



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

Family Court
(Incumbent)

Full Name: The Honorable Michael Todd Thigpen
Business Address: 180 Magnolia Street, Spartanburg, SC 29306
Business Telephone: (864) 596-3601

1. Why do you want to serve another term as a Family Court judge?

I want to serve another term as a Family Court judge because I have truly enjoyed my time on the bench over the past five years. In my humble opinion, a Family Court judge affects more people's lives than any other judge in this state, especially children. Therefore, I would be honored to serve as a Family Court judge until my retirement.
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 statutory 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?

My philosophy is that a judge should never allow *ex parte* communication unless absolutely necessary "for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits," as allowed under Canon 3(B)(7) of the Code of Judicial Conduct. Even in those limited

circumstances, a judge must reasonably believe the ex parte communication will not allow a party to gain a tactical or procedural advantage, and the judge must also ensure that all other parties are promptly notified of the substance of the ex parte communication and allow them an opportunity to respond. For example, a Family Court judge may be asked to review an ex parte request from DSS to place a child into emergency protective custody if the child was not taken into emergency protective custody by law enforcement, but the parents or guardians are entitled to a probable cause hearing within seventy-two hours of the removal of the child. In addition, a Family Court judge is allowed to consider an ex parte request for an emergency hearing from an alleged victim of domestic violence under the Protection from Domestic Abuse Act, but the alleged perpetrator is allowed to be heard at the emergency hearing. Moreover, the Family Court Rules allow a Family Court Judge to consider an ex parte request for an emergency hearing in a private case, but I believe that procedure should only be used if it is absolutely necessary to protect the safety and well-being of a child or party until a hearing can be scheduled. Finally, the law allows a Family Court judge to consider an ex parte request from a party for an appropriate restraining order, but I would specifically note in any such restraining order that it would only remain in effect until the first hearing in the case. In short, I believe ex parte communication should only be permitted in rare emergency situations where the safety or well-being of a party or child cannot otherwise be protected until a hearing can be held.

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?

If I disclosed something on the record that had the appearance of bias that I did not believe would prejudice my impartiality, I would ask the litigants and the attorneys to discuss the appearance of bias outside my presence. After I returned on the record, if any party asked me to recuse myself in that situation, I would not take it personally; I would give due deference to the party requesting the recusal; and I would grant the motion if I believed the information disclosed could cause my impartiality to be reasonably questioned.

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

If I knew my spouse or a close relative had a financial or social involvement with any party or attorney, I would disclose it on the record, ask the attorneys and parties if they had any objection to me presiding over the case, allow them to discuss it outside my presence, and recuse myself on the record if any party, attorney, or I believed my impartiality could be reasonably questioned.

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

I would not accept, nor allow any member of my family to accept, a gift from anyone unless it was from a relative or friend for a special occasion (i.e. Christmas, birthday, etc.). However, I would never accept even a Christmas, birthday, or other special occasion gift from an attorney, law firm, or other person that would appear before me. As to social hospitality, I would attend functions related to the Bar, law-related associations, or the Judiciary where the purpose of the function is to advance the justice system and other judges are also invited to attend.

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

A judge's judicial duties includes disciplinary responsibilities. Therefore, as required under Canon 3(D)(1) and 3(D)(2) of the Code of Judicial Conduct, I would report the misconduct of a lawyer or fellow judge to the appropriate disciplinary authority.

10. Have you engaged in any fund-raising activities with any social, community, or religious organizations? Please describe.

I have not engaged in any fund-raising activities with any social, community, or religious organization since I became a candidate for Family Court judge in 2018.

11. Do you have any business activities that you have remained involved with since your election to the bench?

The only business activity I am involved with other than serving as a Family Court judge is rental properties I own with my mother. Although I do not believe it is necessary for me to dispose of those properties, I do not have any interest in obtaining other real estate investments, and I have turned over the management of those properties to my mother.

12. Since Family Court judges do not have law clerks, how do you handle the drafting of orders?

First of all, the Seventh Judicial Circuit now has a law clerk that all resident Family Court judges share, and I have asked her to draft several orders and instructions for orders over the past year. Whenever possible, however, I issue oral instructions from the bench; I ask one of the attorneys to prepare the order; and I instruct the attorney preparing the order to allow all other parties to review the order before it is submitted to my office for signature. When I am required to take a matter under advisement, I usually schedule a telephone conference with the attorneys within a week to ten days after the hearing to issue oral instructions for the order. If a party is self-represented, I usually email written instructions for the order to all parties and attorneys at the same time; I ask one of the attorneys to prepare the order; and I require the attorney preparing the order to allow all parties to review it before it is submitted to my office. If a case is complex or requires extensive research, I sometimes prepare the order myself and email it to all parties at the same time.

