

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Matthew A. Schwartz
Nominee to be U.S. Circuit Judge for the Second Circuit
May 27, 2026

1. In college, you authored an article in which you criticized the first same-sex wedding at Princeton. You characterized the wedding as evidence of “the worst attribute of the gay movement: a complete disregard for the beliefs of others.”

- a. **Do you still believe the worst attribute of LGBTQ Americans is their complete disregard for the beliefs of others?**

Response: With respect, the article I wrote did not say what your question implies. As noted during my oral testimony on May 20, 2026, although it is inappropriate for me as a judicial nominee to discuss my personal views on policy and political matters, *see* Code of Conduct for United States Judges, Canon 5, the tone of the article and some of my word choices were unduly harsh and reflected my writing as a teenager in 1997.

You also suggested that conclusive studies would need to be conducted to determine if “same-sex couples could raise children as emotionally, psychologically, and spiritually healthy as heterosexual parents.”

It has been nearly three decades since you wrote that article, and numerous studies conducted since then have determined that a person’s sexual orientation or gender identity has nothing to do with their ability to be a good, loving, effective parent.

- b. **Do you still question the parenting abilities of LGBTQ Americans?**

Response: It is inappropriate for me as a judicial nominee to discuss my personal views on policy and political matters, *see* Code of Conduct for United States Judges, Canon 5A. I am aware that there is relevant U.S. Supreme Court precedent concerning the rights of same-sex couple to have and raise children, *e.g.*, *Pavan v. Smith*, 582 U.S. 563 (2017), and, if I am fortunate enough to be confirmed, I would faithfully apply this and all other binding precedent.

- c. **Considering your commentary, why should a member of the LGBTQ community have confidence that you will treat them fairly if you are confirmed to serve as a federal judge?**

Response: Throughout my adulthood and professional career, I have treated everyone equally and with respect, no matter who they are. If I am fortunate enough to be confirmed, I will continue to do so and will also faithfully apply all U.S. Supreme Court precedent, including precedent concerning same-sex marriage such as *Obergefell*.

2. You coauthored a study analyzing the political contributions of faculty at elite law schools. For purposes of your study, you defined a professor as being “politically active” if they made at least \$200 in federal campaign contributions. You concluded that law professors were likely to make political donations for expressive rather than instrumental reasons, “making their contributions a reliable guidance to their political sentiment.” Federal Election Commission records show that you have donated nearly \$89,000 exclusively to Republican candidates and conservative political action committees, making you the judicial nominee who has made the highest amount of political donations in President Trump’s second term.

a. **According to your own definition, please explain if you believe you have been “politically active.”**

Response: Based on my contributions, I would qualify under the definition in the study.

b. **In making your campaign contributions, what political sentiment were you intending to express?**

Response: I had a variety of reasons for making these contributions. If I am fortunate enough to be confirmed, I will cease any political activity and contributions, and my personal political views will have no influence on my work as a judge.

c. **Given your significant support of conservative candidates and causes, if confirmed, why should parties with different political beliefs than yours believe that you will treat them fairly in the courtroom?**

Response: It is not unusual for judicial nominees to have made political contributions prior to being nominated and confirmed. Some judicial nominees have worked for political parties, groups closely associated with a political party, or elected officials. If I am fortunate enough to be confirmed, I will cease any political activity and contributions, and my personal political views will have no influence on my work as a judge.

3. When he nominated you, President Trump praised your work fighting “lawfare and government overreach.”

Do you agree with this characterization?

Response: As a judicial nominee, it would be inappropriate for me to opine on a political issue or a statement by any elected official or political figure. *See* Code of Conduct for United States Judges, Canon 5.

4. In March 2025, all Senate Judiciary Committee Democrats wrote to the disciplinary counsel for the New York First Judicial Department’s Attorney Grievance Committee expressing concern about then-Acting Deputy Attorney General Emil Bove’s abuse of power and coercion of state officials to induce Eric Adams to cooperate with the Trump Administration’s immigration policy. Since 2025, you have served as a member of the Attorney Grievance Committee, which, according to reports, has repeatedly declined to investigate Bove.

a. Please describe your involvement, if any, in reviewing or investigating complaints made against Mr. Bove.

Response: I have no personal knowledge of whether any formal complaints were made against Judge Bove to the New York Appellate Division, First Department Attorney Grievance Committee and had no involvement in any decisions concerning any such complaints, if made.

b. Have you ever discussed state-level disciplinary matters with any officials in the Trump Administration? If so, please summarize each conversation you had.

Response: No.

5. Robert Giuffra, who serves with you on President Trump’s legal team, reportedly assisted Paul, Weiss, Wharton & Garrison LLP (Paul, Weiss) in negotiating with the Trump Administration after the law firm was the subject of an executive order (EO) that would have suspended its attorneys’ security clearances and restricted their access to government buildings and officials. The EO targeted Paul, Weiss, in part, because the firm employed Mark Pomerantz, who had previously assisted the Manhattan District Attorney’s Office with its investigation into President Trump. In exchange to Paul, Weiss submitting to the President Trump’s demands, the President withdrew the EO targeting the firm.

a. Please describe your involvement, if any, in negotiating Paul, Weiss’s deal with the Trump Administration.

Response: I had no involvement.

b. Do you believe it is lawful for the President to issue executive orders targeting law firms for the clients they represent, the causes for which they advocate, or the personnel in their employ?

Response: My understanding is that there is active litigation concerning the President’s executive orders. As a judicial nominee, it would be inappropriate for me to opine on an issue that is subject to pending litigation. *See* Code of Conduct for United States Judges, Canon 3(A)(6).

6. From 2015 to 2018, you were a member of the New York City Bar Association’s Committee on Professional Ethics. In 2026, that Committee submitted a public comment opposing the Justice Department’s recent proposed rule weakening the ability of state bar associations to investigate misconduct by DOJ attorneys.¹

Do you agree with the comment filed by the Committee on Professional Ethics? Please explain why or why not.

Response: As noted in Question 6, I was not a member of the New York City Bar Association’s Committee on Professional Ethics in 2026. I am unfamiliar with the public comment described in this question.

7. According to public reporting, President Trump’s Save America PAC owes Sullivan & Cromwell approximately \$400,000 in legal fees, along with \$1.2 million it owes other law firms for their work.²

- a. Have you discussed this debt with President Trump, any of his representatives, or any other Administration officials?**

Response: No.

At your hearing, you initially called the amount owed to your firm from President Trump “an extraordinarily small amount” and later said that if there is a net profit to the firm from representing President Trump, you would “receive a miniscule amount of that...money.”

- b. Did Sullivan & Cromwell agree to represent President Trump without an expectation of making a profit?**

Response: Under Rule 1.6 of the New York Rules of Professional Conduct, a client’s financial arrangement with the client’s lawyer is considered the client’s confidential information and the lawyer may not disclose it without client consent. During the hearing, I explained that if there is an annual overall net profit for Sullivan & Cromwell, which would include any profits or losses attributable to all firm clients, I am entitled to receive only a small amount of that profit.

8. On May 18, 2026, the Justice Department dropped its criminal fraud and bribery case against Indian billionaire Gautam Adani. According to public reports, Sullivan & Cromwell Co-Chair Robert Giuffra met with top DOJ officials last month to discuss the case. During a presentation by the defense, an apparent pledge made by Adani was mentioned in which he praised President Trump for winning the 2024 election and

¹ *Comment on the Department of Justice’s Proposed Rule Regarding State Bar Complaints Against DOJ Attorneys*, NEW YORK CITY BAR ASSOCIATION (Apr. 6, 2026), <https://www.nycbar.org/reports/comment-on-the-department-of-justices-proposed-rule-regarding-state-bar-complaints-against-doj-attorneys/?back=1>.

² Em Luetkemeyer, *Donald Trump’s Favorite PAC for Legal Bills Is in Debt — And Owes Many Law Firms Money*, NOTUS (Apr. 15, 2026), <https://www.notus.org/money/donald-trump-debt-legal-fees-save-america-pac>.

offered to invest \$10 billion in the U.S. economy and create 15,000 jobs. That same offer was apparently made last year, but the Justice Department decided to proceed with the case. The difference with this year's offer is that your firm, Sullivan & Cromwell, is now involved.

- a. **Have you been involved in any way with Sullivan & Cromwell's representation of Adani?**

Response: No.

- b. **Did you participate in the meeting with DOJ officials last month?**

Response: No.

9. In a letter to the *Princeton Alumni Weekly*, you responded to a claim from another writer that "Western colonialism justifies Muslim rage, and, by implication, its terrorism." In your response you stated that "[m]any peoples, however, suffered under colonialism, and have not resorted to mass murder. Why aren't Indians, Filipinos, Guatemalans, Chinese, Chileans, South Koreans, Mohawks, Ghanians [*sic*], South Africans, Aborigines, and Arab Christians, flying planes into packed skyscrapers or blowing up crowded nightclubs?" You further argued that "[n]othing justifies the violence against innocent civilians coming from radical Muslims. Other nations and religions around the world have suffered as much, if not more so. Rather than picking up arms, these other peoples have democratized, capitalized, liberalized, and improved their lives. Muslims must take the hard step of dropping their ancient religious law and joining the rest of the world in the 21st century."

- a. **Do you believe that Muslims are uniquely violent, compared to people from the other countries and religions you mentioned?**

Response: No.

- b. **Do you stand by your previous commentary?**

Response: Although as a judicial nominee, it would be inappropriate for me to discuss current personal views on the substantive issues expressed in this 2003 letter, *see* Code of Conduct for United States Judges, Canon 5, some of my word choices were inartful. Throughout my career, I have treated everyone equally and with respect regardless of their religious or cultural background. If I am fortunate enough to be confirmed, I will continue to do so.

10. **Did President Trump lose the 2020 election?**

Response: Congress certified President Biden as the winner of the 2020 presidential election. In keeping with the position of prior judicial nominees, it would be inappropriate for me to opine on political, policy, or legal debates regarding the integrity

of any election, including the 2020 presidential election. *See* Code of Conduct for United States Judges, Canons 3(A)(6), 5.

11. Where were you on January 6, 2021?

Response: New York.

12. Do you denounce the January 6 insurrection?

Response: As stated in my oral testimony during the hearing, trespass and violence occurred at the U.S. Capitol on January 6, 2021, and I condemn violence against law enforcement and political actors. The word “insurrection,” however, has legal meaning and legal consequences attached to it, *see, e.g.*, U.S. Const. amend. XIV, § 3, and has been used in at least one recent instance of which I am aware to seek to disqualify a candidate for running for public office. As a judicial nominee, it would be inappropriate for me to comment on legal issues that could come before me if I am fortunate enough to be confirmed, and that are also matters of political controversy. *See* Code of Conduct for United States Judges, Canons 3(A)(6), 5.

13. Do you believe that January 6 rioters who were convicted of violent assaults on police officers should have been given full and unconditional pardons?

Response: As a judicial nominee, it would be inappropriate for me to opine on matters of political controversy. *See* Code of Conduct for United States Judges, Canon 5.

14. The Justice Department is currently defending the Trump Administration in a number of lawsuits challenging executive actions taken by the Administration. Federal judges—both Republican and Democratic appointees—have enjoined some of these actions, holding that they are illegal or unconstitutional. Alarming, President Trump, his allies, and even some nominees before the Senate Judiciary Committee have responded by questioning whether the executive branch must follow court orders.

a. What options do litigants—including the executive branch—have if they disagree with a court order?

Response: In general, litigants that disagree with a court order should follow available appellate processes. There is a narrow group of circumstances in which it might be appropriate for a litigant, including an Executive Branch official, to fail to follow a court order. For example, sometimes an order can only be appealed if it is violated. *See Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100, 111 (2009).

b. Do you believe a litigant can ever lawfully defy an order from a lower federal court? If yes, in what circumstances?

Response: Please see my answer to Question 14.a.

- c. **Under the separation of powers, which branch of the federal government is responsible for determining whether a federal court order is lawful?**

Response: The Judicial Branch.

15. District judges have occasionally issued non-party injunctions, which may include “nationwide injunctions” and “universal injunctions.”

- a. **Are non-party injunctions constitutional?**

Response: The U.S. Supreme Court recently addressed the constitutionality of non-party injunctions, including nationwide and universal injunctions, in *Trump v. CASA, Inc.*, 606 U.S. 831 (2025). If I am fortunate enough to be confirmed, I would follow the U.S. Supreme Court’s decision and any other relevant binding precedent.

- b. **Are non-party injunctions a legitimate exercise of judicial power?**

Response: Please see my answer to Question 15.a.

- c. **Is it ever appropriate for a district judge to issue a non-party injunction? If so, under what circumstances is it appropriate?**

Response: Please see my answer to Question 15.a.

- d. **As a litigator, have you ever sought a non-party injunction as a form of relief? If so, please list each matter in which you have sought such relief.**

Response: If a “non-party injunction” includes an injunction that applies to employees and agents of the party against whom the injunction is issued, then, to the best of my recollection, the following matters are ones in which I, as counsel, have sought a non-party injunction: *M.K.L., by and through her parents, J.K. and R.L., and J.K. and R.L., individually and on their own behalf, v. Seattle School District No. 1, et al.*, No. 2:25-cv-2334-RSM (W.D.Wash); *National Association of Industrial Bankers v. Weiser*, Civil Action No. 1:24-cv-812-DDD-KAS (D.Col.); *Chamber of Commerce of the United States of America v. Securities and Exchange Commission*, No. 3:22-cv-00561 (M.D.Tenn.); and *The New York Bankers Association, Inc. v. The City of New York*, 15-cv-4001 (KPF).

16. **At any point during your selection process, did you have any discussions with anyone—including individuals at the White House, the Justice Department, or any outside groups—about loyalty to President Trump? If so, please provide details.**

Response: No.

17. Does the U.S. Constitution permit a president to serve three terms?

Response: Section 1 of the Twenty-Second Amendment states: “No person shall be elected to the office of the President more than twice.”

