financial interest becomes greater, the need to address the interest increases. There will come a point where it is appropriate to give the parties an opportunity to determine whether or not the spouse or relative has more than de minimis interest in the outcome of the litigation. The best policy is simply to disclose the interest. For the purposes of disclosing the financial interest, a family member would be, in addition to the judge's spouse, a parent, child or other member of the judge's family residing in his household as well as persons related within the third degree to the judge or his spouse or any person who would be the spouse of such relative.

A more difficult question is presented when a spouse or relative has some social involvement in the matter before the judge. As in cases of financial involvement, the court should be most concerned with situations where his impartiality might reasonably be questioned. If the social involvement is such that there is a possibility that the spouse or relative is likely to be a material witness in the proceeding, the judge should, obviously, recuse himself. Otherwise, the extent of the social involvement would dictate how I would handle the matter. I can envision circumstances where recusal would be necessary. For instance, if a matter came before me involving a social, fraternal or

religious organization in which my spouse or family member was an officer, director or trustee or acting as a lawyer for the organization, recusal would be mandatory. If, on the other extreme, an organization such as the Girl Scouts of America was a party to the proceeding and I knew that a family member had, at one time, been a member of the Girl Scouts, I feel that the connection would be so remote as to not reasonably raise any question about impartiality.

In between the two extremes there are situations where a spouse or relative may be a close friend or just an acquittance of a party or his attorney. In such cases, I would provide the parties and their attorneys with any knowledge that I had concerning the social involvement of my spouse or relative with the parties or attorneys and allow them to be heard on the issue of recusal. However, if social or financial involvement was ever such that I felt that I would have prejudice or bias against any party or attorneys I would recuse myself.

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

A judge should not accept and he should urge his family members residing in his household not to accept gifts, bequests, favors or loans except under very limited circumstances. The Code of Judicial Conduct is very specific about what gifts may be accepted. A Judge may accept gifts of resource material supplied by publishers on a complimentary basis for official use. He may accept an invitation to attend Bar related functions or activities devoted to the improvement of the law, the legal system or the administration of justice. A judge may also accept a public testimonial or gift incident to that testimonial if the donor organization is not an organization whose members comprise or frequently represent the same side in litigation. An example of such organization would be the defense bar. A judge may also accept a loan from a lending institution in a regular course of its business upon its customary terms. He may also accept a scholarship on the same terms and conditions applied to other applicants. This could certainly become an issue where the judge's child was given a grant or scholarship for educational purposes. It must clearly appear that any such gift was based upon criteria other than to possibly influence the judge in his judicial duties. These exceptions are straight forward and have a common sense basis.

The hard questions are presented by the more private exceptions to the prohibitions against acceptance of gifts found in the Code of Judicial Conduct. The fact that I became a member of the judiciary would not disassociate me from my relatives or long-term close friends. On special occasions such as anniversaries or birthdays, a modest gift from a relative or old friend would be appropriate if it was a continuation of an on-going practice and relationship. Other

gifts may also be appropriate from close friends or relatives where the relationship is such that the friend or relatives interest in a case would in any event require disqualification. An example would be a gift or bequest from my father. Obviously, he is among those persons whose case I could never hear. These are not the gifts that give rise to any question concerning a judge's fairness or impartiality. I would not accept even modest gifts from attorneys. To do so would simply give the appearance of one attorney having a more favorable position than another. Although I have many friends in the bar all across the state, I would no longer be able to accept gifts or favors from them.

The Code of Judicial Conduct contains one exception to the general rule prohibiting gifts but while written as an exception, it is more appropriately viewed as a clarification of the rule. Section 4D(5)(h) allows judges to accept gifts from donors who are not a party or person who has come or is likely to come or whose interests have come or are likely to come before the judge. This section was clearly intended to prohibit gifts from lawyers, firms, or clients. It also expands the rule to cover any person or entity that is likely to come before the judge. This can be construed to include practically everyone. If the judge chooses to accept a gift from a person or entity who he determines would not be likely to come before him, the rule requires him to report the gift if it's value exceeds $150.00. I would simply limit my acceptance of gifts to my family members.

