

**Responses of Robert E. Bacharach
Nominee to be United States Circuit Judge for the Tenth Circuit
to the Written Questions of Senator Amy Klobuchar**

- 1. If you had to describe it, how would you characterize your judicial philosophy? How do you see the role of the judge in our constitutional system?**

Response: My judicial philosophy is that a judge's function is to apply the law to the facts in every case without regard to his or her own feelings, sympathies, or ideology. To carry out this important function, the judge should work hard to determine what the law actually is rather than what it should be.

The judge's role in our constitutional system is fundamental. As Chief Justice Marshall stated in *Marbury v. Madison*, 1 Cranch. 137, 2 L. Ed. 60 (1803), the judge bears an important role in reviewing the constitutionality of laws. More broadly, however, judges often represent the last resort for resolution of private disputes and allegations of criminal wrongdoing. The establishment of an objective, fair forum for resolution of these private and public issues — through a judge's work — is central to the judiciary's function in Article III, Section 2 of the Constitution.

- 2. What assurances can you give that litigants coming into your courtroom will be treated fairly regardless of their political beliefs or whether they are rich or poor, defendant or plaintiff?**

Response: For 13 years as a United States Magistrate Judge, I have attempted to treat every litigant — rich or poor, plaintiff or defendant — with respect and fairness. I believe that these efforts are reflected in the procedural handling and analysis in all of my cases.

- 3. In your opinion, how strongly should judges bind themselves to the doctrine of stare decisis? How does the commitment to stare decisis vary depending on the court?**

Response: My view is that judges in the district court and circuit court of appeals are bound by stare decisis. In our judicial system, a magistrate judge or district judge bears an obligation to follow precedential decisions issued by the Tenth Circuit Court of Appeals and United States Supreme Court. In the absence of *en banc* consideration, a Tenth Circuit judge bears the same obligation. The Supreme Court has the opportunity to overrule its own precedents. But this opportunity should only be exercised sparingly and in a principled manner.