

Responses of Claire C. Cecchi
Nominee to be United States District Judge for the District of New Jersey
to the Written Questions of Senator Charles Grassley

- 1. Do you believe that our federal government is one of limited and enumerated powers?**

Response: Yes. The Constitution and the Tenth Amendment are clear that the federal government is one of limited and enumerated powers. The Supreme Court has affirmed this principle.

- 2. Do you believe it is proper for a judge, consistent with governing precedent, to strike down an act of Congress that it deems unconstitutional? If so, under what circumstances?**

Response: Yes. When Congress enacts a law in contravention of the Constitution, a judge must either invalidate the act or limit its application.

- 3. What is the most important attribute of a judge, and do you possess it?**

Response: I believe the most important attribute of a judge is the ability to be fair and impartial in the application of the law to the facts, to treat all litigants with respect and to provide a full and fair opportunity to be heard. I believe I possess that attribute.

- 4. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

Response: I believe that a judge must be respectful, courteous and patient, and approach each matter with an objective and impartial stance. I believe I meet this standard.

- 5. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

Response: Yes.

- 6. At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

Response: In a case of first impression, if there were no controlling precedent, I would carefully review any analogous Supreme Court and Circuit Court precedent. I would also review any applicable statutory or constitutional provisions that may address the issue.

- 7. What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits, or your best judgment of the merits?**

Response: If confirmed as a district judge, I would be bound to apply the precedent of the Supreme Court or the Court of Appeals. I would not use my own judgment of the merits.

- 8. As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?**

Response: As a magistrate judge, I am familiar with the caseload in our federal courts and the importance of the efficient administration of justice. Judges play a significant role in the pace of litigation and must ensure that cases are properly managed and proceed expeditiously. If confirmed, I would continue my practice of intervening in matters early on to identify, streamline and resolve issues. From the inception of a case, I would encourage settlement and mediation. I would issue pretrial scheduling orders, promptly decide motions and set firm trial dates. At all times, I would work with counsel to ensure that the cases assigned to me are proceeding in a timely and effective manner.

- 9. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

Response: Yes. I believe that judges play a significant role in controlling the pace and conduct of litigation. As outlined in my response to Question 8, I would set appropriate schedules, promptly decide motions, set trial dates and encourage early resolution through settlement discussions.

- 10. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: It is appropriate for a federal court to declare a statute enacted by Congress unconstitutional when Congress has exceeded its constitutional authority. If confirmed, I would follow the precedent of the Supreme Court and the Court of Appeals for the Third Circuit in considering such an issue.

- 11. Please describe with particularity the process by which these questions were answered.**

Response: After I received the questions on March 9, 2011, I prepared responses on March 10, 2011. I then reviewed my responses with representatives of the Department of Justice, finalized my responses and authorized their transmittal to the Committee.

- 12. Do these answers reflect your true and personal views?**

Response: Yes.