



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

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

Full Name: James Otto Spence

Business Address Lexington County Judicial Center, 205 E. Main Street, Suite 204, Lexington, S.C. 29072:

Business Telephone: (803) 785-8291

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 statutory 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? We discourage such communications because such conversations created a bad image. We educate attorneys and pro se folks alike that they are not to contact us individually but can request a joint telephone conference which is then documented by global email or they may do global emails as long as all parties are copied. Only time *ex parte* is permitted under the rules is for ministerial type procedure questions or something like an emergency injunction etc. where statute/case allows because there is a hearing shortly thereafter.
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 bring the matter to all parties' attention and generally recuse if there is any doubt in my mind. Parties and lawyers can change their minds after a decision so it is best to remove the issue of judicial impartiality from the beginning so folks can concentrate on trying their case of facts and law, and not be worried about who knows the judge. It's the parties and lawyer's perception that rules, not the judge's.

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? See above. Generally yes.

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

Don't do it with lawyers or parties who litigate before you.

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

The rules allow for various responses based on the severity. I would hope I would have the opportunity to discuss and listen before I was compelled to report. I think there is also new SC Bar initiative that helps with lawyer infirmity.

9. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? Please describe. No, other than our own family donations to various church or charitable causes.

10. How do you handle the drafting of orders? Working on a Non-Jury project with USC Law School Writing Professors since Non-Jury Order writing is not taught. Generally, since Equity, Family Court Judges don't have law clerks, we or I send out a decision memorandum and request proposed Orders from one or both parties, depending on type case, and then I do heavy editing, both for format, content and grammar (WORD RAKE). I also find that I do a lot of research when South Carolina has no controlling case law.

11. What methods do you use to ensure that you and your staff meet deadlines? We divide cases into (1) Uncontested /default (2) contested cases. With contested cases we have status conferences and scheduling Orders. With uncontested cases, we send out Office procedures about how to set hearings. We have reminders to contact attorneys for overdue orders etc.

12. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy? I believe judges are to follow the law since the legislature is to reflect the will of the people

through legislation/laws/ Statutes that provides clear guidance or previous court decisions. If there is no clear guidance, then the court must look to public policy as set forth in previous cases or enacted legislation. Finally, if no help there, as court of equity we are supposed to do what is right or just. While this concept sounds right, I am very caution to exercise this power wisely because different judges can have different concepts about what is right on an issue and a South Carolina citizen should not have his or her rights decided simply because one judge's "stomach" feels different than another judge's. Equity follows the law.

13. 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? We have a local bench-bar that meets 4 times a year with local lawyers. I regularly speak at schools about legal system. Various groups such as Rotary, Lexington County Bar Association etc. ask me to speak about legal system. I speak with church groups, scouts. We are working on a new website that has additional information that will be helpful to public and for folks who don't have or can't afford lawyers. I work with SC Access to Justice with a group of wonderful folks led by Justice Few who study these issues and propose solutions. Likewise, the Commission on the Profession, chaired by Justice Kittredge does the same. We try to ensure these topics addressed as they arise in the annual MIE Bench Bar program planning.
14. 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? It does when sometimes folks talk to your family who then talks to you. You have to educate your family so that they know they can't repeat anything to you since that may cause recusal.
15. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality? No.
16. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved? No-not to my knowledge. I have disclaimer on our scheduling Order that requests parties, attorneys review parties or witnesses to disclose potential conflicts.
17. 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 these bases. No.

18. Have you met the mandatory minimum hours requirement for continuing legal education courses for the past reporting period? Yes.

19. What do you feel is the appropriate demeanor for a judge and when do these rules apply? When you are wrong be willing to change. When you are right, be easy to live with. Meekness is the spirit that makes correction as stimulant and not a depressant. We are steward servants, not Kings. We have to listen, explain, and do our best to rule so that the losing side will feel/believe that even though they lost, they were listened to and treated respectfully and fairly.

20. 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? I think anger implies lack of control and a judge should strive never to lose control. A judge can be forceful and respectful at the same time.

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:_____