I would be permitted to accept ordinary social hospitality. What is ordinary social hospitality is troublesome. If I were assigned to hold court outside of my circuit and an attorney offered me his vacation home to use while I was in the circuit, I would decline this offer. This is clearly beyond ordinary social hospitality. Likewise, if an attorney asked to buy my lunch, I would consider this to be beyond ordinary social hospitality. On the other hand, if the Bar Association as a whole held a luncheon for me where all members of the Bar were invited, I would accept the invitation. I believe the key is the word "ordinary". I would ask myself whether the gift exceeds ordinary social hospitality. If an attorney or party or someone likely to appear before me approached me in chambers or in the parking lot of the courthouse and offered me a bottle of wine, I would certainly decline the offer. On the other hand, if my wife and I were hosting a dinner party to which an attorney was invited and he brought a bottle of wine as a hostess gift for all to enjoy, I would accept the same. In my view, this would be nothing more than ordinary social hospitality. If I was invited to an event hosted by an attorney and the circumstances did not suggest any attempt by the attorney to improperly influence me, I would accept the invitation. I would avoid what I would consider to be staged events put on solely for the purpose of

influencing me. Ordinary courtesy and hospitality offered in the normal course of a relationship that does not reasonably appear to be an attempt to improperly influence a judge need not necessarily be declined.

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

The Code of Judicial Conduct has specific requirements for situations in which a judge becomes aware of misconduct or a lawyer or fellow judge. A judge who receives information indicating substantial likely hood that another judge has committed a violation of the Code of Judicial Conduct or a lawyer has committed a violation of the Rules of Professional Conduct should take appropriate action. 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, agency or body. In the case of a fellow judge or lawyer where I have received information indicating a substantial likely hood of a violation, I would initiate direct contact with the judge or lawyer if possible. A problem could arise if the conduct concerning the lawyer occurred during the course of a trial. Care would be necessary to avoid the appearance of ex parte communications. If it is possible to correct the violation without compromising the opposite parties confidence in the court, or a parties ability to be fairly tried, I would wait until after the trial to discuss the matter with the attorney. If after direct contact with the lawyer or judge I felt that my suspicions were unfounded, I would apologize after describing the circumstances giving rise to my concern.

If the information I received was in my opinion substantial and credible and if the lawyer or judge was not able to resolve my concerns, I would refer the matter to the Commission on Judicial Conduct if the violation raised a substantial question as to the other judge's fitness for office. In the case of an attorney, I would report the matter to the Commission on Lawyer Conduct, if the violation raised a substantial question as to the lawyer's honesty, trustworthiness or fitness. When a judge has actual knowledge of misconduct by a lawyer or fellow judge, he must report the violation to the appropriate commission. If the violation raises a question as to the judge's fitness for office or the attorney's honesty, trustworthiness or fitness as a lawyer, I would follow the requirements of the Code of Judicial Conduct and report the matter.

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

I resigned from all the boards and commissions I was on after my election. I have not affiliated myself with any political party.

