



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

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

Full Name: Mikell Ross Scarborough  
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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.
4. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?  
I believe that *ex parte* communications are harmful to the legal process since they tend to bring the profession into disrepute. The only *ex parte* communications I envision would come in the context of an emergency such as a need for a Temporary restraining order in which the other side's attorney is unknown or the need to schedule matters for hearing.
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 that simply the appearance of these people before me does not constitute a conflict of interest such that a recusal is required *sua sponte*. If requested by the opposition, it is a matter for serious consideration subject to the need to move the process along. My bottom line philosophy is that the case should be decided on the merits and not on personalities – if the court constitutes an impediment to this goal, it would be best to recuse myself.
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 would attempt to express my position as clearly on the record as possible, if still the motion is before me, more likely than not, I would recuse myself based upon the philosophy expressed above; i.e., the court should not be the basis for an appeal or motion due to a perceived bias, prejudice or conflict of interest. I would draw a distinction between the type of disclosure presented by myself versus one presented by another. Clearly if it was significant enough for me to disclose, it is something to strongly consider and more than likely grant. There is also the

- possibility of a remittal of disqualification by agreement of both sides and placed in the record, but I assume that this has not been agreed to in this instance.
7. What standards have you set for yourself regarding the acceptance of gifts or social hospitality?  
I do not accept gifts or favors as a sitting judge. As to social hospitality, I have kept my friends whom I hold dear, however I am vigilant as to any perceived attempt to influence my behavior based upon offers of social hospitality and decline such invitations.
  8. How would you handle a situation in which you became aware of misconduct of a lawyer or of a judge?  
The question implies actual knowledge of the misconduct rather than a substantial likelihood of misconduct. First, I would attempt to ascertain the basis for the alleged misconduct. I then seek to address it with the lawyer or judge if the conduct was not in my presence. Once I am convinced a substantial question of fitness for office, honesty or misconduct is involved, I report the misconduct to the committee on lawyer conduct or the judicial standards commission.
  9. Are you affiliated with any political parties, boards or commissions that need to be re-evaluated?  
No.
  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?  
As Master-in-Equity hearing non-jury matters, I prefer to rule from the bench; however, I generally request a proposed Order from each side or, if uncertain on a point of law, a memorandum of law as to the particular issues I consider the most significant to the case. I request these orders be submitted in a revisable format (I prefer WORD) which I can alter. I then review them against my understanding of the law and the facts of the case. I more often than not edit the orders to suit my specific ruling.  
I seek to issue written rulings within 30 days of the receipt of the proposed orders, or the conclusion of the matter before me, so that the matter can then be resolved or forwarded on to a higher court for review.
  12. What methods do you use to ensure that you and your staff meet deadlines?  
I have established an office policy to ensure that everyone in the office knows and understands the timetable under which the master's office needs to operate. I have a Clerk of Court and other assistants in the office to help me monitor this policy on a daily, weekly and monthly basis. I also have a calendar tickler system, in two formats, to monitor this deadline schedule.
  13. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?  
I am fundamentally and philosophically opposed to judicial activism which results in the promotion of a particular public policy. I do not believe it is the province of the judicial branch of government to set policy but to determine the purpose of the

legislation and enforce the laws made by the legislative and executive branch of government.

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 seek to promote the Master-in-Equity's office to become more well-known in the community as to what we do and why we do it. I seek to ensure the court runs efficiently and that the public knows we exist to handle their legal problems, especially those involving real estate disputes. I encourage the litigants to retain legal counsel to represent their interests as I believe this to be in their best interest when presenting matters in a court of law. A particular area of interest has been the need to address heirs' property problems as they affect so much property along the South Carolina coast. In the last 5 years, a significant amount of my time has involved speaking publicly on the foreclosure crisis and to promote the availability of programs to try to keep people in their homes.

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 believe the most difficult aspect of serving as a judge is having to make decisions which directly impact people's lives – clearly the litigants but in a larger context those whom the issue would also affect. I have had to make some very difficult decisions in my experience over the last 5 years in the foreclosure arena.

My stated philosophy in the courtroom is that “the policy of this court and this state is to keep homeowners in their homes” as it benefits our society as a whole. That said, the correct legal decision is often the difficult one to take someone's home away from them.

As to my family, over the past 12 years, I have had to make those sometimes difficult decisions for them as well. My friends know that my judicial position has not changed my relationship with them personally although it sometimes has altered our professional relationship.

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

No.

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

The Canons of Judicial Ethics state that so long as the interest is *de minimis* it is not necessary to withdraw; however, I liken this fact situation to the one in question 6 which I stated I would withdraw if asked to do so and there was some question as to my impartiality on the question before me.

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?  
A judge should be pleasant in demeanor, knowledgeable on the law, both procedure and substantive, and allow lawyers to present their cases in a thorough yet expeditious manner. He needs to be firm and decisive in the courtroom without bullying or attempting to control the outcome of a matter.
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?  
This behavior is expected of judges every hour of every day.
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, I believe you can be fair, firm and consistent without being angry.
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.
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.
28. Have you contacted any members of the Judicial Merit Selection Commission?  
No.
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/Mikell R. Scarborough

Sworn to before me this 6<sup>th</sup> day of August, 2015.

Judy H. Dawkins

Notary Public for South Carolina

My commission expires:11/27/22