



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

**Retired Judge**

Full Name: Robert E. Guess  
Business Address: 114 Cherokee Avenue, Union, SC 29379  
Business Telephone: 864-427-6303

1. Have you met the Constitutional or statutory requirements for this position regarding age, residence, and years of practice?  
Yes.
2. Have you met the mandatory minimum hours requirement for continuing legal education courses?  
Yes.
3. Do you have any plans to return to private practice one day?  
No.
4. Are you engaged in any legal activities other than your service as a retired judge, such as acting as an arbitrator or mediator?  
I act as a mediator in Family Court cases. I am not engaged in any other legal activities.
5. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?  
No.
6. Do you belong to any organizations that discriminate based on race, religion, or gender?  
No.
7. Have you engaged in any partisan political activity since your retirement?  
No.
8. What do you feel is the appropriate demeanor for a judge?  
A judge should be calm and courteous to everyone, but firmly in control of the courtroom.
9. In your position as a retired judge, what methods do you employ to ensure that deadlines for the timely issuance of orders are met?  
Judge Thomas H. White IV, the sitting judge for Seat One of the Family Court for the 16<sup>th</sup> Judicial Circuit, has graciously allowed his administrative assistant, who served in the same capacity when I held that judgeship, to assist me in tracking my orders. These orders are sent to the Courthouse address for processing. A list of all cases heard by me is kept on a roster showing the date and time of the trial as well as the lawyers involved. I keep notes of my decisions and rulings with these rosters. At the end of each week of court, I deliver these rosters and notes to the administrative assistant who compiles a listing of the cases that have pending deadlines. The administrative assistant contacts by telephone lawyers or parties who are responsible for drafting orders and notes when these orders have been signed by me and returned for filing. The administrative assistant and I meet

at the first of each month to discuss pending cases with deadlines and report those cases to the S. C. Court Administration.

10. 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?

It is said that anger is a useless emotion. I try to always remember that. Accordingly, I do not believe that it is ever appropriate to be angry with a member of the public, with any criminal defendant or other litigant or in dealing with attorneys.

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

If the misconduct of a lawyer or judge did not rise to a level which appeared to require the reporting of that conduct to a disciplinary body, I would discuss that misconduct with the offending lawyer or fellow judge. If the misconduct appeared to rise to the level of activity prohibited by the rules of professional conduct for lawyers and judges, I would report that misconduct to the appropriate disciplinary board.

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

I recuse myself from any case where one party or the other moves for recusal upon any ground which would allege a personal bias by me because of some relationship between me and one of the litigants or witnesses in the case. I recuse myself from cases on my own motion when I am aware of my prior involvement or relationship with a party or a witness which would have the potential for conflict or bias. As to lawyers-legislators, all judges are elected by the legislature and therefore I would not automatically recuse myself where a lawyer-legislator appeared before me. I would grant a motion for recusal by the other party only on a showing of some specific potential for prejudice to my impartiality. As to former associates or law partners, there is only one who is actively practicing law and I do not routinely recuse myself from those cases. I disclose my prior association to the other party, on the record, and I would recuse myself upon motion of the other party based on the potential for or appearance of bias.

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

I do not discuss the merits of cases in which I am involved with lawyers or litigants except in the courtroom or in chambers when lawyers for all parties are present. Where there are pro se litigants involved, I do not discuss the merits of the case except in the presence of the pro se litigant in the courtroom and on the record. I do, however, discuss scheduling or procedural issues with one party but I do not make decisions regarding these issues unless both parties are present in person or by conference call or other acceptable method. *Ex parte* communications are appropriate only when one party is seeking emergency relief and facts must be presented to a judge to support the scheduling of an emergency hearing. The *ex parte* communication in an emergency situation would consist of written affidavits filed with the record of the case.

14. 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?  
Yes.
15. What standards have you set for yourself regarding the acceptance of gifts or social hospitality?  
I accept gifts from individuals with whom I have a very close relationship. These would be individuals who I would never allow to appear before me as a litigant. I do not accept gifts from individuals with whom I do not have so close a relationship. I accept social hospitality as an individual or with my spouse from individuals with whom I have close personal relationships and who I would never allow to appear before me as a lawyer or a litigant. I accept social hospitality in the form of parties or receptions from individuals with whom I do not have a very close personal relationship when such hospitality is offered to a relatively large group of people. I do not accept social hospitality from individual attorneys.
16. In order that we might advise court administration on steps that need to be taken, are there any limitations on your sight, hearing, or mobility that should be addressed by the court administrator?  
No.

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

s/Robert E. Guess

Sworn to before me this 3<sup>rd</sup> day of August, 2015.

Jill S. Jeter

Notary Public for South Carolina

My Commission Expires: 7/1/24