12. Do you have any business activities that you would envision remaining involved with if reelected to the bench?

    None

13. How do you handle the drafting of orders?

    Generally speaking, written orders are the product of matters on the non-jury roster and motions filed in cases on the jury roster. Occasionally, written orders are also necessary in criminal matters. In most instances, the judge is first made aware of the issue before him when the matter is argued. This is not to say that I would not try to familiarize myself with the matters to be heard. From a purely practical standpoint, it is often difficult for a judge to familiarize him with all the facts of the case. This is often caused by the fact that lawyers do not always take as much care in the preparation of their motions as one should. What generally occurs is that the lawyers will appear before the judge and hand up written briefs if they are well prepared. After hearing the matter a judge is faced with either preparing his own order or asking the parties to submit proposed orders. Except on relatively simple matters it is difficult for a judge to recall all that has been said. I have always preferred the practice of allowing the lawyers to submit proposed orders. In this way all the issues are addressed and the facts are essentially correct. I believe the better policy is to require each party to provide the opposing party with a copy of his proposed findings of fact and conclusions of law. The purpose of the exchange is so that the parties may respond to any errors in the findings or conclusions. There may be situations in which my findings of the facts and conclusions of law are properly set forth in one parties order. In such case, I would sign that order and provide both parties with signed copies. If I am not satisfied with either party's findings and conclusions, I may write my own order. However, judicial economy is best served by requesting proposed orders in situations where we have competent lawyers who can write proper orders. If a proposed order is close to my view of the facts and my conclusions of law, I would ask the party submitting that order to make changes consistent with my rulings. Any such communication with a lawyer would be conveyed to the opposing lawyer so as to avoid the appearance of ex parte communications.

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

    The Code of Judicial Conduct establishes the judge's duty to diligently discharge his administrative responsibilities and makes him responsible for the performance of other judges and staff that are subject to his direction and control. Deadlines are easily kept and monitored. Keeping up with the deadlines is not a problem. Meeting

the deadlines is the issue. The key to meeting deadlines is making sure that the judge has the time and opportunity to meet deadlines with staff. I will work with staff to set aside the time necessary to ensure deadlines are met. Deadlines are often not met because judges allow lawyers to take away time that must be set aside for administrative matters. I will firmly and consistently set aside time to attend to administrative matters.

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

    Public policy has always been a part of the law and applying the law promotes public policy. In this regard, promoting public policy can be said to be a judicial function. However, "judicial activism" has little place on the circuit bench. Our state appellate courts and certainly the Federal Courts have changed public policy. While the Code of Judicial Conduct does not totally isolate a judge from his community, it does limit his extra judicial conduct and his political activity. A judge's extra judicial activity should not cast doubt on the judge's capacity to act impartially. In this regard he must not appear at public hearings before or otherwise consult with the executive or legislative body or official except on matters concerning the law, the legal system or the administration of justice. Judges and candidates for election or appointment to a judicial office should not hold an office in a political organization, endorse or support another candidate, make speeches on behalf of a political organization, attend political gatherings or solicit funds for political organizations or candidates. It is my philosophy that "judicial activism" and attempts to set public policy are counterproductive. Judges on the circuit level are charged with the duty of following the law. Only on the rare occasions involving cases of first impression should a trial judge make the law. When such cases arise they should not be seen as opportunities to change an established policy of the Legislature or appellate courts. Rulings on novel issues should be crafted in such a way that they follow the most reasonable interpretation of existing statutory and case law.

16. 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?

    Prior to my election to my first term I coached the Conway High School Moot Court Team, participated in seminars, and spoke at civic groups. Since my election I have limited my activities to speaking when requested to church or civic groups about the general state of the legal system. I also take every opportunity to explain the importance of the legal system and how it works to jury panels and groups that visit the court.

17. 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 feel no strain has been placed on my personal relationships by my service as a judge.

18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.

a. Repeat offenders:

Repeat offenders are a unique group. I cannot say that I would incarcerate every repeat offender. However, the repeat offender would be most likely to receive an active jail sentence. Judges regularly ask for a defendant's prior record, but they seldom ask about the sentences he received. Sometimes a repeat offender may be before the court on a succession of relatively minor offenses and the record may reflect that he has never been required to do anything other pay a fine. This certainly doesn't send the right message. I would be more inclined to give such an offender some period of incarceration so that he might know that the consequences of his actions can be jail. The sentence does not necessarily have to be for a long period. The purpose is served if it acts as a wakeup call. For more serious offenders and career criminals, I would be inclined to give more severe active sentences. I would be far less tolerant of crimes against a person than I would be against property. If the repeat offender came to me with a parole violation I would in most cases give a sentence that would require incarceration.

