

Responses of Nancy D. Freudenthal
Nominee to the U.S. District Court for the District of Wyoming
to the Written Follow-up Questions of Senator Grassley

1. What is your view of the role of a judge?

Response: The role of a judge in the U.S. District Court for the District of Wyoming is to follow the rule of law based on precedent from the United States Supreme Court and the Tenth Circuit, and to apply that law in an impartial manner to the established facts in the case at issue.

2. Do you believe it is ever appropriate for judges to indulge their own values in determining the meaning of statutes and the U.S. Constitution?

Response: No.

a. If so, under what circumstances?

Response: See my response above.

b. Please provide an example of a case in which you have done so.

Response: I have not done so.

c. Please provide an example of a case where you have had to set aside your own values and rule based solely on the law.

Response: I cannot recall having done so.

3. Do you believe it is ever appropriate for judges to indulge their own policy preferences in determining the meaning of statutes and the U.S. Constitution?

Response: No.

a. If so, under what circumstances?

Response: See my response above.

b. Please provide an example of a case in which you have done so.

Response: I have not done so.

c. Please provide an example of a case where you have had to set aside your own policy preferences and rule based solely on the law.

Response: As chairman of the Wyoming State Board of Equalization, excise tax cases were considered by the Board wherein the taxpayer asserted a statute of limitations defense against the collection of unpaid taxes. Based solely on the law, I set aside my own policy preference and ruled that the unpaid taxes could not be collected.

4. How do you define “judicial activism?”

Response: I have no personal definition for this term. I understand the phrase to mean a philosophy of judicial decision-making whereby judges allow their personal views about public policy, among other factors, to guide their decisions, usually with the suggestion that adherents of this philosophy are willing to ignore precedent.