18. On May 26, 2025, in a Truth Social post, President Trump referred to some judges whose decisions he disagrees with, as “USA HATING JUDGES” and “MONSTERS”, who “...SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY...”³

- a. Do you agree that these federal judges are “USA HATING” and “MONSTERS” who “...SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY...”?**

Response: As a judicial nominee, it would be inappropriate for me to opine on a political issue or a statement by any elected official or political figure. *See* Code of Conduct for United States Judges, Canon 5.

- b. Do you believe this rhetoric endangers the lives of judges and their families?**

Response: Please see my answer to Question 18.a.

19. In addition to the President’s own attacks on judges, his adviser Stephen Miller took to social media to call a federal trade court’s ruling against President Trump’s tariffs a “judicial coup”⁴ and later reposted the images of the three judges who decided the case and wrote, “we are living under a judicial tyranny.”⁵

- a. Do you agree that these judges are engaged in a “judicial coup” and that “we are living under a judicial tyranny”?**

Response: Please see my answer to Question 18.a.

- b. Do you believe this rhetoric endangers the lives of judges and their families?**

Response: Please see my answer to Question 18.a.

- c. Would you feel comfortable with any politician or their adviser sharing a picture of you on social media if you issue a decision they disagree with?**

³ Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (May 26, 2025, 7:22 AM), <https://truthsocial.com/@realDonaldTrump/posts/114573871728757682>.

⁴ Stephen Miller (@StephenM), X, (May 28, 2025, 7:48 PM), <https://x.com/StephenM/status/1927874604531409314>.

⁵ Stephen Miller (@StephenM), X, (May 29, 2025, 8:25 AM), <https://x.com/StephenM/status/1928065122657845516>.

Response: I understand that, if I am fortunate enough to be confirmed, I will be subject to public criticism, including potentially the use of my picture on social media. Any such criticism will not influence my work as a judge.

20. When, if ever, may a lower court depart from Supreme Court precedent?

Response: A lower court may not depart from binding Supreme Court precedent.

21. When, in your opinion, would it be appropriate for a circuit court to overturn its own precedent?

Response: In *United States v. Peguero*, 34 F.4th 143, 158 (2d Cir. 2022), a panel of the Second Circuit explained the following standards for when a three-judge panel should consider overturning prior Circuit precedent: “If ‘an intervening Supreme Court decision casts doubt on the prior ruling’—that is, where ‘the Supreme Court’s conclusion in a particular case ... broke[] the link on which we premised our prior decision, or undermined an assumption of that decision,’—then we are not bound by our prior ruling. *Dale v. Barr*, 967 F.3d 133, 142–43 (2d Cir. 2020) (internal quotation marks omitted). ‘[W]e resort to this exception cautiously,’ however, as a ‘less-than-stringent application of the standards for overruling prior decisions not only calls into question a panel’s respect for its predecessors but also increases uncertainty in the law by revisiting precedent without cause.’ *Id.* at 143.” (certain internal quotation marks and footnotes omitted).

In addition, Rule 40 of the Federal Rules of Appellate Procedure notes that *en banc* review of a Circuit court decision may be appropriate when “(A) the panel decision conflicts with a decision of the court to which the petition is addressed ... and the full court’s consideration is therefore necessary to secure or maintain uniformity of the court’s decisions; (B) the panel decision conflicts with a decision of the United States Supreme Court ...; (C) the panel decision conflicts with an authoritative decision of another United States court of appeals ...; or (D) the proceeding involves one or more questions of exceptional importance...”

22. When, in your opinion, would it be appropriate for the Supreme Court to overrule its own precedent?

Response: The Supreme Court has set forth factors for overruling its own precedent. *See, e.g., Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215 (2022) (factors for overruling U.S. Supreme Court precedent concerning constitutional law decisions); *Kimble v. Marvel Ent., LLC*, 576 U.S. 446 (2015) (factors for overruling U.S. Supreme Court precedent concerning statutory interpretation).

23. Please answer yes or no as to whether the following cases were correctly decided by the Supreme Court:

a. *Brown v. Board of Education*

Response: Yes. Consistent with the statements of prior nominees, given *Brown*'s seminal importance in our country's history and fabric, as well as the general consensus that it was correctly decided, *Brown* is recognized as an exception to the general rule that judicial nominees do not express their agreement or disagreement with cases and do not "grade" them.

b. *Plyler v. Doe*

Response: *Plyler* is binding precedent of the U.S. Supreme Court. As stated by numerous prior judicial nominees, it would be generally inappropriate for me to opine on or "grade" U.S. Supreme Court decisions.

c. *Loving v. Virginia*

Response: Yes. Consistent with the statements of prior nominees, given *Loving*'s seminal importance in our country's history and fabric, as well as the general consensus that it was correctly decided, *Loving* is recognized as an exception to the general rule that judicial nominees do not express their agreement or disagreement with cases and do not "grade" them.

d. *Griswold v. Connecticut*

Response: *Griswold* is binding precedent of the U.S. Supreme Court. As stated by numerous prior judicial nominees, it would be generally inappropriate for me to opine on or "grade" U.S. Supreme Court decisions.

e. *Trump v. United States*

Response: *Trump* is binding precedent of the U.S. Supreme Court. As stated by numerous prior judicial nominees, it would be generally inappropriate for me to opine on or "grade" U.S. Supreme Court decisions.

f. *Dobbs v. Jackson Women's Health Organization*

Response: *Dobbs* is binding precedent of the U.S. Supreme Court. As stated by numerous prior judicial nominees, it would be generally inappropriate for me to opine on or "grade" U.S. Supreme Court decisions.

g. *New York State Rifle & Pistol Association, Inc. v. Bruen*

Response: *Bruen* is binding precedent of the U.S. Supreme Court. As stated by numerous prior judicial nominees, it would be generally inappropriate for me to opine on or "grade" U.S. Supreme Court decisions.

h. *Obergefell v. Hodges*

Response: *Obergefell* is binding precedent of the U.S. Supreme Court. As stated by numerous prior judicial nominees, it would be generally inappropriate for me to opine on or “grade” U.S. Supreme Court decisions.

i. *Bostock v. Clayton County*

Response: *Bostock* is binding precedent of the U.S. Supreme Court. As stated by numerous prior judicial nominees, it would be generally inappropriate for me to opine or “grade” U.S. Supreme Court decisions.

j. *Masterpiece Cakeshop v. Colorado*

Response: *Masterpiece Cakeshop* is binding precedent of the U.S. Supreme Court. As stated by numerous prior judicial nominees, it would be generally inappropriate for me to opine on or “grade” U.S. Supreme Court decisions.

k. *303 Creative LLC v. Elenis*

Response: *303 Creative* is binding precedent of the U.S. Supreme Court. As stated by numerous prior judicial nominees, it would be generally inappropriate for me to opine on or “grade” U.S. Supreme Court decisions.

l. *United States v. Rahimi*

Response: *Rahimi* is binding precedent of the U.S. Supreme Court. As stated by numerous prior judicial nominees, it would be generally inappropriate for me to opine on or “grade” U.S. Supreme Court decisions.

m. *Loper Bright Enterprises v. Raimondo*

Response: *Loper Bright* is binding precedent of the U.S. Supreme Court. As stated by numerous prior judicial nominees, it would be generally inappropriate for me to opine on or “grade” U.S. Supreme Court decisions.

24. With respect to constitutional interpretation, do you believe judges should rely on the “original meaning” of the Constitution?

Response: With respect to constitutional interpretation, lower court judges should first look to binding precedent. If there is no applicable binding precedent to decide the matter, lower court judges should follow the methods of constitutional interpretation as established by the U.S. Supreme Court, with an emphasis on original meaning.

25. How do you decide when the Constitution’s “original meaning” should be controlling?

Response: Please see my answer to Question 24.

26. Does the “original meaning” of the Constitution support a constitutional right to same-sex marriage?

Response: In *Obergefell v. Hodges*, the U.S. Supreme Court recognized a constitutional right to same-sex marriage.

27. Does the “original meaning” of the Constitution support the constitutional right to marry persons of a different race?

Response: In *Loving v. Virginia*, the U.S. Supreme Court recognized a constitutional right to marry persons of a different race.

28. What is your understanding of the Equal Protection and Due Process clauses of the Fourteenth Amendment?

Response: As relevant to the question, the Fourteenth Amendment states: “nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” There is an extraordinarily large body of caselaw and legal writing on these seminal provisions of the U.S. Constitution. If I am fortunate enough to be confirmed, I will faithfully follow all binding precedent on the Equal Protection and Due Process clauses.

29. How do these clauses apply to individuals that the Framers of the amendment likely did not have in mind, such as women? Or LGBTQ+ individuals?

Response: The U.S. Supreme Court has held that “all ‘persons’ within the United States” are entitled to certain levels of due process. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). The U.S. Supreme Court has also held that the equal protection clause applies to individuals in those groups. *See, e.g., Reed v. Reed*, 404 U.S. 71 (1971); *Romer v. Evans*, 517 U.S. 620 (1996).

30. Do you believe that judges should be “originalist” and adhere to the original public meaning of constitutional provisions when applying those provisions today?

Response: Please see my answer to Question 24.

31. If so, do you believe that courts should adhere to the original public meaning of the Foreign Emoluments Clause when interpreting and applying the Clause today?

Response: Please see my answer to Question 24.

32. Under the U.S. Constitution, who is entitled to First Amendment protections?

Response: The U.S. Supreme Court has recognized that the First Amendment protects individuals, associations, and corporations, although the scope of protection varies by context. *See, e.g., First Nat'l Bank of Bos. v. Bellotti*, 435 U.S. 765 (1978); *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969); *Pickering v. Bd. of Educ.*, 391 U.S. 563 (1968).

33. How would you determine whether a law that regulates speech is “content-based” or “content-neutral”? What are some of the key questions that would inform your analysis?

Response: As explained by the U.S. Supreme Court, “[t]he principal inquiry in determining content neutrality, in speech cases generally and in time, place, or manner cases in particular, is whether the government has adopted a regulation of speech because of disagreement with the message it conveys.” *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989).

34. What is the standard for determining whether a statement is protected speech under the true threats doctrine?

Response: As the U.S. Supreme Court explained in *Virginia v. Black*, 538 U.S. 343, 359–60 (2003): “‘True threats’ encompass those statements where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals. The speaker need not actually intend to carry out the threat. Rather, a prohibition on true threats ‘protect[s] individuals from the fear of violence’ and ‘from the disruption that fear engenders,’ in addition to protecting people ‘from the possibility that the threatened violence will occur.’ Intimidation in the constitutionally proscribable sense of the word is a type of true threat, where a speaker directs a threat to a person or group of persons with the intent of placing the victim in fear of bodily harm or death.” (internal citations omitted.)

35. Is every individual within the United States entitled to due process?

Response: The U.S. Supreme Court has held that “all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent” are entitled to certain levels of due process. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

36. Can U.S. citizens be transported to other countries for the purpose of being detained, incarcerated, or otherwise penalized?

Response: To the best of my understanding, this question is currently being litigated. As a judicial nominee, it would be inappropriate to opine on issues subject to pending litigation. *See* Code of Conduct for United States Judges, Canon 3(A)(6).

37. The Fourteenth Amendment states: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.”

a. **Is every person born in the United States a citizen under the Fourteenth Amendment?**

Response: This question is currently pending before the U.S. Supreme Court. As a judicial nominee, it would be inappropriate for me to opine on questions subject to pending litigation. *See* Code of Conduct for United States Judges, Canon 3(A)(6).

b. **Is the citizenship or immigration status of the parents of an individual born in the United States relevant for determining whether the individual is a citizen under the Fourteenth Amendment?**

Response: Please see my answer to Question 37.a.

38. **Do you believe that demographic and professional diversity on the federal bench is important? Please explain your views.**

Response: I believe that everyone should be eligible to become a federal judge without regard to race, sex, ethnicity, religion, or any other protected characteristic.

39. The bipartisan *First Step Act of 2018*, which was signed into law by President Trump, is one of the most important pieces of criminal justice legislation to be enacted during my time in Congress. At its core, the Act was based on a few key, evidence-based principles. First, incarcerated people can and should have meaningful access to rehabilitative programming and support in order to reduce recidivism and help our communities prosper. Second, overincarceration through the use of draconian mandatory minimum sentences does not serve the purposes of sentencing and ultimately causes greater, unnecessary harm to our communities. With these rehabilitative principles in mind, one thing Congress sought to achieve through this Act was giving greater discretion to judges—both before and after sentencing—to ensure that the criminal justice system effectively and efficiently fosters public safety for the benefit of all Americans.

a. **How do you view the role of federal judges in implementing the *First Step Act*?**

Response: As with any other constitutional or statutory provision, federal judges should faithfully and impartially apply the First Step Act and governing precedents interpreting it.

b. **Will you commit to fully and fairly considering appeals that come before you when reviewing sentencing law and its application to ensure that criminal**

sentences are properly tailored to promote the goals of sentencing and avoid terms of imprisonment in excess of what is necessary?

Response: If I am fortunate enough to be confirmed, I commit to faithfully and impartially applying all applicable laws and precedents that govern the sentencing of criminal defendants, including the First Step Act and precedent interpreting it.

40. The Federalist Society seeks to “reorder[] priorities within the legal system to place a premium on individual liberty, traditional values, and the rule of law.”

a. In your Questionnaire, you state that you are currently a member of the Federalist Society. What is your understanding of “traditional values”?

Response: I am unaware of what values the Federalist Society itself includes within the phrase “traditional values.”

In your Senate Judiciary Questionnaire, you disclosed being a member of the Federalist Society’s James Madison Club (2017-2020 and 2023-present). The Madison Club’s giving levels begin with a minimum qualifying annual donation of \$1,776 as of January 2026, with additional annual giving requirements to remain a club member. There are several membership tiers for Madison Club Members including Mad Club (\$1,776-\$4,999), Mad Club Premium (\$5,000-\$9,999), Leadership Circle (\$10,000-\$24,999), Founders Circle (\$25,000-\$49,999), and Executive Circle (\$50,000 or more).

b. How much money have you donated in total to the Federalist Society?