b. Juveniles (that have been waived to the circuit court):

I view juveniles in the circuit court setting as typically belonging to one of two groups. They are either the very bad or the very unlucky, assuming they are guilty. The difference in the groups can usually be described in terms of specific intent. The juveniles are usually accused of purposely committing some serious offense or they have committed some very serious act resulting in serious consequences which required no specific intent on the part of the child. We see this in cases involving Felony DUIs, Reckless Homicide and like cases. On the one hand, a judge may be looking at a totally incorrigible child with multiple past offenses who has committed a crime so heinous that the state has determined that he should be treated as an adult. On the other hand, the court may be looking at a child with absolutely no prior record who never intended to commit a crime but foolishly engaged in some activity, usually involving alcohol, that has resulted in death or serious injury. The two must be treated differently. I would look closely at the child's background, family

support system, prior criminal history, and potential for rehabilitation. I would consider the impact of the offense on the victim or his or her family. I would be very concerned about the placement of the child and the effect of incarceration on the child. Except in the case of already hardened offenders, I would be less likely to incarcerate a child for a long period than an adult. In my view, a child has not matured intellectually or emotionally. He should not be held to the same standard as adults except under unusual circumstances.

c. White collar criminals:

Most white collar crime requires a deliberate series of acts over a period of time to deprive someone of their property. I think it is often viewed as being only quasi criminal because the defendants are usually smarter, they look better in court and the potential for physical injury to the victims is very low. In reality, no crime requires more planning or conscious disregard for the rights of others than white collar crime. Except in situations where it could be demonstrated that over a period of probation extraordinary restitution could be made, and where it was obvious that this would be the only way to restore the victim, I would be inclined to give an active sentence.

d. Defendants with a socially and/or economically disadvantaged background:

Socially and economically disadvantaged defendants certainly require some special consideration by the courts. A man who steals to feed his family because he is out of work through no fault of his own or the elderly lady who sells her prescription medicine to pay for fuel oil to heat her home are exceptional cases justifying exceptional treatment. I have represented defendants in both of these situations. In neither case did I feel nor do I now feel that incarceration was appropriate. If we move up a level, we have the young disadvantaged man or woman who may be involved in the use or sale of drugs. A sentence should certainly take into consideration their social or economic backgrounds. Probation might be appropriately used to require the defendant to complete their education, obtain job training or parenting skills. However, the socially and economically deprived repeat offender is no different from any other repeat offender. There is a point in a repeat offender's life when it becomes apparent that society can only be protected by his incarceration.

e. Elderly defendants or those with some infirmity:

I would be more inclined to give elderly and infirm defendants probation except in extreme cases. Extreme cases would be those where the defendant has a substantial past criminal record or if the crime was particularly bad. In my experience, we seldom see the elderly or infirm before the court. They usually do not constitute a great danger to society. However, the cost of incarcerating the elderly

and infirm can be extraordinary. Unless I was given no other option I would certainly try to formulate some type of sentence that would avoid incarceration of an elderly or infirmed defendant.

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

    I am not.

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

    The Cannon 3(e)(a) of the Code of Professional Responsibility clearly addresses the appearance of impropriety caused by financial involvement of a spouse or close relative. The Cannon clearly states that a Judge shall disqualify himself in a proceeding in which his impartiality might reasonably be questioned including, but not limited to, instances where the Judge's spouse or persons within a third degree of relationship is a party to the proceedings or is known by the Judge to have more than a de minimis interest that could be substantially affected by the proceeding. I would obviously recuse myself if a spouse or relative was a party in a matter before me. In the situation where a spouse or close relative has a financial involvement in the outcome of the case, that financial interest should be fully disclosed to all parties. If it is only a de minimis interest, recusal may not be necessary. For instance, the judge's spouse may have a small amount of stock in a large corporation which is being sued for a relatively small amount. The spouse's interest would be very small and the effect of the potential judgment would not substantially affect its value. Another example would be where a bank was being sued and a spouse or relative only maintained a checking account at the bank. As the financial interest becomes greater, the need to address the interest increases. There will come a point where it is appropriate to give the parties an opportunity to determine whether or not the spouse or relative has more than de minimis interest in the outcome of the litigation. The best policy is simply to disclose the interest. For the purposes of disclosing the financial interest, a family member would be, in addition to the judge's spouse, a parent, child or other member of the judge's family residing in his household as well as persons related within the third degree to the judge or his spouse or any person who would be the spouse of such relative.

