

**Responses of Barbara Milano Keenan
Nominee to the U.S. Court of Appeals for the Fourth Circuit
to the Follow-up Questions of Senator Tom Coburn, M.D.**

- 1. You personally solicited a letter of support from The Hon. Linda (Toddy) Puller, a Virginia State Senator. Has Ms. Puller ever appeared before you in court either in her personal capacity or in her official capacity?**

Response: No. Ms. Puller has never appeared before me in court in either a personal or an official capacity.

- a. If yes, how did you handle recusal issues?**

- b. Have you ever ruled in a case involving legislation sponsored or cosponsored by Ms. Puller?**

Response: As a matter of practice, I never conduct research or otherwise attempt to determine who was a sponsor or a cosponsor of legislation that is before me as a judge. I cannot recall any case before me as a judge in which I was aware that Ms. Puller was a sponsor or a cosponsor of legislation at issue in the case, nor have I since become aware of any such situation.

- c. Is it possible that you could rule on a matter involving Ms. Puller or legislation that she has sponsored or cosponsored in the future?**

Response: Yes, it is possible that a matter involving Ms. Puller or legislation that she has sponsored or cosponsored would come before me as an appellate judge in the future.

- d. How will you handle recusal issues in the future if Ms. Puller has a case before you or your court is handling legislation that has sponsored or cosponsored?**

Response: If the case is before the Supreme Court of Virginia and personally involves Ms. Puller, who is not an attorney, or involves legislation that I am aware she has sponsored or cosponsored, I would consult and follow the Virginia Canons of Judicial Conduct regarding my participation in such a case. If I am confirmed as a judge of the United States Court of Appeals for the Fourth Circuit, and if such a case comes before that Court, I would consult and follow the Code of Conduct for United States Judges and any other pertinent directives, including 28 U.S.C. § 455, regarding the ethical duties of United States judges.

2. **You stated that letters of support were solicited from Vincent J. Mastracco, Jr., Esq., John A. Heilig, Esq., Thomas G. Johnson, Jr., Esq., and The Hon. Owen B. Pickett, but you did not solicit these letters. Who solicited these letters on your behalf?**

Response: My husband, Alan E. Rosenblatt, asked John A. Heilig, Esq., and The Hon. Owen B. Pickett, both of whom he has known for over twenty-five years, to write letters on my behalf. Hunter W. Sims, Esq., whom I have known for over 30 years, asked his law partner, Vincent J. Mastracco, Jr., Esq., to write a letter on my behalf. My friend and colleague on the Supreme Court of Virginia, Justice S. Bernard Goodwyn, asked his former law partner, Thomas G. Johnson, Jr., Esq., to write a letter on my behalf.

These letters were written before my interview with Senators Webb and Warner, and before they recommended me to the White House. The letters were intended to inform the Senators about support within the legal community regarding my application and about my judicial service to the Commonwealth of Virginia. I understood that the Senators welcomed such information regarding judicial candidates.

- a. **Has the person who solicited the letters on your behalf ever appeared before you in court? Is it possible that they could appear before you in the future?**

Response: Neither my husband nor Justice Goodwyn has ever appeared before me in court, and it is not possible that they will do so in the future. Hunter W. Sims, Esq., has appeared before me in court in the past. It is possible that he would appear before me in court in the future.

- b. **If they have had a case before you, how did you handle recusal issues?**

Response: To the best of my recollection, Hunter W. Sims, Esq., has not appeared before me in court since he requested Vincent J. Mastracco, Jr., Esq., to write a letter on my behalf. In his prior appearances, there was no recusal issue for consideration.

- c. **How will you handle recusal issues in the future with regard to the person who solicited these letters?**

Response: If Mr. Sims appears before the Supreme Court of Virginia in the future, I would consult and follow the Virginia Canons of Judicial Conduct regarding my participation in such a case. If I am confirmed as a judge of the United States Court of Appeals for the Fourth Circuit, and if a case involving Mr. Sims comes before that Court, I would consult and follow the Code of Conduct for United States Judges and any other

pertinent directives, including 28 U.S.C. § 455, regarding the ethical duties of United States judges.

- d. Has Vincent J. Mastracco Jr., Esq., John A. Heilig, Esq., or Thomas G. Johnson, Jr., Esq., ever appeared before you in court either as an attorney representing a client or a litigant or is it possible that they would in the future?**

Response: To the best of my recollection, Vincent J. Mastracco, Jr., Esq., John A. Heilig, Esq., and Thomas G. Johnson Jr., Esq., have never appeared before me in court either as an attorney representing a client or as a litigant. It is possible that any of these three attorneys would appear before me in court in the future.

- e. If they do appear before you in the future, how will you handle recusal issues?**

Response: If any of these three attorneys appears before me in the Supreme Court of Virginia in the future, I would consult and follow the Virginia Canons of Judicial Conduct regarding my participation in the case. If I am confirmed as a judge of the United States Court of Appeals for the Fourth Circuit, and if a case involving any of these three attorneys comes before that Court, I would consult and follow the Code of Conduct for United States Judges and any other pertinent directives, including 28 U.S.C. § 455, regarding the ethical duties of United States judges.

- f. To whom was the letter from The Hon. Owen B. Pickett addressed?**

Response: I never saw a copy of the letter that I was told former Congressman Pickett wrote. Assuming that such a letter was sent, it likely was sent to Senator Jim Webb.

- 3. Did anyone instruct or advise you to request these letters of support, including anyone at the U.S. Department of Justice or the White House?**

Response: No, no one instructed or advised me to request the above letters of support, including anyone at the United States Department of Justice or the White House.