Response: To the best of my memory, I have donated between \$8,000 and \$12,000 to the Federalist Society over the course of my lifetime.

c. To what membership tier of the Madison Club do you belong?

Response: Mad Club.

d. What motivated you to become a member of the Madison Club?

Response: From time to time, partners at Sullivan & Cromwell LLP contribute to the purchase of a table at the Federalist Society’s National Lawyers Convention. As I understand it, my contributions to those purchases make me a part of the Madison Club.

e. President Trump wrote on Truth Social that the Federalist Society gave him “bad advice” on “numerous Judicial Nominations.” He also wrote that Leonard Leo is a “sleazebag” who “probably hates America.” If you are not familiar with this post, please refer to it in the footnote.⁶

⁶ Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (May 29, 2025, 8:10 PM), <https://truthsocial.com/@realDonaldTrump/posts/114593880455063168>.

- i. Do you agree with President Trump that the Federalist Society provided President Trump with bad advice during his first term? Why or why not?**

Response: As a judicial nominee, it would be inappropriate for me to opine on a political issue or a statement by any elected official or political figure. *See* Code of Conduct for United States Judges, Canon 5.

- ii. Do you agree with President Trump that Leo is a sleazebag who probably hates America? Why or why not?**

Response: Please see my answer to Question 40.e.i.

- iii. If you are confirmed, do you plan to remain affiliated with the Federalist Society?**

Response: Yes.

- f. During your selection process, have you spoken to or corresponded with any individuals associated with the Federalist Society, including Leonard Leo or Steven G. Calabresi? If so, please provide details of those discussions.**

Response: I am not sure what the word “associated” in the question above means. During my selection process, I spoke briefly with staff at the Federalist Society to confirm the dates of my Federalist Society membership but did not discuss the selection process. I also attended and participated in a Federalist Society-sponsored event titled “An Examination of the Jurisprudence of Justice Alito” on the weekend of March 20, 2026. Separately, I would also have discussed my nomination with individuals who are members of the Federalist Society but not employees.

- g. Have you ever been asked to and/or provided services to the Federalist Society, including research, analysis, advice, speeches, or appearing at events?**

Response: To the best of my recollection, I have not provided research, analysis, or advice to the Federalist Society. As described in my Questionnaire for Judicial Nominees, on March 20, 2026, I was a panelist on a panel titled “Justice Alito's Impact on Religious Liberties & Speech,” which was part of a Federalist Society-sponsored event titled “An Examination of the Jurisprudence of Justice Alito.” It is also possible that I would have given brief introductory speeches for speakers who attended events sponsored by the Columbia Law School chapter while I was in law school.

- h. Have you ever been paid honoraria by the Federalist Society? If so, how much were you paid, and for what services?**

Response: No.

- 41.** The Teneo Network states that its purpose is to “Recruit, Connect, and Deploy talented conservatives who lead opinion and shape the industries that shape society.”

- a. During your selection process, have you spoken to or corresponded with any individuals associated with the Teneo Network, including Leonard Leo? If so, please provide details of those discussions.**

Response: I am not sure what the word “associated” in the question above means. To the best of my knowledge, during my selection process, I did not speak to or correspond with any individuals who work for or are members of the Teneo Network, other than a family member who is a member and knew I had interviewed with the White House Counsel’s Office.

- b. Have you ever been asked to and/or provided services to the Teneo Network, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Have you ever been paid honoraria by the Teneo Network? If so, how much were you paid, and for what services?**

Response: No.

- 42.** The Heritage Foundation states that its mission is to “formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense.” Heritage Action, which is affiliated with the Heritage Foundation, seeks to “fight for conservative policies in Washington, D.C. and in state capitals across the country.”

- a. During your selection process, have you spoken to or corresponded with any individuals associated with the Heritage Foundation or Heritage Action, including Kevin D. Roberts? If so, please provide details of those discussions.**

Response: I am not sure what the word “associated” in the question above means. To the best of my knowledge, during my selection process, I did not speak to or correspond with any individuals who work for or are members of the Heritage Foundation.

- b. Have you ever been asked to and/or provided services to the Heritage Foundation or Heritage Action, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Were you ever involved in or asked to contribute to Project 2025 in any way?**

Response: No.

- d. Have you ever been paid honoraria by the Heritage Foundation or Heritage Action? If so, how much were you paid, and for what services?**

Response: No.

- 43.** The America First Policy Institute (AFPI) states that its “guiding principles are liberty, free enterprise, national greatness, American military superiority, foreign-policy engagement in the American interest, and the primacy of American workers, families, and communities in all we do.”

- a. During your selection process, have you spoken to or corresponded with any individuals associated with AFPI? If so, please provide details of those discussions.**

Response: I am not sure what the word “associated” in the question above means. To the best of my knowledge, during my selection process, I did not speak to or correspond with any individuals who work for or are members of the AFPI.

- b. Have you ever been asked to and/or provided services to AFPI, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Have you ever been paid honoraria by AFPI? If so, how much were you paid, and for what services?**

Response: No.

- 44.** The America First Legal Institute (AFLI) states that it seeks to “oppose the radical left’s anti-jobs, anti-freedom, anti-faith, anti-borders, anti-police, and anti-American crusade.”

- a. During your selection process, have you spoken to or corresponded with any individuals associated with AFLI, including Stephen Miller, Gene Hamilton, or Daniel Epstein? If so, please provide details of those discussions.**

Response: I am not sure what the word “associated” in the question above means. To the best of my knowledge, during my selection process, I did not speak to or correspond with any individuals who work for or are members of the AFLI.

- b. Have you ever been asked to and/or provided services to AFLI, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Have you ever been paid honoraria by AFLI? If so, how much were you paid, and for what services?**

Response: No.

45. The Article III Project is an organization which claims that, “The left is weaponizing the power of the judiciary against ordinary citizens.”

- a. During your selection process, have you spoken to or corresponded with any individuals associated with the Article III Project, including Mike Davis, Will Chamberlain, or Josh Hammer? If so, please provide details of those discussions.**

Response: I am not sure what the word “associated” in the question above means. To the best of my knowledge, during my selection process, I did not speak to or correspond with any individuals who work for or are members of the Article III Project.

- b. Have you ever been asked to and/or provided services to the Article III Project, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Have you ever been paid honoraria by the Article III Project? If so, how much were you paid, and for what services?**

Response: No.

46. The Alliance Defending Freedom (ADF) states that it is “the world’s largest legal organization committed to protecting religious freedom, free speech, the sanctity of life, marriage and family, and parental rights.”

- a. During your selection process, have you spoken to or corresponded with any individuals associated with ADF? If so, please provide details of those discussions.**

Response: I am not sure what the word “associated” in the question above means. To the best of my knowledge, during my selection process, I did not speak to or correspond with any individuals who ADF.

- b. Have you ever been asked to and/or provided services to ADF, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Have you ever been paid honoraria by ADF? If so, how much were you paid, and for what services?**

Response: No.

47. The Concord Fund, also known as the Judicial Crisis Network, states that it is committed “to the Constitution and the Founders’ vision of a nation of limited government; dedicated to the rule of law; with a fair and impartial judiciary.” It is affiliated with the 85 Fund, also known as the Honest Elections Project and the Judicial Education Project.

- a. During your selection process, have you spoken to or corresponded with any individuals associated with these organizations, including Leonard Leo or Carrie Severino? If so, please provide details of those discussions.**

Response: I am not sure what the word “associated” in the question above means. To the best of my knowledge, during my selection process, I did not speak to or correspond with any individuals who work for or are members of the Concord Fund or the 85 Fund.

- b. Have you ever been asked to and/or provided services to these organizations, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Have you ever been paid honoraria by these organizations? If so, how much were you paid, and for what services?**

Response: No.

- d. Do you have any concerns about outside groups or special interests making undisclosed donations to front organizations like the Concord Fund or 85 Fund in support of your nomination? Note that I am not asking whether you have solicited any such donations, I am asking whether you would find such donations to be problematic.**

Response: I have no knowledge of anyone making any donations to any person or group in support of my nomination, and any such donations will not impact my work as a judge if I am fortunate enough to be confirmed.

- e. **If you learn of any such donations, will you commit to call for the undisclosed donors to make their donations public so that if you are confirmed you can have this information when you make decisions about recusal in cases that these donors may have an interest in?**

Response: As a judicial nominee, it would be inappropriate for me to comment on whether any such donations should be made public. If I am fortunate enough to be confirmed and learn that any party before me made donations in support of my nomination, even though such donations would have been completely unsolicited, I would consider any actual or potential conflicts of interest in that matter under applicable laws, rules, and practices.

- f. **Will you condemn any attempt to make undisclosed donations to the Concord Fund or 85 Fund on behalf of your nomination?**

Response: I have not solicited any donations on behalf of my nomination and am not aware of any. As a judicial nominee, it would be inappropriate for me to condemn citizens for making lawful donations to groups engaged in lawful activity.

Nomination of Matthew Schwartz
Nominee to be Circuit Judge for the United States Court of Appeals for the Second Circuit
Questions for the Record
Submitted May 27, 2026

QUESTIONS FROM SENATOR WHITEHOUSE

Please answer each question and sub-question individually and as specifically as possible.

1. Please describe in detail all the legal work you've done for Donald Trump.

Response: Within the limits of my obligations under the New York Rules of Professional Conduct, I can disclose the following:

Since 2025, I have been a member of the Sullivan & Cromwell LLP team representing President Trump in seeking to overturn on appeal his 2024 conviction in *People of the State of New York v. President Donald J. Trump*, No. 2025-00648 (App. Div. 1st Dep't). The representation involves seeking (i) removal of the case to federal court under the Federal Officer Removal Statute, and (ii) in the case removal is not granted, simultaneously appealing the conviction through the New York state court system.

Since 2025, I have also been a member of the team representing President Trump, Donald Trump Jr., Eric Trump, and various entities within the Trump Organization in appealing the decision by a New York State trial court finding them liable for allegedly inflating assets on their financial statements and awarding the State over \$464 million in disgorgement and injunctive relief. At the intermediate appellate level, the disgorgement award was reversed and, even though three judges voted to either reverse or vacate the remainder of the trial court's decision, the remainder of the decision was affirmed in decretal. The case is now on appeal to the New York Court of Appeals.

Since 2025, the team has also provided legal advice to President Trump on aspects of other matters when they have implications for the arguments being made on President Trump's behalf in the two above-described matters.

2. Is it ever acceptable for litigants to ignore a court order?

Response: Generally, no. There is a very narrow group of circumstances in which it might be appropriate for a litigant to fail to follow a court order. For example, sometimes an order can only be appealed if it is violated. *See Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100, 111 (2009).

**Nomination of Matthew Schwartz
to be United States Circuit Judge for the Second Circuit
Questions for the Record
Submitted May 27, 2026**

QUESTIONS FROM SENATOR COONS

1. Do you believe that the Senate Judiciary Committee has a responsibility to evaluate judicial nominees to the best of its ability, including by asking questions on the record to make each nominee's unique background and viewpoint clear to the American people?

Response: Under Article II of the U.S. Constitution, the President may appoint federal judges with the advice and consent of the Senate. The Constitution does not specify the process by which the Senate should exercise advice and consent, and accordingly leaves that process to the Senate's discretion. I trust that the Senate's current process for reviewing judicial nominees is designed to properly facilitate the Senate's advice and consent function and I am happy to answer questions on the record of any Senator to the best of my ability.

2. Do you believe that you, as a judicial nominee, have a responsibility to the American people to give full and complete answers to the Committee's questions to the best of your ability and in good faith?

Response: Yes.

3. Do you believe you fulfilled this responsibility with the answers you have provided to my questions for the record?

Response: I have done my best to fulfill that responsibility.

a. Did you receive assistance from staff in the White House, the Department of Justice, or any other organization in writing your responses to these questions? If so, from whom did you receive assistance and what was the nature of the assistance you received?

Response: I drafted answers to these questions, including through reviewing my personal records, precedent, and the answers from prior judicial nominees. I then received limited comments from the Office of Legal Policy at the U.S. Department of Justice. I then finalized my answers and approved them to be filed with the Committee.

b. Do you believe it is appropriate for a nominee to answer my questions for the record with the verbatim answers of previous nominees who answered the same questions?

Response: If a judicial nominee believes that the answers of previous judicial nominees who answered the same or similar questions are correct answers, then the verbatim use of those answers may be appropriate.

c. Did you review the answers to my questions for the record submitted by previous judicial nominees before answering these questions?

Response: Yes.

d. To your knowledge, are any of your answers to these questions for the record exact duplicates of answers provided by previous nominees?

Response: To the best of my knowledge, other than “yes/no” answers, my answers are not exact duplicates of answers provided by previous judicial nominees.

4. At any point during the process that led to your nomination, did you make any representations or commitments to anyone—including but not limited to individuals at the White House, at the Justice Department, or at outside groups—as to how you would handle a particular case or matter if confirmed? If so, explain fully.

Response: No.

a. At any point during the process that led to your nomination, were you asked about your opinion on any cases that involve President Trump or the Trump administration?

Response: No.

5. When it comes to conducting yourself ethically, who in the legal profession do you see as a role model?

Response: Justice Alito.

6. How would you describe your judicial philosophy?

Response: If I am fortunate enough to be confirmed, as a Circuit judge, I would follow all binding Supreme Court and Second Circuit precedent. To the extent there is no binding precedent, I would endeavor to use the modes of judicial reasoning set forth by the U.S. Supreme Court, particularly textualism and originalism.

7. With respect to substantive due process, what factors do you look to when a case requires you to determine whether a right is fundamental and protected under the Fourteenth Amendment?