    A more difficult question is presented when a spouse or relative has some social involvement in the matter before the judge. As in cases of financial involvement, the court should be most concerned with situations where his impartiality might reasonably be questioned. If the social involvement is such that there is a possibility that the spouse or relative is likely to be a material witness in the proceeding,

the judge should, obviously, recuse himself. Otherwise, the extent of the social involvement would dictate how I would handle the matter. I can envision circumstances where recusal would be necessary. For instance, if a matter came before me involving a social, fraternal or religious organization in which my spouse or family member was an officer, director or trustee or acting as a lawyer for the organization, recusal would be mandatory. If, on the other extreme, an organization such as the Girl Scouts of America was a party to the proceeding and I knew that a family member had, at one time, been a member of the Girl Scouts, I feel that the connection would be so remote as to not reasonably raise any question about impartiality.

In between the two extremes there are situations where a spouse or relative may be a close friend or just an acquittance of a party or his attorney. In such cases, I would provide the parties and their attorneys with any knowledge that I had concerning the social involvement of my spouse or relative with the parties or attorneys and allow them to be heard on the issue of recusal. However, if social or financial involvement was ever such that I felt that I would have prejudice or bias against any party or attorneys I would recuse myself.

21. Do you belong to any organizations that discriminate based on race, religion, or gender? No.
22. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.
23. What do you feel is the appropriate demeanor for a judge?

I believe that I feel that a judge's demeanor should promote public confidence in the integrity and impartiality of the judiciary. Jurors, parties and witnesses are generally unfamiliar with courtroom procedures and policies. I believe that it is important to demonstrate respect, courtesy, and patience when dealing with the people in the court room. A good judge should take time to explain procedures to the parties, the witnesses and the Attorneys. He must understand that the courtroom is as foreign to these people as it is familiar to him. I have talked to many jurors over the years who have expressed pleasure or displeasure with the trial judge based primarily on the judge's temperament. He must be firm but open-minded. Arrogance and disrespectful behavior erode confidence in the impartiality of the bench.

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?

The Code of Judicial Conduct requires a judge to act at all times in a manner that promotes public confidence and in the integrity and impartiality of judiciary. A judge's conduct is subject a public scrutiny

seven days a week, twenty-four hours a day. I would accept that responsibility.

25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or a pro se litigant?

    I do not think that it is appropriate to express anger publicly, even with a criminal defendant. To do so is to admit that you, at least momentarily, have bias or prejudice against someone. It is proof that you are unable to control the courtroom. Extreme patience must be shown when dealing with pro se litigants. Pro se litigants can be extremely difficult and are probably the ultimate test of a judge's patience. However, once the judge loses his temper with a pro se litigant, his impartiality is compromised. As to dealing with attorneys, I do not think that I have ever had a cross word or have spoken to an attorney in anger except on occasions when I truly felt that the attorney crossed the line ethically. This has only happened one or two times in my career and I made certain that our conversations were brief and private. Public display of anger is not appropriate.

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 anything on my campaign.

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

    My administrative assistant helped with my typing.

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

    No

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

    No

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? No

    Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No

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

    No

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?

    Yes

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.
s/Larry B. Hyman
Sworn to before me this 31st day of July, 2013.

Allison M. Pogue
Notary Public for South Carolina
My commission expires: October 4, 2017