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

I make every effort to ensure that all orders are signed in a timely manner. If I am in my office, my goal is to make sure that every order is signed and filed the day it is received. If I am traveling locally, I go by my office one to two times per week and about every Friday afternoon to make sure all orders are signed and filed the week they are received. If I am required to travel and stay away from home, which does not occur often, I usually go by my office on Friday, Saturday, or Sunday to sign orders to make sure they are signed and filed as soon as possible. In addition, my administrative assistant understands that she must strictly comply with all deadlines set by Court Administration, including MUA reports, Travel Reports, etc.

14. What specific actions or steps do you take to ensure that the guidelines of the guardian ad litem statutes are followed during the pendency of a case?

Because I served as the guardian ad litem in hundreds of cases, I am very familiar with the requirements of the South Carolina Guardian ad Litem Reform Act (Act), and I would ensure that the guardians ad litem follow the requirements of those statutes. Specifically, although the Act allows the parties to consent to the appointment of a guardian ad litem who does not meet the training requirements set forth in the Act, I would not appoint a person to serve as the guardian ad litem who had not completed the training requirements of the Act unless all parties consented to it and I knew the proposed guardian ad litem had sufficient training and experience to competently serve as the guardian ad litem. Finally, if it came to my attention that the guardian ad litem was not following the requirements of the Act, I would consider a motion to relieve the guardian ad litem if good cause was shown.

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

My philosophy is that a judge should never serve as an “activist” because it is a judge’s duty and responsibility to follow the case law, statutory law, and court rules even if the judge does not necessarily agree with the law or rule.

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?

I would be willing to “speak, write, lecture, teach and participate in other extra-judicial activities concerning the law, the legal system, [and] the administration of justice” as permitted under Canon 4 of the Code of Judicial Conduct. In fact, I have welcomed the opportunity to present or serve as a panelist at four Continuing Legal Education seminars since I became a Family Court judge in 2019. However, I would be very careful not to engage in any extra-judicial activities that could cause my impartiality as a judge to be reasonably questioned.

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?

No. My wife and family are totally supportive of my desire to continue to serve as a Family Court judge, and they fully understand my duties and responsibilities if I am reelected to serve as a Family Court judge.

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

I receive additional income from two rental properties I own with my mother. Those investments could only cause an appearance of impropriety if one of our tenants or their family members appeared before me, and I would recuse myself if that unlikely event ever occurred.

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

"De minimis denotes an insignificant interest that could not raise reasonable question as to a judge's impartiality" under the Code of Judicial Conduct. However, if I knew an immediate family member or I had even a *de minimis* financial interest in a party involved, I would disclose it to all of the parties and attorneys on the record; I would allow the parties to discuss whether or not they had any objection to me presiding over the case outside my presence; and I would carefully consider a motion for my recusal if I believed it could cause my impartiality to be reasonably questioned. If I determined it was necessary for me to recuse myself, I would ask another judge to hear the case, if another judge was available, to avoid any undue delay in resolving the case.

20. 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.

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

Yes.

22. What do you feel is the appropriate demeanor for a judge and when do these rules apply?

A judge should conduct all of his or her judicial and extra-judicial activities in a manner that promotes the upmost respect for the law, legal system, and judicial system. A judge’s demeanor should always be fair, just, impartial, kind, and patient to not only the litigants and attorneys involved in a case, but also to staff, court personnel, and the general public. A judge should never do anything that would cast any doubt on his or her ability to be impartial, nor should a judge do anything to demean his or her judicial office or the judicial system. In short, our justice system is based on the long-standing principle that judges are fair, impartial, and competent to interpret and apply the law, and a judge has a duty and responsibility to uphold that principle at all times.

23. 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?

No. I do not believe it would ever be appropriate for a judge to display anger toward an attorney, litigant, staff member, court personnel, or the general public, including a criminal defendant.

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 19th day of August, 2024.

(Signature)

(Print name)

Notary Public for South Carolina

My commission expires: _____