Response: If I am fortunate enough to be confirmed, as a Circuit judge, I would follow all binding U.S. Supreme Court and Second Circuit precedent concerning substantive due process. To the extent there is no binding precedent in a case, I would follow the factors set forth by the U.S. Supreme Court for determining whether a right is fundamental and protected under the Fourteenth Amendment, as recently elucidated in *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215 (2022).

a. Would you consider whether the right is expressly enumerated in the Constitution?

Response: Yes.

b. Would you consider whether the right is deeply rooted in this nation's history and tradition? If so, what types of sources would you consult to determine whether a right is deeply rooted in this nation's history and tradition?

Response: If I am fortunate enough to be confirmed, under the U.S. Supreme Court's recent decision in *Dobbs*, I would consider whether the right is deeply rooted in this nation's history and tradition. I would consult the types of sources as set forth in *Dobbs* and other applicable precedent.

c. Would you consider whether the right has previously been recognized by Supreme Court or circuit precedent? What about the precedent of another court of appeals?

Response: Yes and yes.

d. Would you consider whether a *similar* right has previously been recognized by Supreme Court or circuit precedent?

Response: Yes.

e. What other factors would you consider?

Response: If I am fortunate enough to be confirmed, I would consider the factors set forth in applicable precedent, including *Dobbs*.

8. When, if ever, is it permissible for a circuit court to overturn its own precedent? Please explain.

Response: In *United States v. Peguero*, 34 F.4th 143, 158 (2d Cir. 2022), a panel of the Second Circuit explained the following standards for when a three-judge panel should consider overturning prior Circuit precedent: "If 'an intervening Supreme Court decision casts doubt on the prior ruling'—that is, where 'the Supreme Court's conclusion in a particular case ... broke[] the link on which we premised our prior decision, or undermined an assumption of that decision,'—then we are not bound by our prior ruling. *Dale v. Barr*, 967 F.3d 133, 142–43 (2d Cir. 2020) (internal quotation marks omitted). '[W]e resort to this exception cautiously,' however, as a 'less-than-stringent application of the standards for overruling prior decisions not only calls into question a panel's respect for its predecessors but also increases uncertainty in the law by revisiting precedent without cause.' *Id.* at 143." (certain internal quotation marks and footnotes omitted).

In addition, Rule 40 of the Federal Rules of Appellate Procedure notes that *en banc* review of a Circuit court decision may be appropriate when “(A) the panel decision conflicts with a decision of the court to which the petition is addressed ... and the full court’s consideration is therefore necessary to secure or maintain uniformity of the court’s decisions; (B) the panel decision conflicts with a decision of the United States Supreme Court ...; (C) the panel decision conflicts with an authoritative decision of another United States court of appeals ...; or (D) the proceeding involves one or more questions of exceptional importance.”

9. The *New York Times* reported that on March 25, 2026, President Trump stated the following at a National Republican Congressional Committee event: “The time has also come for Republicans to pass a tough new crime bill that imposes harsh penalties for dangerous repeat offenders, cracks down on rogue judges. We got rogue judges that are criminals. They are criminals, what they do to our country. The decisions that they hand down and hurt our country.”

a. Is it a crime for a judge to rule against President Trump’s desired outcome in a particular case?

Response: As a judicial nominee, I should not opine on a political issue or a statement by any elected official or political figure. *See* Code of Conduct for United States Judges, Canons 3(A)(6), 5. I am not aware of any criminal offense for a judge to rule against a President’s position in a case.

b. Do you think that judges ruling against President Trump’s desired outcome should be “crack[ed] down on”?

Response: As a judicial nominee, I should not opine on a political issue or a statement by any elected official or political figure. *See* Code of Conduct for United States Judges, Canons 3(A)(6), 5.

c. Is it possible for a judge’s decision to be correct, as a matter of fact and law, even if it differs from President Trump’s desired outcome?

Response: It is possible for a judicial decision to be correct even if a President disagrees with it.

d. Do you agree with President Trump that we need a “tough new crime bill” that “cracks down on rogue judges”?

Response: Please see my response to Question 9.b.

e. Do you think that rhetoric like the example quoted above could discourage a judge from ruling against President Trump’s desired outcome?

Response: Please see my response to Question 9.b

f. If you were confirmed and you ruled against President Trump's desired outcome in a case, would you consider yourself a "rogue judge[]" and a "criminal[]"?

Response: Please see my response to Question 9.b.

g. Do you think statements like those made by President Trump quoted above make federal judges more or less safe?

Response: Please see my response to Question 9.b.

10. Under 28 U.S.C. § 455, "[a]ny justice, judge, or magistrate judge of the United States shall disqualify [themselves] in any proceeding in which [their] impartiality might reasonably be questioned." As a general matter, what criteria would you use when deciding whether to recuse yourself from a case?

Response: If I am fortunate enough to be confirmed, I will consider actual or potential conflicts of interest by looking to the relevant laws, codes of conduct, rules, regulations, and practices, including 28 U.S.C. § 455 and the Code of Conduct for U.S. Judges. I will consult with colleagues and judicial ethics officials as appropriate.

a. You have represented President Trump in multiple legal matters. Because you have weighed in explicitly on President Trump's side in multiple legal matters, will you recuse yourself from cases involving challenges to President Trump's actions?

Response: If I am fortunate enough to be confirmed, I will recuse myself from all matters on which I worked for President Trump or any other former client. I will consider actual or potential conflicts of interest for other matters by looking to the relevant laws, codes of conduct, rules, regulations, and practices, including 28 U.S.C. § 455 and the Code of Conduct for U.S. Judges. I will consult with colleagues and judicial ethics officials as appropriate.

11. If you concluded that the President had violated his constitutional duty to faithfully execute the laws and then had to determine the remedy, what process would you use to perform that analysis? I assume you would faithfully follow binding precedent, but what specific precedents and/or other sources of law would you look to?

Response: There are numerous examples throughout U.S. history of courts determining that government officials are acting contrary to law in various ways. Without further context, it is impossible to cite specific cases as precedent for the way a court could determine a remedy for such conduct. As your question notes, if I am fortunate enough to be confirmed, I would faithfully follow applicable binding precedent.

12. The 22nd Amendment states: "No person shall be elected to the office of the President more than twice."

a. Was President Trump elected to the office of the President twice?

Response: Congress certified President Trump as the winner of the President election in 2016 and 2024. Accordingly, he has been elected twice.

b. If President Trump were elected again in 2028, how many times in total would he have been elected to the office of the President?

Response: In the theoretical situation in which Congress certifies President Trump as the winner of the 2028 President election, he would be elected three times.

c. Is President Trump eligible to be elected President for a third term in 2028?

Response: No.

13. If Congress certifies a candidate as being the winner of a presidential election, does that mean that the candidate won the election? If not, what does it mean?

Response: My understanding is that if Congress certifies a candidate as being the winner of a presidential election, it means the candidate has been elected President.

14. At your Senate Judiciary Committee nomination hearing, Senator Blumenthal asked you who won the 2020 election. You replied, "Joe Biden was certified as President in 2020."

a. In advance of the hearing, did you prepare a potential answer or set of answers to question(s) you might receive related to who won the 2020 election? If so, what information or sources did you use to develop your answer(s)?

Response: Given that this question has been asked of several prior judicial nominees, in advance of the hearing, I considered what I answer I might give if asked that question. To develop my thinking on the question, I consulted the relevant sections of the U.S. Constitution, the Code of Conduct for United States Judges, and the answers of prior judicial nominees.

b. Prior to the hearing, did anyone instruct, suggest, imply, or otherwise represent that you should avoid directly answering questions about who won the 2020 election? If so, please explain. If not, please explain how you, without any outside input, made the decision to reply with who was *certified* the winner when asked about who *won* the 2020 election.

Response: No. In terms of the basis for my answer during the hearing, please see my response to Question 14.a above.

c. Do you believe that you would face any adverse professional consequences if you directly stated, during your hearing or otherwise on the record, that President Trump lost the 2020 election, or that President Biden won the 2020 election? Please explain.

Response: No, I have no reason to believe that I would face any adverse professional consequences based on my testimony at the hearing.

15. Do you agree with me that the attack at the U.S. Capitol on January 6, 2021, was an insurrection? Why or why not?

Response: As stated in my oral testimony during the hearing, trespass and violence occurred at the U.S. Capitol on January 6, 2021 and I condemn violence against law enforcement and political actors. The word “insurrection,” however, has legal meaning and legal consequences attached it to, *e.g.*, U.S. Const. Am. XIV, Sec. 3, and has been used in at least one recent instance of which I am aware to seek to disqualify a candidate for running for public office. As a judicial nominee, I should not opine on matters that could come before the Second Circuit, or on matters of political dispute. *See* Code of Conduct for United States Judges, Canons 3(A)(6), 5.

a. If you think this question would require you to express an opinion on “political” matters, as some judicial nominees have responded when asked this question, please explain why labeling the events of January 6, 2021, as either “an insurrection” or “not an insurrection” requires you to opine on a “political” matter.

Response: Please see my response to Question 15 above.

16. As you know, the President has the power under the Constitution to grant executive clemency relief. Even so, in your opinion, do you think the individuals convicted of assaulting law enforcement officers at the Capitol on January 6, 2021, deserved to be pardoned? I am asking for your opinion about whether the pardons were prudent, not whether the President has the authority to issue them.

Response: As a judicial nominee, I should not opine on matters of political dispute. *See* Code of Conduct for United States Judges, Canons 3(A)(6), 5.

17. If you were the President on January 20, 2025, would you have pardoned the individuals convicted of assaulting law enforcement officers at the Capitol on January 6, 2021? Again, I know that the President has the power under the Constitution to grant executive clemency relief. I want to know whether you—if serving as President on January 20, 2025—would have chosen to issue pardons to those convicted of assaulting law enforcement officers at the Capitol on January 6, 2021.

Response: As a judicial nominee, I should not opine on matters of political dispute. *See* Code of Conduct for United States Judges, Canons 3(A)(6), 5.

18. If you had to determine whether it is appropriate for the President of the United States to punish a law firm for taking on a client that the President did not like, what process would you use to perform that analysis? I assume you would faithfully follow binding precedent, but what specific precedents and/or other sources of law would you look to?

Response: If I am fortunate enough to be confirmed and such an appeal came before me, I will consider all arguments and faithfully apply the relevant binding Supreme Court and other precedent. I have not studied this issue, but it is fair to assume that parties might raise issues concerning Constitutional rights under the First, Fifth, and Sixth Amendments, as well as arguments concerning separation of powers and potentially rights under federal statutes.

19. Do you agree that the constitutional right to travel across state lines is fundamental and well established?

Response: The U.S. Supreme Court has held that “the ‘constitutional right to travel from one State to another’ is firmly embedded in our jurisprudence.” *Saenz v. Roe*, 526 U.S. 489, 498 (1999). As explained below, that right is not absolute and there is precedent guiding when the federal, state, and local governments may stop or deter travel across state lines.

a. If you had to determine whether it is constitutional for a state to restrict the interstate travel of its citizens, what process would you use to perform that analysis? I assume you would faithfully follow binding precedent, but what specific precedents and/or other sources of law would you look to?

Response: If I am fortunate enough to be confirmed and an appeal concerning a State’s restriction on interstate travel came before me, the process I would use to analyze the constitutionality would depend on the particular facts of the restriction. In *Selevan v. New York Thruway Authority*, 584 F.3d 82, 100 (2d Cir. 2009), for example, a panel of the Second Circuit stated that: “When a local regulation infringes upon a constitutionally-protected right, we apply strict scrutiny, requiring the municipality to show that the regulation is narrowly tailored to serve a compelling governmental interest.” The Second Circuit panel further noted that U.S. the Supreme Court has “recognized a difference between the sort of ‘invidious distinctions’ that penalize the right to travel and cases in which a state has simply levied ‘a charge designed only to make the user of state-provided facilities pay a reasonable fee to help defray the costs of their construction and maintenance,’” in which case only rational basis review applies. (citations omitted).

20. Do you believe that the Constitution protects a fundamental right to privacy?

Response: In *Griswold v. Connecticut*, the U.S. Supreme Court recognized a constitutional right to privacy in the context of the use of contraception within marital relations. Subsequent U.S. Supreme Court decisions have recognized a constitutional right to privacy in other contexts as well.

a. Do you agree that that right protects a woman’s right to use contraceptives? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

Response: Please see my answer to Question 20 above.

21. Do you believe that immigrants, regardless of legal status, are entitled to due process and fair adjudication of their claims?

Response: The U.S. Supreme Court has held that “all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent” are entitled to certain levels of due process. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). If I am fortunate enough to be confirmed, I will faithfully apply all relevant binding U.S. Supreme Court and other precedents in appeals concerning claims brought by individuals in immigration removal proceedings, including individuals who are in the United States illegally.

22. Does the public’s original understanding of the meaning of a constitutional provision constrain its application decades or centuries later?

Response: Yes.

a. What specific sources would you employ to discern the public’s original understanding of the meaning of a constitutional provision? Please provide three examples of sources you consider reliable in this regard.

Response: In *D.C. v. Heller*, 554 U.S. 570 (2008), the U.S. Supreme Court looked to various sources in existence in or around the time of the ratification of the U.S. Constitution and the Bill of Rights to understand the original meaning of the Second Amendment, including contemporaneous dictionaries, legal treatises, news publications, the Federalist Papers and other commentary on the constitution, state constitutional amendments, legislation, and court decisions.

23. What role, if any, should the practical consequences of a particular ruling play in a judge’s rendering of a decision?

Response: In general, the practical consequences of a particular ruling should not play a role in a judge’s rendering of a decision. In very narrow circumstances, some court decisions have considered the practical consequences of a decision when citing the judicial canon against objectively absurd outcomes of an interpretation of a statute as a basis for their decisions.

24. What role, if any, should empathy play in a judge’s decision-making process?

Response: A judge’s personal feelings, including empathy, should not play a role in a judge’s decision-making process.

