

Responses of Katherine B. Forrest
Nominee to be United States District Judge for the Southern District of New York
to the Written Questions of Senator Chuck Grassley

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

Response: The most important attribute of a judge is the ability to apply precedent fairly and narrowly. I do possess the ability to apply precedent fairly and narrowly.

2. 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: The appropriate temperament of a judge includes elements critical to maintaining faith, respect and belief in the integrity and soundness of the judicial process. The most important elements of appropriate judicial temperament include an ability to be fair and impartial, have due humility, and demonstrate respect for all litigants. I possess each of the elements necessary for appropriate judicial temperament.

3. 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.

4. 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: To determine a case of first impression I would first consult the language of any applicable statute. If the statute was clear on its face, its application ought to be straightforward. If the statute was not clear on its face, I would look to legislative history for guidance. To the extent that a case of first impression did not involve statutory interpretation, I would look to analogous cases and precedent in other circuits for guidance. I would also carefully study the arguments of all involved parties. I would decide the case on the narrowest possible grounds.

5. 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: District Court Judges are bound by the precedent of the Circuit in which they sit as well as the Supreme Court. If I were confirmed, my role as a District Court Judge would be to apply that precedent irrespective of any personal views I might hold; and I would do so.

6. 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: If confirmed, I intend to establish rules for litigants (modeled on the most effective among the rules utilized by other judges in the Southern District of New York) that would provide litigants with clear guidance on my expectations for procedures and timeframes. I would set clear dates, including a trial date, at the first opportunity and would intend to require the litigants to meet those dates unless there was a compelling reason to alter them. I would also render decisions on all matters as quickly as possible, consistent with fair and reasoned analysis. I have a professional reputation for being very efficient and effective and I would bring those skills to the bench to insure that my caseload was managed as well as possible.

7. 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: I believe judges play a critical role in controlling the pace and conduct of litigation. If confirmed, as set forth in response to Question 6 above, I would establish rules governing the conduct of litigation and timeframes for all matters. I would establish the earliest possible timeframes consistent with the complexity and needs to a particular matter. I would maintain a consistent pace towards the earliest possible resolution of matters by requiring litigants to comply with scheduling orders unless they present a compelling reason for alteration. I would set trial dates and would have no hesitation in holding those trial dates.

8. Please describe with particularity the process by which these questions were answered.

Response: I read the questions presented several times very carefully. I then personally sat at my computer and typed my answers and reviewed my answers for completeness and accuracy. I then submitted them to the Office of Legal Policy for submission to the Committee.

9. Do these answers reflect your true and personal views?

Response: Yes.