

**Responses of Andrew L. Carter, Jr.
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 willingness to apply the law to all parties impartially. I possess this attribute.

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: A judge should be patient, attentive, and humble. I believe that I meet that standard for 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: I would delve into the opinions of the Supreme Court or the Second Circuit Court of Appeals in analogous situations. If that proved unproductive, I would look at opinions of other federal circuit courts in analogous situations. I would also consider any constitutional or statutory provisions that might address the issue.

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: I would apply the decisions of the Supreme Court and the Court of Appeals for the Second Circuit. If confirmed, my personal views would be inapposite.

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

Response: When considering a constitutional challenge to a Congressional statute, a judge must decide whether Congress exceeded its constitutional authority in enacting the

statute or whether the statute itself violated the Constitution. I would adhere to the opinions of the Supreme Court and the Second Circuit Court of Appeals in cautiously rendering any decision that might declare a statute unconstitutional.

7. 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 have faced the pressures of managing a heavy caseload. When cases languish, attorneys' fees accumulate and make settlement more difficult. If confirmed, I would, in concert with the magistrate judges in the Southern District of New York, continue to encourage early settlement of cases by streamlining the discovery process when possible. In addition, I would continue to rule on matters carefully and with a sense of urgency to ensure that cases are moved through the system expeditiously.

8. 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. The judge has a duty to manage every litigant's case impartially and efficiently. A judge must strive to decide the matters before him or her carefully, practically, and as narrowly as possible. Moreover, the judge must rule on these matters with a sense of urgency.

Regarding conduct, judges must lead by example. Judges must exude patience, attentiveness, and humility. Judges must ensure that the parties comport themselves in a professional and dignified manner.

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

Response: Having carefully considered each question, I drafted my responses. My responses were reviewed by representatives from the Department of Justice. The final responses were forwarded to the Department of Justice for submission to the Senate Judiciary Committee.

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

Response: Yes.