25. What role, if any, should a judge’s personal life experience play in his or her decision-making process?

Response: A judge’s personal views based on life experience should not play a role in a judge’s decision-making process.

26. Should you be confirmed, what would you do if a party refuses to comply with one of your orders?

Response: If I am fortunate enough to be confirmed, I will generally only issue orders as part of an appellate panel. If circumstances arise in which a party refuses to comply with a panel order, I would consult with my colleagues. Potential responses might include sanctions, civil and criminal contempt proceedings, and criminal referrals.

27. When is it appropriate for an en banc federal appellate court to reconsider a panel decision?

Response: Please see my answer to Question 8 above.

28. What case or legal matter are you most proud of having worked on during your career?

Response: Although I am proud of many matters on which I have worked, I am most proud of my representation of President Trump in seeking to overturn on appeal his 2024 conviction in *People of the State of New York v. President Donald J. Trump*, No. 2025-00648 (App. Div. 1st Dep't). This appeal not only raises extremely important and correct appellate arguments in favor of overturning the conviction, but also will stand as an important precedent for whether local prosecutors can specifically target an individual for criminal conviction and punishment for actions taken in the individual's capacity as President of the United States.

29. Discuss your proposed hiring process for law clerks.

Response: I do not have a proposed hiring process for law clerks. If I am fortunate enough to be confirmed, however, I expect to review resumes, transcripts, recommendations, and cover letters and to interview appropriate candidates.

a. Do you think law clerks should be protected by Title VII of the Civil Rights Act?

Response: I have not thought about this question as a legal matter, but, if I am fortunate enough to be confirmed, my plan is to treat law clerks under the same general principles stated under Title VII of the Civil Rights Act.

30. Recently, multiple studies have revealed ongoing problems with workplace conduct policies and outcomes in the federal judiciary. In a national climate survey, hundreds of judiciary employees reported that they experienced sexual harassment, discrimination, or other forms of misconduct on the job. A study by the Federal Judicial Center and the National Academy of Public Administration found the branch has failed to set up trusted reporting systems for employees who experience misconduct or ensure those handling complaints are adequately trained.

a. If confirmed, what proactive steps would you take to ensure that the clerks and judicial assistants who work in your chambers are treated with respect and are not subject to misconduct?

Response: If I am fortunate enough to be confirmed, I would establish written practices for my chambers that would prohibit sexual harassment, discrimination, or other forms of misconduct on the job. These written practices would apply to me, and I would require clerks and any other chamber’s staff to agree to them. I would also consult with applicable judicial and Circuit rules and practices and with colleagues and Circuit court officials as to how to address any concerns about sexual harassment, discrimination, or other forms of job misconduct, whether in my chambers or in the Circuit or judiciary more generally.

b. What proactive steps would you take to ensure that any workplace-related concerns that your clerks and judicial assistants may have are fully addressed?

Response: Please see my answer to Question 30.a above.

c. If you are confirmed and you later hear from a colleague or your chambers staff that another judge is acting inappropriately, what steps would you take to help ensure the problem is addressed?

Response: I would first listen to any reports of possible inappropriate actions by another judge to make sure that there was no immediate safety risks to any individuals. I would then review existing rules and procedures of the judiciary, including the Second Circuit, and potentially discuss the circumstances with colleagues and appropriate officials. I would also seek to ensure that any reports of inappropriate behavior are investigated and resolved by the proper authorities.

31. In an October/November 1997 article in the *Princeton Tory* titled “Married in the Eyes of God?”, you stated, “[t]he homosexual community is fighting a crusade not only for its misconceived notion of equal rights, but also for religion to recognize and approve homosexual lifestyles. To win this crusade, many homosexuals and their supporters will greatly harm the basic dignity of the religious community.” You went on to conclude, “[i]mportant issues like potential changes in the institution of marriage should, at the very least, be debated long and hard before any action is taken on them. Hopefully, the policymaking-by-prior-fact represented in Princeton’s gay marriage does not represent a trend on the part of the gay community in America at large. If the homosexual lobby succeeds in changing current marriage laws (most likely through judicial activism), they will deal a blow to prudent public policy and will damage basic rights theory.”

a. Do you stand by the statements about same-sex marriage you made in this article?

Response: As noted during my oral testimony on May 20, 2026, although it is inappropriate for me as judicial nominee to comment on personal views on particular subjects, the tone of the article and some of my word choices were unduly harsh and reflected my writings as a teenager in 1997.

b. Do you think the Supreme Court’s decision in *Obergefell v. Hodges* “deal[t] a blow to prudent public policy”?

Response: *Obergefell* is a binding precedent of the U.S. Supreme Court, and I will faithfully and impartially apply it if I am fortunate enough to be confirmed. Consistent with the positions of prior federal judicial nominees, I believe it is generally inappropriate for me to comment on or “grade” the merits of a Supreme Court decision.

c. Would you agree that your statements in this article create at least the appearance of partiality with respect to cases involving the rights of LGBTQ+ people?

Response: No. I do not believe an article that I wrote thirty years ago expressing personal views creates an appearance of partiality with respect to any cases. Throughout my adulthood and career, I have treated everyone equally and with respect. If I am fortunate enough to be confirmed, I will continue to do so and will also faithfully uphold and apply U.S. Supreme Court precedent, including precedent concerning same-sex rights.

d. What would you say to a LGBTQ+ litigant who feels they would not receive a fair process from you, given your stated beliefs about LGBTQ+ rights?

Response: Please see my response to Question 31.c.

e. If you are confirmed, will you recuse yourself from cases involving the rights of LGBTQ+ people?

Response: If I am fortunate enough to be confirmed, I will recuse myself from all matters on which I worked for any client. I will consider actual or potential conflicts of interest for other matters by looking to the relevant laws, codes of conduct, rules, regulations, and practices, including 28 U.S.C. § 455 and the Code of Conduct for U.S. Judges. I will consult with colleagues and judicial ethics officials as appropriate. At the current time, it would be inappropriate for me to prejudge any hypothetical recusal motion.

32. You note in your Senate Judiciary Questionnaire that since 2025, you have served on the New York Appellate Division, First Department Attorney Grievance Committee. The *New York Law Journal* reported on September 4, 2025, that the Committee “repeatedly declined to investigate complaints made against [Emil Bove] over his handling of the now-dismissed public corruption case against New York City mayor Eric Adams.” Please explain what involvement, if any, you had in these decisions.

Response: I have no knowledge of whether any complaints were made against Judge Bove to the New York Appellate Division, First Department Attorney Grievance Committee and I had no involvement in any decisions concerning any such complaints, if made.

33. In your Questionnaire, you note that just 5% of your practice has involved criminal proceedings.

a. Why do you think you are qualified to serve as a federal judge overseeing a substantial number of criminal cases if you have so little experience with criminal matters?

Response: Although the vast majority of my practice has concerned civil cases, I do have experience working on criminal matters, including as a judicial intern on the U.S. District Court for the Southern District of New York, a law clerk on the U.S. Court of Appeals for the Third Circuit and the U.S. Supreme Court, and while practicing at Sullivan & Cromwell LLP. I am also experienced in matters involving complex legal and factual issues and am generally educated myself about important criminal cases and changes in criminal law.

b. If you are confirmed, what resources will you use to get up to speed on criminal proceedings?

Response: I believe I am already prepared to be an effective appellate judge on criminal appeals if I am fortunate enough to be confirmed. As with any appeal, however, for all criminal appeals I would read all of the briefs and authorities, conduct any appropriate additional research, ask questions at oral argument as appropriate, and consult with my colleagues on the panel.

Questions for the Record for Matthew Schwartz
Submitted by Senator Richard Blumenthal
May 27, 2026

1. If confirmed, will you recuse yourself from any case where a reasonable person, knowing all the relevant facts, might question your impartiality, even if you personally believe you can be fair?

Response: If I am fortunate enough to be confirmed, I will consider actual or potential conflicts of interest by looking to the relevant laws, codes of conduct, rules, regulations, and practices, including 28 U.S.C. § 455 and the Code of Conduct for U.S. Judges. I will consult with colleagues and judicial ethics officials as appropriate.

- a. If confirmed, will you recuse yourself from cases involving individuals, organizations, or entities to which you or your family members have made political contributions or provided political support?

Response: If I am fortunate enough to be confirmed, I will consider actual or potential conflicts of interest by looking to the relevant laws, codes of conduct, rules, regulations, and practices, including 28 U.S.C. § 455 and the Code of Conduct for U.S. Judges. I will consult with colleagues and judicial ethics officials as appropriate.

- b. If confirmed, will you recuse yourself from cases involving former clients, former law firms, or organizations with which you have had significant professional relationships?

Response: If I am fortunate enough to be confirmed, I will recuse myself from all matters on which I worked for a former client as a lawyer and will generally recuse myself for approximately two years from matters in which Sullivan & Cromwell LLP represents a party in the case. I will consider actual or potential conflicts of interest for other matters by looking to the relevant laws, codes of conduct, rules, regulations, and practices, including 28 U.S.C. § 455 and the Code of Conduct for U.S. Judges. I will consult with colleagues and judicial ethics officials as appropriate.

- i. You have represented President Trump in multiple cases. Will you recuse yourself from matters involving President Trump?

Response: If I am fortunate enough to be confirmed, I will recuse myself from all matters on which I worked for any former client. I will consider actual or potential conflicts of interest for other matters by looking to the relevant laws, codes of conduct, rules, regulations, and practices, including 28 U.S.C. § 455 and the Code of Conduct for U.S. Judges. I will consult with colleagues and judicial ethics officials as appropriate.

- ii. Will you recuse yourself from matters involving President Trump's administration?

Response: If I am fortunate enough to be confirmed, I will consider actual or potential conflicts of interest by looking to the relevant laws, codes of conduct, rules, regulations, and practices, including 28 U.S.C. § 455 and the Code of Conduct for U.S. Judges. I will consult with colleagues and judicial ethics officials as appropriate.

- c. If confirmed, will you recuse yourself from cases involving personal friends, social acquaintances, or individuals with whom you have ongoing personal relationships?

Response: If I am fortunate enough to be confirmed, I will consider actual or potential conflicts of interest by looking to the relevant laws, codes of conduct, rules, regulations, and practices, including 28 U.S.C. § 455 and the Code of Conduct for U.S. Judges. I will consult with colleagues and judicial ethics officials as appropriate.

- 2. If confirmed, will you commit to avoiding all *ex parte* communications about pending cases, including informal discussions at social events or professional gatherings?

Response: If I am fortunate enough to be confirmed, I will follow all relevant laws, rules, and ethical obligations concerning federal judges.

- d. If confirmed, will you avoid discussing pending cases or judicial business with elected officials, political appointees, or political operatives?

Response: Please see my response to Question 2.

- e. If confirmed, will you commit to declining meetings or communications with lobbyists, advocacy groups, or special interests seeking to influence your judicial decisions?

Response: Please see my response to Question 2.

- f. If confirmed, will you refrain from making public statements about legal or political issues that could reasonably be expected to come before your court?

Response: Please see my response to Question 2.

- 3. If confirmed, will you commit to filing complete and accurate financial disclosure reports that include all required information about your financial interests and activities?

Response: Yes.

- g. If confirmed, will you decline all gifts from parties who might appear before your court or who have interests that could be affected by your judicial decisions?

Response: Please see my response to Question 2.

- h. If confirmed, will you decline privately funded travel, hospitality, or entertainment that could create an appearance of impropriety or special access?

Response: Please see my response to Question 2.

- i. If confirmed, will you ensure that any teaching, speaking, or writing activities comply with judicial ethics requirements and do not create conflicts with your judicial duties?

Response: Please see my response to Question 2.

- 4. The House Republican-authored budget reconciliation bill for Fiscal Year 2026 had included a provision that would have limited federal judges' ability to hold government officials in contempt. While the Senate Parliamentarian ruled that the provision violated the Byrd Rule, and it was, therefore, removed, it would have prohibited federal courts from issuing contempt penalties against officials who disobey preliminary injunctions or Temporary Restraining Orders if the party seeking the order did not provide financial security to cover potential future damages for wrongful enjoining.

The contempt power was first codified in law in the Judiciary Act of 1789. In 1873, the Supreme Court described it as "inherent in all courts" and "essential to the preservation of order in judicial proceedings and to the enforcement of the judgements, orders, and writs of the courts, and consequently to the due administration of justice." Yet House Republicans are seeking to exempt government officials from this key tool for judicial enforcement.

- a. Do you believe the contempt power is "essential . . . to the due administration of justice[?]"

Response: The U.S. Supreme Court has stated: "The power to punish for contempts is inherent in all courts; its existence is essential to the preservation of order in judicial proceedings, and to the enforcement of the judgments, orders, and writs of the courts, and consequently to the due administration of justice." *Ex parte Robinson*, 86 U.S. 505, 510 (1873).

- b. Do you believe that federal judges should be limited in their ability to hold government officials who defy court orders in contempt?

Response: Federal judges are limited by applicable statutes, rules, and precedent in deciding whether to issue contempt orders, including as to any government official who defies a court order. As a judicial nominee, it would be inappropriate

for me to opine on these limitations. *See* Code of Conduct for United States Judges, Canons 3 & 5.

5. If confirmed, you, like all other members of the federal bench, would have the ability to issue orders. On February 9, 2025, Vice President Vance posted on X that “[j]udges aren’t allowed to control the executive’s legitimate power.” This raises an extremely concerning specter of Executive Branch defiance of court orders.

- a. If confirmed, would you have the ability to issue orders?

Response: In general, individual Circuit judges do not have the power to issue orders. Federal courts have the ability to issue certain orders.

- i. Would you have the ability to enforce those orders?

Response: In general, individual Circuit judges do not have the power to enforce orders. Federal courts have the ability to take certain actions to enforce certain orders.

- ii. What powers would you have to enforce those orders?

