

Responses of Paul J. Watford
Nominee to be United States Circuit Judge for the Ninth 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: I believe judges should play a very modest role in our constitutional system. Elected officials are responsible for making the policy choices and value judgments that shape the law, and the primary function of courts is to ensure that the executive and legislative branches remain within the limits of their assigned authority under the Constitution. That is certainly an important function, but under the guise of exercising it a judge has no authority to second-guess the wisdom of choices made by the elected branches based on the judge's own moral values or policy preferences.

- 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: Resolving cases based solely on what the law requires and without regard to the identity of the parties is the most solemn obligation a judge undertakes upon assuming judicial office. Any judge who did otherwise would be violating his or her oath of office, which requires judges, among other things, to "administer justice without respect to persons, and do equal right to the poor and to the rich." If confirmed, I would faithfully abide by that oath in every case I was called upon to decide.

- 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: I think that judges should be strong adherents to the doctrine of *stare decisis*, and that the circumstances in which a court should overrule its prior precedent are rare. The factors a court should consider in making that decision include the soundness of the reasoning supporting the precedent in question, the reliance interests that have developed around a previously settled rule, and whether the rule established by the precedent in question has proved unworkable in practice.

Judges who serve on the courts of appeals will seldom be called upon to overrule precedent because they have no authority to overrule Supreme Court precedent and three-judge panels have no authority to overrule circuit precedent. Only the court sitting en banc may overrule circuit precedent, and as just noted I think the circumstances in which that would be justified are rare.