



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

**Retired Judge**

**Full Name:** James F. Fraley, Jr.

**Business Address:** Spartanburg County Judicial Center, 180 Magnolia Street,  
Spartanburg, S.C. 29302

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1. Have you met the mandatory minimum hours requirement for continuing legal education courses for the past reporting period?  
  
Yes
  
2. Do you have any plans to return to private practice?  
  
No
  
3. Are you engaged in any legal activities other than your service as a retired judge, such as acting as an arbitrator or mediator?  
  
I am not yet retired. I will retire effective Jun 30, 2019.
  
4. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?  
  
No
  
5. Are you a member of any organization or association that, by policy or practice, prohibits or limits its membership on the basis of race, sex, religion, or national origin? If so, please identify the entity and explain if this organization practices invidious discrimination on any basis.  
  
No
  
6. Have you engaged in any partisan political activity since your retirement? Please describe.

I have not yet retired. I have not engaged in any partisan political activity since I have been a member of the judiciary.

7. What do you feel is the appropriate demeanor for a judge? When do these rules apply?

A judge must be polite, courteous, compassionate and/or firm where just. A judge must be attentive, patient, and dignified to all. These standards and rules apply at all times, including in my official and in my private life. All of a judge's activities, both official and unofficial must be conducted in a manner not to cast doubt on a judge's ability to be and give the appearance of impartiality. Whether in public or private, all activities of a judge must be conducted in a manner that does not demean the judiciary or interfere with the proper performance of judicial duties.

8. In your position as a retired judge, what methods do you employ to ensure that deadlines for the timely issuance of orders are met?

Although not yet retired, I would anticipate using a method similar to what I do now. Now I keep a docket with dates of all cases heard with a notation as to who is to prepare the order. If an order is not timely received, an email or other notice is forwarded to the lawyer who owes the order with copies to the other parties involved. This normally is sufficient.

9. 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?

Growing up, I was taught to be slow to anger. I have always tried to practice this principle. I do think this emotion exists for a reason. However, if used by a judge he must not allow his anger to interfere with his discretion and ability to make rational and reasonable decisions. The danger of using anger against a member of the bar or the public is that it could result in a lack of confidence in the judicial system. A judge is required to remain polite, courteous, and patient, so I cannot think of an occasion that it should be used on the bench. A judge has a lot of power. A judge should be able to maintain order and require compliance with the rules without resorting to anger.

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

If I believe there is a substantial likelihood that a lawyer has committed misconduct, I would take action as required by Canon Three of the Code of Judicial Conduct. I have on several occasions met with lawyers who may have

violated the Rules of Professional Conduct when violations dealt with such things as chronic tardiness, discourteousness, and bad work product. I could also see myself (although I cannot recall doing so) discussing the above behavior with a senior associate of the lawyer. However, should there ever be a time where I believed there was substantial likelihood that a lawyer was unfit to practice law due to dishonesty or lack of trustworthiness, I would file a report with the Disciplinary Counsel.

If I had reason to believe that a lawyer was impaired by substance abuse or poor health, I would either try to do a one-on-one conference with the lawyer if I thought I could help, or I would report the situation to a senior associate or make a referral to a South Carolina Bar program that has been set up to deal with such situations, depending on my assessment of the situation. Of course, the situation could be serious enough to where I would report it to the Office of Disciplinary Counsel.

If I had knowledge that a judge had committed an ethical violation that raised a substantial question whether that judge was fit to hold office, I would report it to the Office of Disciplinary Counsel. If the violation of the code was of a much less serious nature, I might speak to the judge personally, have another judge to do so, or report it, depending on the circumstances.

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

I have never had a law clerk, but a judge is required to hear and decide all matters assigned to him unless disqualification is required. Disqualification is not required in any of these circumstances, unless financial arrangements are still in existence with associates. I have no such arrangements.

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

Except where allowed by statute, court rules, certain emergency situations, and by the Code of Judicial Conduct, *ex-parte* communications must be avoided. If someone attempts an improper *ex-parte* communication, I immediately stop the conversation and make arrangements to discuss the case with all parties. The Court may allow *ex-parte* communications if required for scheduling, administrative purposes, or emergencies, so long as the court does not deal with the merits of the case or other substantive issues. Of course, these exceptions apply only if the court reasonably believes the communication does not provide a tactical advantage to the party making the *ex-parte* communication and that the

court promptly notify all parties of the substance of the ex-parte communication so the adverse parties can timely respond.

13. 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, I would recuse myself as a judge as required to avoid appearance of impropriety. It would be improper for a judge to hear any case where circumstances exist that would give a reasonable person a belief that the judge's participation in the case would appear to affect the court's integrity or impartiality.

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

I do not accept gifts from lawyers, litigants, witnesses or anyone else with an interest in any judicial proceeding. The Code of Judicial Conduct allows a judge to accept ordinary social hospitality but such may be prohibited by statute. If I have a rare lunch with a lawyer, I pay for my meal. However, I have attended social functions given by the South Carolina Bar and local bar associations.

15. 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.

\_\_\_\_\_  
Sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print name)  
Notary Public for South Carolina  
My Commission Expires: \_\_\_\_\_