Response: In general, individual Circuit judges do not have the power to enforce orders. Federal courts might be able to enforce orders through various means, including one or more of the following: sanctions, civil and criminal contempt proceedings, and criminal referrals.

- b. Does there exist a legal basis for federal Executive Branch officials to defy federal court orders? If so, what basis and in which circumstances?

Response: Generally, a litigant must follow court orders issued in a proceeding to which the litigant is a party. There is a narrow group of circumstances in which it might be appropriate for a litigant, including an Executive Branch Official, to fail to follow a court order. For example, sometimes an order can only be appealed if it is violated. *See Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100, 111 (2009).

- c. Does there exist a legal basis for state officials to defy federal court orders? If so, what basis and in which circumstances?

Response: Please see the answer to Question 5.b.

- d. What would make a court order unlawful?

Response: There are various reasons a court order might be unlawful, including if the Court lacks subject matter or personal jurisdiction, or the order is contrary to law.

- i. What is the process a party should follow if it believes a court order to be unlawful?

Response: Generally, the normal process for a party who believes a court order is unlawful is to seek reconsideration of the order or to appeal it. As noted in my answer to Question 5.b, there might be circumstances in which the only way to appeal an order is to fail to follow it and be held in contempt.

- ii. Is it ever acceptable to not follow this process? When and why?

Response: Please see the answer to Question 5.b.

6. Were you in Washington, D.C. on January 6, 2021?

Response: No.

- a. Were you inside the U.S. Capitol or on the U.S. Capitol grounds on January 6, 2021?

Response: No.

7. You authored an article that argued against same-sex marriage and criticized the first same-sex wedding held in Princeton Chapel. In that article, you argued that marriage benefits are “not rights, but privileges” granted because heterosexual unions contribute to “the continuation of the citizenry,” and characterized the wedding at Princeton as evidence of “the worst attribute of the gay movement: a complete disregard for the beliefs of others.”

- a. If confirmed, will you uphold the Supreme Court’s ruling in *Obergefell v. Hodges*?

Response: If I am fortunate enough to be confirmed, I will faithfully uphold all binding U.S. Supreme Court precedent, including *Obergefell v. Hodges*.

- b. If confirmed, how can future litigants trust that you will remain unbiased on LGBTQ+ issues or in cases involving parties in same-sex marriages?

Response: Throughout my career, I have treated everyone equally and with respect. If I am fortunate enough to be confirmed, I will continue to do so and will also faithfully uphold and apply all binding U.S. Supreme Court precedent, including precedent concerning same-sex marriage.

Nomination of Matthew A. Schwartz
United States Court of Appeals for the Second Circuit
Questions for the Record
Submitted May 27, 2026

QUESTIONS FROM SENATOR BOOKER

1. In May 2024, President Trump was found guilty of 34 felony counts of falsifying business records in New York, stemming from a \$130,000 hush-money payment to adult film star Stormy Daniels.¹ As a partner at Sullivan & Cromwell LLP, you currently represent President Trump in his appeal to overturn his conviction.

- a. How did President Trump retain your firm for this matter?

Response: To the best of my knowledge, Sullivan & Cromwell LLP was retained through the firm's co-Chair, Robert J. Giuffra, Jr.

- b. Did President Trump retain you specifically to serve as his counsel for this matter? If so, how? If not, did another individual associated with President Trump retain you specifically? If so, who?

Response: To the best of my knowledge, I was not retained specifically to represent President Trump on this appeal. Mr. Giuffra asked me if I would work on the appeal, and I said yes.

- c. How many total hours has your firm spent on this matter, and how many hours have you spent?

Response: Under Rule 1.6 of the New York Rules of Professional Conduct, the amount of time counsel spends on a legal matter for a client is that client's confidential information and the lawyer may not disclose it without client consent.

- d. How many hours have you spent on this matter since you were nominated on April 10, 2026?

Response: Please see my answer to Question 1.c.

- e. As a firm client, did anyone other than President Trump, whether an individual or other entity, pay for your firm's legal services in this matter on his behalf? If yes, provide the amount and the name of the individual or entity.

¹ *Trump Guilty on All Counts in Hush-Money Case*, N.Y. TIMES (May 30, 2024), <https://www.nytimes.com/live/2024/05/30/nyregion/trump-trial-verdict>.

Response: Under Rule 1.6 of the New York Rules of Professional Conduct, a client's financial arrangement with the client's lawyer is considered the client's confidential information and the lawyer may not disclose it without client consent.

- f. As a firm client, is President Trump charged the standard billing rate? If not, what billing rate does he pay, how is the rate determined and by whom?

Response: Please see my answer to Question 1.e.

- g. Does President Trump, or any affiliated individual or entity, owe your firm for any unpaid bills in this matter? If yes, provide the amount owing and the details of delinquency.

Response: Please see my answer to Question 1.e.

2. You also represent President Trump, Donald Trump Jr., Eric Trump, and the Trump Organization and its executives, in *People of the State of New York v. Trump*, No. 2025-00171 (N.Y. Ct. App.), civil litigation involving Trump's submission of inflated statements of financial condition to lenders and others for the purpose of obtaining favorable business deals in New York.²

- a. How did President Trump retain your firm for this matter?

Response: To the best of my knowledge, Sullivan & Cromwell LLP was retained through Mr. Giuffra.

- b. Did President Trump retain you specifically to serve as his counsel for this matter? If so, how? If not, did another individual associated with President Trump retain you specifically? If so, who?

Response: To the best of my knowledge, I was not retained specifically to represent President Trump on this appeal. Mr. Giuffra asked me if I would work on the appeal, and I said yes.

- c. How many total hours has your firm spent on this matter, and how many hours have you spent?

Response: Under Rule 1.6 of the New York Rules of Professional Conduct, the amount of time counsel spends on a legal matter for a client is that client's confidential information and the lawyer may not disclose it without client consent.

- d. How many hours have you spent on this matter since you were nominated on April 10, 2026?

² *Trump Accused of Overvaluing His Assets in N.Y. Lawsuit*, N.Y. TIMES (Sep. 21, 2022), <https://www.nytimes.com/live/2022/09/21/nyregion/trump-fraud-lawsuit-ny-james>.

Response: Please see my answer to Question 2.c.

- e. As a firm client, did anyone other than President Trump, whether an individual or other entity, pay for your firm’s legal services in this matter on his behalf? If yes, provide the amount and the name of the individual or entity.

Response: Under Rule 1.6 of the New York Rules of Professional Conduct, a client’s financial arrangement with the client’s lawyer is considered the client’s confidential information and the lawyer may not disclose it without client consent.

- f. As a firm client, is President Trump charged the standard billing rate? If not, what billing rate does he pay, how is the rate determined, and by whom?

Response: Please see my answer to Question 2.e.

- g. Does President Trump, or any affiliated individual or entity, owe your firm for any unpaid bills in this matter? If yes, provide the amount owing and the details of delinquency.

Response: Please see my answer to Question 2.e.

3. According to reports from *NOTUS*, Trump’s Save America PAC, a political committee used by the President to pay his legal bills, owes Sullivan & Cromwell LLP approximately \$400,000 in legal fees.³

- a. You testified in your May 20, 2026 confirmation hearing that you have no knowledge of how much Trump’s Save America PAC still owes your firm. Is that still your position?

Response: Yes.

4. At any point during your representation of President Trump, did you discuss pursuing a federal judgeship with him or any person associated with him? Describe the nature of the discussion, the name of the individual, and the date of the discussion, and who initiated the discussion.

Response: I am not sure what the word “associated” in the question above means. During the time I have been representing President Trump, and separate from the representation, I spoke with individuals at the White House Counsel’s Office and Department of Justice whose responsibilities include making recommendations to President Trump on judicial candidates. The nature of the discussions concerned my interest in being a federal judge and my qualifications for the role.

³ Em Luetkemeyer, *Donald Trump’s Favorite PAC for Legal Bills Is in Debt — And Owes Many Law Firms Money*, NOTUS (Apr. 15, 2026), <https://www.notus.org/money/donald-trump-debt-legal-fees-save-america-pac>.

5. Have you ever discussed with President Trump, or any person associated with him or his Administration, pursuing a nomination to the U.S. Supreme Court? Describe the nature of the discussion, the name of the individual, and the date of the discussion.

Response: No.

6. At your confirmation hearing, concerns were raised regarding your ongoing representation of President Trump while simultaneously seeking confirmation to a judgeship.
 - a. At the hearing, you stated that two other nominees similarly represented President Trump while awaiting Senate confirmation to a role. To whom were you referring?

Response: My understanding is that Justin Smith, who is a current nominee to the U.S. Court of Appeals for the Eighth Circuit, represented President Trump at the time of his nomination and continues to do so. I also understand Judge Emil Bove of the U.S. Court of Appeals for the Third Circuit represented President Trump before being nominated, but I misremembered that such representation had terminated prior to Judge Bove's nomination.

- b. Do you reaffirm the commitment you made to the Senate Judiciary Committee during the hearing to recuse yourself on any matters where you represented President Trump?

Response: Yes.

- c. Explain what steps you would take, if confirmed, to assess whether presiding over a case involving the President, members of his family, or others associated with him (including members of his Administration), could create an appearance of impropriety or reasonable questions concerning your impartiality.

Response: If I am fortunate enough to be confirmed, I will recuse myself from all matters on which I worked for President Trump or any other client as a lawyer. I will consider actual or potential conflicts of interest for other matters by looking to the relevant laws, codes of conduct, rules, regulations, and practices, including 28 U.S.C. § 455 and the Code of Conduct for U.S. Judges. I will consult with colleagues and judicial ethics officials as appropriate.

7. Explain the factors you would consider, if you are confirmed, to determine whether to recuse yourself in matters involving former clients, recent legal work and advocacy, and parties with whom you have had substantial financial relationships.

Response: If I am fortunate enough to be confirmed, I will recuse myself from all matters on which I worked as a lawyer. I will consider actual or potential conflicts of interest for other matters by looking to the relevant laws, codes of conduct, rules, regulations, and practices, including 28 U.S.C. § 455 and the Code of Conduct for U.S. Judges. I will consult with colleagues and judicial ethics officials as appropriate.

8. If you are confirmed, how would you handle a request from President Trump, or anyone affiliated with him acting on his behalf, to decide a matter in a way that would benefit the President personally, financially, or politically?

Response: If I am fortunate enough to be confirmed, I will reject any request by anyone outside of the normal legal process to rule in the favor of any individual to benefit that individual personally, financially, or politically, and would consult with the appropriate judicial authorities on how to handle and report such a situation.

- a. Would you report such a request to the Chief Judge of your Circuit? To the Judicial Council of the Second Circuit? Why or why not?

Response: Please see my answer to Question 8.

- b. What ethical obligations govern your response to such a request?

Response: The relevant ethical obligations governing any response would depend on the facts and circumstances of the request. In considering any ethical obligations in such a scenario, I would look to the relevant laws, codes of conduct, rules, regulations, and practices, including 28 U.S.C. § 455 and the Code of Conduct for U.S. Judges. I would also consult with colleagues and judicial ethics officials as appropriate.

- c. Do you believe existing recusal and conduct rules are sufficient to address this scenario?

Response: I believe that both the appearance of impartiality and actual impartiality are important in maintaining public confidence in our system of justice. As a judicial nominee, it would be inappropriate for me to opine on policy questions regarding recusal and conduct rules, as such rules may be matters of political controversy and could come before me, if I am fortunate enough to be confirmed.

9. President Trump has repeatedly responded to adverse judicial rulings by threatening sitting judges, including calling for their impeachment and publicly disparaging them by name.

- a. Do you believe those statements are consistent with the rule of law?

Response: As a judicial nominee, it would be inappropriate for me to opine on a political issue or a statement by any elected official or political figure. *See* Code of Conduct for United States Judges, Canon 5.

- b. If you were to rule against the Administration and face similar attacks, would you take any action in response?

Response: Individuals, including the President of the United States, have the right to criticize judges and judicial rulings. If I am fortunate enough to be confirmed, any

criticism of me, my rulings, or my opinions would have no impact on my work as a judge.

- c. Do you believe a President's public attacks on the judiciary constitute an attempt to interfere with the independence of the federal courts?

Response: Please see my answer to Question 9.a.

- d. Are you aware of any ethical obligation on the part of judges to speak out when the independence of the judiciary is threatened by the political branches?

Response: I am unaware of any such ethical obligations.

10. During your hearing, we discussed the 1997 article, "Married in the Eyes of God," that you wrote for your college newspaper. In this article, you argued against same-sex marriage and criticized the first same-sex wedding held in Princeton Chapel between two university alumni.

- a. Do you stand by the views expressed in this article? If not, describe in detail how your views have changed, when that evolution occurred, and what prompted it.

Response: As noted during my oral testimony on May 20, 2026, although it is inappropriate for me as judicial nominee to discuss my personal views on policy and political matters, *see* Code of Conduct for United States Judges, Canon 5, the tone of the article and some of my word choices were unduly harsh and reflected my writing as a teenager in 1997.

- b. Do you commit to treating LGBTQ parties and counsel appearing before you, if confirmed, fairly and impartially?

Response: Yes.

- c. Will you faithfully apply Supreme Court precedent recognizing the fundamental right of same-sex couples to marry?

Response: Yes.

11. In a 2002 letter to the *Princeton Alumni Weekly* rebutting claims that you characterized as providing that "Western colonialism justifies Muslim rage, and, by implication, its terrorism," you wrote:⁴

Many peoples, however, suffered under colonialism, and have not resorted to mass murder. Why aren't Indians, Filipinos, Guatemalans, Chinese, Chileans, South Koreans, Mohawks,

⁴ Matthew Schwartz, *Letter to Princeton Alumni Weekly*, PRINCETON ALUMNI WEEKLY (Oct. 24, 2002), https://www.princeton.edu/~paw/web_exclusives/more/more_letters/letters_bernardlewis.html#schwartz.

Ghanians [sic], South Africans, Aborigines, and Arab Christians, flying planes into packed skyscrapers or blowing up crowded nightclubs?

