

Responses of Jesus G. Bernal
Nominee to be United States District Judge for the Central District of California
to the Written Questions of Senator Tom Coburn, M.D.

- 1. Some people refer to the Constitution as a “living” document that is constantly evolving as society interprets it. Do you agree with this perspective of constitutional interpretation?**

Response: No.

- a. If not, please explain.**

Response: I do not agree that the Constitution is a “living” document that is constantly evolving as society interprets it. It is the text of the Constitution, as interpreted by binding precedent, that governs district courts. That text is fixed, and can only be changed through the amendment and ratification process.

- 2. Justice William Brennan once said: “Our Constitution was not intended to preserve a preexisting society but to make a new one, to put in place new principles that the prior political community had not sufficiently recognized.” Do you agree with him that constitutional interpretation today must take into account this supposed transformative purpose of the Constitution?**

Response: No.

- a. Please explain.**

The fundamental principles embedded in the Constitution remain constant and can only be changed through the amendment and ratification process. If confirmed, I would apply the binding decisions of the United States Supreme Court and the Court of Appeals for the Ninth Circuit.

- 3. In your view, is it ever proper for judges to rely on foreign or international laws or decisions in determining the meaning of the Constitution?**

Response: No.

- a. If so, under what circumstances would you consider foreign law when interpreting the Constitution?**

Response: Not applicable.