You added further:

Nothing justifies the violence against innocent civilians coming from radical Muslims. Other nations and religions around the world have suffered as much, if not more so. Rather than picking up arms, these other peoples have democratized, capitalized, liberalized, and improved their lives. Muslims must take the hard step of dropping their ancient religious law and joining the rest of the world in the 21st century.

- a. Do you believe that the acts carried out by those responsible for the September 11th attacks, or attacks such as the Pulse nightclub shooting, are attributable to all Muslims?

Response: No.

- b. Describe the meaning of “ancient religious law” you referenced in this letter and explain the analysis that led you to conclude that Muslims must abandon it.

Response: The letter was part of a post-9/11 discussion occurring in the United States and around the world on what steps could be taken by certain countries to reduce terrorism by extremists from those countries. My letter noted that one step would be the expansion of rights to women in those countries, in keeping with the expansion of rights to women in other parts of the world. The term I used was a poor choice of words to describe the status of women in certain countries.

- c. Specify what you meant by “the rest of the world” and identify which nations, peoples, or legal systems you contend have already met the standard you called for imposing on Muslims.

Response: Please see my answer to Question 11.b.

- d. Do you stand by the views expressed in this letter? If not, describe in detail how your views have changed, when that evolution occurred, and what prompted it.

Response: As a judicial nominee, it would be inappropriate for me to express personal views on political and religious topics. *See* Code of Conduct for United States Judges, Canon 5. Throughout my career, I have treated everyone equally and with respect. If I am fortunate enough to be confirmed, I will continue to do so and will also faithfully apply all precedent.

12. Since 2025, you have been a member of the Attorney Grievance Committee for New York's Appellate Division First Department. In March 2025, all Democrats on the U.S. Senate Judiciary Committee wrote to the disciplinary counsel expressing concern about then-Acting Deputy Attorney General Emil Bove's abuse of power and handling of the dismissal of the public corruption case against former New York City Mayor Eric Adams.⁵ The Grievance Committee, which also received complaints from then-Chair of the New York State Senate Judiciary Committee,⁶ has repeatedly declined to investigate Bove, who now serves as a federal judge on the Third Circuit.⁷

- a. Describe the nature of your involvement in the Grievance Committee's decision whether to investigate Emil Bove.

Response: I have no personal knowledge of whether any formal complaints were made against Judge Bove to the New York Appellate Division, First Department Attorney Grievance Committee, and I have not had any involvement with any such complaints, if made.

- b. Why did the Grievance Committee decline to investigate Mr. Bove?

Response: Please see my answer to Question 12.a.

13. In June 2025, Free Speech for the People filed an ethics complaint with the Attorney Grievance Committee against nine law firms that made deals with the Trump Administration to provide significant pro bono work for the government.⁸ The Grievance Committee declined to act on the complaint.⁹

- a. Describe the nature of your involvement in the Grievance Committee's decision whether to investigate the agreements between the Trump Administration and the nine law firms.

⁵ Press Release, U.S. SENATE COMMITTEE ON THE JUDICIARY, *Durbin, Senate Judiciary Democrats File Misconduct Complaint Against Acting Deputy Attorney General Emil Bove With New York State Bar* (Mar. 4, 2025), <https://www.judiciary.senate.gov/press/dem/releases/durbin-senate-judiciary-democrats-file-misconduct-complaint-against-acting-deputy-attorney-general-emil-bove-with-new-york-state-bar>.

⁶ Press Release, SENATOR BRAD HOYLMAN-SIGAL, *New York State Senator Brad Hoylman-Sigal Submits Formal Complaint Against Acting Deputy AG Emil Bove to Attorney Grievance Committee* (Feb. 22, 2025), <https://www.nysenate.gov/newsroom/press-releases/2025/brad-hoylman-sigal/new-york-state-senator-brad-hoylman-sigal-submits>.

⁷ Emily Saul, *'No Further Action': NY Attorney Grievance Committee Repeatedly Declined to Investigate Emil Bove*, LAW.COM (Sept. 4, 2025), <https://www.law.com/newyorklawjournal/2025/09/04/no-further-action-ny-attorney-grievance-committee-repeatedly-declined-to-investigate-emil-bove/>.

⁸ *Excerpt from Ethics Complaint related to nine law firms that made agreements with President Trump*, H2O, <https://opencasebook.org/casebooks/15389-professional-responsibility/resources/1.1.5-excerpt-from-ethics-complaint-related-to-nine-law-firms-that-made-agreements-with-president-trump/>.

⁹ Roy Strom, *Law Firms' Trump Deals Escape NY Lawyer Ethics Investigation*, BLOOMBERG LAW (Oct. 9, 2025), <https://news.bloomberglaw.com/business-and-practice/law-firms-trump-deals-escape-ny-lawyer-ethics-investigation>.

Response: I have no personal knowledge of whether any formal complaints were made against the law firms referenced in the question, and I have not had any involvement with any such complaints, if made.

- b. Why did the Grievance Committee decline to investigate these settlement agreements between the law firms and the Trump Administration?

Response: Please see my answer to Question 13.a.

14. If this Committee were to establish that a sitting federal judge knowingly provided false testimony to this Committee, what do you believe the appropriate process and consequences should be?

Response: As a judicial nominee, it would be inappropriate for me to advise the Senate on what steps it should take in such a situation.

15. If this Committee were to establish that a political appointee knowingly provided false testimony to this Committee, what do you believe the appropriate process and consequences should be?

Response: Please see my response to Question 14.

16. How would you characterize your judicial philosophy?

Response: If I am fortunate enough to be confirmed, I would follow all binding Supreme Court and Second Circuit precedent. To the extent there is no applicable binding precedent, I would endeavor to use the modes of judicial reasoning set forth by the U.S. Supreme Court, with a focus on textualism and originalism.

17. What do you understand originalism to mean?

Response: Originalism means interpreting provisions of the U.S. Constitution by looking to the public meaning of the text at the time the provisions were ratified.

18. Do you consider yourself an originalist?

Response: Yes.

19. What do you understand textualism to mean?

Response: Textualism means interpreting a statute according to the public meaning of its text at the time it was enacted.

20. Do you consider yourself a textualist?

Response: Yes.

21. Legislative history refers to the record Congress produces during the process of passing a bill into law, such as detailed reports by congressional committees about a pending bill or statements by key congressional leaders while a law was being drafted. Some federal judges consider legislative history when analyzing the meaning of a statute.

- a. If you are confirmed to serve on the federal bench, would you consult and cite legislative history to analyze or interpret a federal statute?

Response: If I am fortunate enough to be confirmed, there might be certain circumstances in which consulting legislative history might be helpful in analyzing or interpreting a federal statute.

- b. Do you believe that congressional intent matters when interpreting a statute? Why or why not.

Response: In general, when interpreting a statute, courts should look to the public meaning of the text of the statute when it was enacted and not seek to divine Congressional intent separate and apart from the text. It is only the text of the statute that proceeds through the Constitutional process of becoming law. Furthermore, it would be unreasonable to expect the individuals and businesses subject to a statute to seek to determine Congressional intent for the law outside of the words of a statute.

22. According to an academic study, Black men were 65 percent more likely than similarly-situated white men to be charged with federal offenses that carry harsh mandatory minimum sentences.¹⁰

- a. What do you attribute this to?

Response: As a judicial nominee, it would be inappropriate for me to discuss matters of public policy and political controversy. *See* Code of Conduct for United States Judges, Canon 5. If I am fortunate enough to be confirmed, I will treat everyone equally and with respect, regardless of their race.

23. A recent report by the United States Sentencing Commission observed demographic differences in sentences imposed during the five-year period studied, with Black men receiving federal prison sentences that were 13.4 percent longer than white men.¹¹

- a. What do you attribute this to?

¹⁰ Sonja B. Starr & M. Marit Rehani, *Racial Disparity in Federal Criminal Sentences*, 122 J. POL. ECON. 1320, 1323 (2014).

¹¹ U.S. SENTENCING COMM'N, DEMOGRAPHIC DIFFERENCES IN SENTENCING 2 (Nov. 2023), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2023/20231114_Demographic-Differences.pdf.

Response: As a judicial nominee, it would be inappropriate for me to discuss matters of public policy and political controversy. *See Code of Conduct for United States Judges, Canon 5.* If I am fortunate enough to be confirmed, I will treat everyone equally and with respect, regardless of their race.

24. What role do you think federal judges, who review difficult, complex criminal cases, can play in ensuring that a person's race did not factor into a prosecutor's decision or other instances where officials exercise discretion in our criminal justice system?

Response: Federal judges should consider seriously any argument raised by a party that race played an improper role in a prosecutor's decision to pursue criminal charges against an individual or that race played an improper role in another official exercise of discretion in the criminal justice system. To the extent that race has been used illegally in making certain prosecutorial or other decisions, courts should consider what appropriate remedies are available, if any.

25. Do you believe it is an important goal for there to be demographic diversity in the judicial branch? Why or why not.

Response: I believe that everyone should be eligible to participate in the judicial branch without regard to race, sex, ethnicity, religion, or any other protected characteristic.

26. Indicate whether you have ever published written material or made any public statements relating to the following topics. If so, provide a description of the written or public statement, the date and place/publication where the statement was made or published, and a summary of its subject matter. Mere reference to the list of publications and statements provided in your Senate Judiciary Questionnaire is insufficient; provide specific responses.

If you have not disclosed a copy of the publication or a transcript of the statement to the Judiciary Committee, attach a copy or link to the materials and explain why you have not previously disclosed them.

- a. Abortion
- b. Affirmative action
- c. Contraceptives or birth control
- d. Gender-affirming care
- e. Firearms
- f. Immigration
- g. Same-sex marriage
- h. Miscegenation
- i. Participation of transgender people in sports
- j. Service of transgender people in the U.S. military
- k. Racial discrimination
- l. Sex discrimination
- m. Religious discrimination
- n. Disability discrimination
- o. Climate change or environmental disasters

p. “DEI” or Diversity Equity and Inclusion

Response: To the best of my knowledge, I have not published written material or made public comments on any of these topics beyond what is listed in my Questionnaire for Judicial Nominees.

27. Under what circumstances would it be acceptable for an executive branch official to ignore or defy a federal court order?

Response: Generally, a litigant must follow court orders issued in a proceeding to which the litigant is a party. There is a narrow group of circumstances in which it might be appropriate for a litigant, including an Executive Branch official, to fail to follow a court order. For example, sometimes an order can only be appealed if it is violated. *See Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100, 111 (2009).

a. If an executive branch official ignores or defies a federal court order, what legal analysis would you employ to determine whether that official should be held in contempt?

Response: The legal analysis for issuing a contempt order can vary depending on whether the issue concerns civil contempt or criminal contempt and whether the issue of contempt is raised by a party or by the court *sua sponte*. For example, in *King v. Allied Vision, Ltd.*, 65 F.3d 1051, 1058 (2d Cir. 1995), a panel of the Second Circuit stated that, for civil contempt, “[a] contempt order is warranted only where the moving party establishes by clear and convincing evidence that the alleged contemnor violated the district court’s edict. More specifically, a movant must establish that (1) the order the contemnor failed to comply with is clear and unambiguous, (2) the proof of noncompliance is clear and convincing, and (3) the contemnor has not diligently attempted to comply in a reasonable manner. A clear and unambiguous order is one that leaves ‘no uncertainty in the minds of those to whom it is addressed,’ who ‘must be able to ascertain from the four corners of the order precisely what acts are forbidden.’” (internal citations omitted.)

b. Is there any legal basis that would allow an executive branch official to ignore or defy temporary restraining orders and preliminary injunctions issued by federal district court judges? Provide each one and the justification.

Response: Please see my answer to Question 27.

28. Does the president have the power to ignore or nullify laws passed by Congress?

Response: Although a President does not generally have the power to ignore or nullify laws passed by Congress, the U.S. Supreme Court has held that there are certain circumstances in which a President has the legal right not to enforce certain laws or provisions thereof. *See, e.g., Zivotofsky ex rel. Zivotofsky v. Kerry*, 576 U.S. 1 (2015). Because this issue is currently subject to ongoing litigation, and could come before me if I am fortunate enough to be

confirmed, it would be inappropriate for me, as a judicial nominee, to comment further. *See* Code of Conduct for United States Judges, Canon 3(A)(6).

29. Does the president have the power to withhold funds appropriated by Congress?

Response: In general, the Executive Branch must execute spending laws as Congress enacted them and may not unilaterally withhold funds that Congress has directed be allocated in specified amounts, absent statutory authority. The U.S. Supreme Court has held that there are certain circumstances in which the Executive Branch has significant discretion not to execute certain spending laws or provisions thereof. *See, e.g., Lincoln v. Vigil*, 508 U.S. 182 (1993). Because this issue is currently subject to ongoing litigation, and could come before me if I am fortunate enough to be confirmed, it would be inappropriate for me, as a judicial nominee, to comment further. *See* Code of Conduct for United States Judges, Canon 3(A)(6).

30. Does the president have the power to discriminate by withholding funds against state or local jurisdictions based on the political party of a jurisdiction's elected officials?

Response: Please see my answer to Question 29.

31. Does the Supremacy Clause of the U.S. Constitution establish that federal laws supersede conflicting state laws?

Response: As the U.S. Supreme Court stated in *Martin v. United States*, 605 U.S. 395, 409 (2025), “[t]he Supremacy Clause supplies a rule of decision when federal and state laws conflict. It provides that the ‘Constitution, and the Laws of the United States which shall be made in Pursuance thereof ... shall be the supreme Law of the Land ... any Thing in the Constitution or Laws of any state to the Contrary notwithstanding.’ Art. VI, cl. 2. So, for example, when a regulated party cannot comply with both federal and state directives, the Supremacy Clause tells us the state law must yield.”

32. Does the U.S. Constitution apply to non-citizens present in the United States?

Response: The U.S. Supreme Court has held that “all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent” are entitled to certain levels of due process. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

33. Is it constitutional for Congress to delegate to federal agencies the power to implement statutes through rulemaking?

Response: In *Federal Communications Commission v. Consumers’ Research*, 606 U.S. 656, 673 (2025), the U.S. Supreme Court stated that Congress may delegate to federal agencies the power implement statutes through rulemaking where Congress provides the agency with an “‘intelligible principle’ to guide what it has given the agency to do.”

34. Was *Brown v. Board of Education*, 347 U.S. 483 (1954), correctly decided?

Response: Yes. Consistent with the statements of prior nominees, given *Brown*'s seminal importance in our country's history and fabric, as well as the general consensus that it was correctly decided, *Brown* is recognized as an exception to the general rule that judicial nominees do not express their agreement or disagreement with cases and do not "grade" them.

35. Is *Griswold v. Connecticut*, 381 U.S. 479 (1965), binding precedent? Describe the facts and holding of this case.

Response: *Griswold* is binding precedent. In *Griswold*, the U.S. Supreme Court recognized a right to privacy covering the use of contraception within the context of marital relations.

36. Is *Lawrence v. Texas*, 539 U.S. 558 (2003), binding precedent? Describe the facts and holding of this case.

Response: *Lawrence* is binding precedent. In *Lawrence*, the U.S. Supreme Court recognized a liberty right for adults to make private decisions about intimate relationships without criminal punishment by a State.

37. Is *Obergefell v. Hodges*, 576 U.S. 644 (2015), binding precedent? Describe the facts and holding of this case.

Response: *Obergefell* is binding precedent. In *Obergefell*, the U.S. Supreme Court recognized that adults have a right to enter into same-sex marriages.

Do you believe that President Biden won the 2020 election? Note that this question is not asking who was certified as president in the 2020 election. A response that references only certification will be treated as a refusal to answer.

Response: Congress certified President Biden as the winner of the 2020 presidential election. In keeping with the position of prior judicial nominees, it would be inappropriate for me to opine on political, policy, or legal debates regarding the integrity of any election, including the 2020 presidential election. See Code of Conduct for United States Judges, Canons 3(A)(6), 5.

a. Did Biden win a majority of the electoral vote in the 2020 election?

Response: Congress certified President Biden as the winner of the 2020 presidential election. In keeping with the position of prior judicial nominees, it would be inappropriate for me to opine on political, policy, or legal debates regarding the integrity of any election, including the 2020 presidential election. See Code of Conduct for United States Judges, Canons 3(A)(6), 5.

b. Do you believe that the results of the 2020 election, meaning the vote count, were accurate? If not, explain why not and examples.

Response: Please see my response to Question 37.a.

38. The 22nd Amendment says that “no person shall be elected to the office of the President more than twice.”¹²

a. Do you acknowledge that this is the law of the land?

Response: Yes. The Twenty-Second Amendment to the U.S. Constitution is part of the law of the land.

b. Do you agree that President Trump was elected to the office of the President in the 2016 election?

Response: Congress certified President Trump as the winner of the presidential election in 2016. Accordingly, he was elected to the office of the President in 2016.

c. Did Trump win a majority of the electoral vote in the 2016 election?

Response: Please see my response to Question 38.b.

d. Do you agree that President Trump was elected to the office of the President in the 2024 election?

Response: Congress certified President Trump as the winner of the Presidential election in 2024. Accordingly, he was elected to the office of the President in 2024.

e. Did Trump win a majority of the electoral vote in the 2024 election?

Response: Please see my response to Question 38.d.

f. Do you agree that the 22nd Amendment, absent a constitutional amendment, prevents President Trump from running for a third presidential term?

Response: Under Section 1 of the Twenty-Second Amendment, “[n]o person,” which includes President Trump, “shall be elected to the office of the President more than twice.”

39. Has any official from the White House or the Department of Justice, or anyone else involved in your nomination or confirmation process, instructed or suggested that you not opine on whether any past Supreme Court decisions were correctly decided?

Response: No.

¹² U.S. CONST. amend. XXII.

40. Have you spoken or corresponded with Elon Musk since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

41. Have you spoken or corresponded with any member of the Department of Government Efficiency (DOGE) since November 2024? If yes, identify the member(s) and provide the dates, mode, and content of those discussions and communications.

Response: To the best of my knowledge, no.

42. Have you spoken or corresponded with Stephen Miller since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

43. Have you spoken or corresponded with Chad Mizelle since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

44. Have you spoken or corresponded with Pam Bondi since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

45. Have you spoken or corresponded with Todd Blanche since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: I spoke with now-Acting Attorney General Blanche briefly once or twice in late 2024 concerning the transition of the representation of President Trump from his firm to Sullivan & Cromwell LLP. I also had lunch with him in the summer of 2025.

46. Have you spoken or corresponded with Emil Bove since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

47. Have you spoken or corresponded with Leonard Leo since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

48. Have you—personally or through any of your affiliated companies or organizations, agents, or employees—provided financial support or other resources to any members of the Proud

Boys or of the Oath Keepers for their legal fees or for other purposes? If yes, state the amount of financial support provided, dates provided, and for what purposes.

Response: No.

49. Have you ever spoken or corresponded with any of the following individuals? If yes, provide the dates, mode, and content of those discussions and communications.
- a. Enrique Tarrío
 - b. Stewart Rhodes
 - c. Kelly Meggs
 - d. Kenneth Harrelson
 - e. Thomas Caldwell
 - f. Jessica Watkins
 - g. Roberto Minuta
 - h. Edward Vallejo
 - i. David Moerschel
 - j. Joseph Hackett
 - k. Ethan Nordean
 - l. Joseph Biggs
 - m. Zachary Rehl
 - n. Dominic Pezzola
 - o. Jeremy Bertino
 - p. Julian Khater

Response: To the best of my knowledge, no.

50. Have you ever spoken or corresponded with any individuals convicted and later pardoned of offenses related to the January 6, 2021 attack on the U.S. Capitol? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

Response: To the best of my knowledge, no.

51. Federal judges must file annual financial disclosure reports and periodic transaction reports. If you are confirmed to the federal bench, do you commit to filing these disclosures and to doing so on time?

Response: Yes.

52. Article III Project (A3P) “defends constitutionalist judges and the rule of law.” According to Mike Davis, Founder & President of A3P, “I started the Article III Project in 2019 after I helped Trump win the Gorsuch and Kavanaugh fights. We saw then how relentless—and evil—too many of today’s Democrats have become. They’re Marxists who hate America. They believe in censorship. They have politicized and weaponized our justice systems.”¹³
- a. Do you agree with the above statement?

¹³ <https://www.article3project.org/about>

Response: As a judicial nominee, it would be inappropriate for me to opine on others' public statements or political debates or issues. *See* Code of Conduct for United States Judges, Canon 5.

- b. Have you discussed any aspect of your nomination to the federal bench with any officials from or anyone directly associated with A3P, or did anyone do so on your behalf? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

Response: To the best of my knowledge, no.

53. Since you were first approached about the possibility of being nominated, did anyone associated with the Trump Administration or Senate Republicans provide you guidance or advice about which cases to list on your Senate Judiciary Questionnaire (SJQ)?
 - a. If so, who? What advice did they give?

Response: No.

- b. Did anyone suggest that you omit or include any particular case or type of case in your SJQ?

Response: No.

54. Explain, with particularity, the process whereby you answered these written questions, including whether you personally drafted initial responses and whether anyone helped draft, review, or edit the answers.

Response: I drafted answers to these questions, including through reviewing my personal records, precedent, and the answers from prior judicial nominees. I then received limited comments from the Office of Legal Policy at the U.S. Department of Justice. I then finalized my answers and approved them to be filed with the Committee.

**Questions for the Record from Senator Alex Padilla
Senate Judiciary Committee
“Nominations”**

May 20, 2026

Questions for Matthew A. Schwartz (Second Circuit Court of Appeals):

1. Since 2025 you have represented President Trump, members of his family, and parts of the Trump Organization in appealing a judicial finding that they had fraudulently inflated the value of Trump’s assets by between \$812 million and \$2.2 billion annually between 2014 and 2021.

a. As President Trump’s personal lawyer, how can any party averse to the administration’s interests be confident your judgment as an independent jurist? Please explain.

Response: If I am fortunate enough to be confirmed, my work for President Trump in his personal capacity would not call into question my independence as a jurist when considering appeals concerning the Administration’s interests. The Senate has confirmed numerous federal judges that were working for a Presidential administration (as opposed to the President in a personal capacity) at the time of their nominations and who did not subsequently recuse themselves from all matters involving that Administration. The appropriate way to address any appeals that would come before me if confirmed is to recuse myself from all matters on which I worked for President Trump or any other client as a lawyer. I will consider actual or potential conflicts of interest for other matters by looking to the relevant laws, codes of conduct, rules, regulations, and practices, including 28 U.S.C. § 455 and the Code of Conduct for U.S. Judges. I will consult with colleagues and judicial ethics officials as appropriate. I am committed to being an independent jurist.

2. Public filings suggest that the President's political committee owes your law firm approximately \$400,000 in unpaid legal fees.

a. Do you believe that number to be roughly accurate? If not, please explain.

Response: Under Rule 1.6 of the New York Rules of Professional Conduct, a client’s financial arrangement with the client’s lawyer is considered the client’s confidential information and the lawyer may not disclose it without client consent. *See, e.g.,* N.Y. State Bar Ass’n Comm. on Prof’l Ethics, Op. 1118 (2017).

b. Has this debt been paid? If not, when do you expect it to be paid?

Response: Please see my response to Question 2.a.

c. Are you aware of any reason that your nomination or potential confirmation would impede your firm's ability to collect that debt?

Response: Please see my response to Question 2.a. I am not aware of any reason my nomination or potential confirmation would impede my firm's ability to collect any debt.

d. What is your plan to ensure that you are fully insulated from a financial obligation or benefit stemming from the President of the United States?

Response: If I am fortunate enough to be confirmed, I will shortly thereafter resign my partnership from Sullivan & Cromwell LLP and would not be eligible to receive any further distribution of profits or any other form of compensation from Sullivan & Cromwell, other than future payments from a defined benefit retirement plan to which Sullivan & Cromwell LLP will make no further contributions upon my resignation and will have no discretion in terms of the timing or amount of retirement payments to me. I will have no other financial obligations to or financial benefits from any client.

3. In early 2025, Sullivan & Cromwell co-chair Robert Giuffra, who worked alongside you as co-counsel to President Trump, was reportedly involved in brokering the agreement between the Trump administration and Paul, Weiss -- under which the firm agreed to provide \$40 million in pro bono work to support Trump administration priorities.

a. Did you participate in any discussions, internally at the firm or otherwise, regarding those negotiations?

Response: I had no discussions concerning this issue leading up to any agreement.

b. While under consideration for a federal judgeship by the same President you were personally representing, did the topic of law firm executive orders and related negotiations ever come up with any person involved in your nomination?

Response: To the best of my recollection, no.

c. Did you discuss any of these negotiations with any White House staff or anyone involved with your vetting or selection as a judicial nominee?

Response: No.

4. The following are yes or no questions related to the 2020 election:

a. According to Wisconsin's certified 2020 General Election results, did Joe Biden receive more than 19,000 votes more than Donald Trump?

Response: Based solely on public reporting, I understand that state election officials certified that Joseph Biden received more popular votes in this state.

b. According to Pennsylvania's certified 2020 General Election results, did Joe Biden receive more than 80,000 votes more than Donald Trump?

Response: Please see my answer to Question 4.a.

c. According to Georgia's certified 2020 General Election results, did Joe Biden receive more than 11,000 votes more than Donald Trump?

Response: Please see my answer to Question 4.a.

d. According to Arizona's certified 2020 General Election results, did Joe Biden receive more than 40,000 votes more than Donald Trump?

Response: Please see my answer to Question 4.a.

e. According to Nevada's certified 2020 General Election results, did Joe Biden receive more than 20,000 votes more than Donald Trump?

Response: Please see my answer to Question 4.a.

f. According to Michigan's certified 2020 General Election results, did Joe Biden receive more than 154,000 votes more than Donald Trump?

Response: Please see my answer to Question 4.a.

g. Based on your answers to questions 4(a) through 4(f), did Joe Biden win more votes than Donald Trump in each of those six states?

Response: Please see my answer to Question 4.a.

5. Do you have any reason to believe that the outcome of any state's presidential vote was impacted by irregularities or fraud? If so, please explain.

Response: Congress certified President Biden as the winner of the 2020 presidential election. In keeping with the position of prior judicial nominees, I should not opine on political or policy debates regarding the integrity of any election, including the 2020 presidential election. *See* Code of Conduct for United States Judges, Canons 3(A)(6), 5.

6. On January 7, 2021, a joint session of Congress certified 306 electoral votes for Joseph Biden and 232 electoral votes for Donald Trump. Joe Biden received more votes than Donald Trump across 25 states, DC, and NE-02 in the 2020 election.

a. Do you have any reason to believe that Congress was wrong to certify each state's electoral votes?

Response: Congress certified President Biden as the winner of the 2020 presidential election. In keeping with the position of prior judicial nominees, I should not opine on political or policy debates regarding the integrity of any election, including the 2020 presidential election. *See* Code of Conduct for United States Judges, Canons 3(A)(6), 5.

7. More than 60 federal and state courts, including courts presided over by judges appointed by Republican presidents, dismissed legal challenges to the 2020 presidential election results for lack of evidence, lack of standing, or lack of merit.

a. Do you have any reason to believe that any of those courts reached the wrong conclusion?

Response: Congress certified President Biden as the winner of the 2020 presidential election. In keeping with the position of prior judicial nominees, I should not opine on political or policy debates regarding the integrity of any election, including the 2020 presidential election, or any court decisions concerning them. *See* Code of Conduct for United States Judges, Canons 3(A)(6), 5.

b. Do you have any reason to believe that any one of those judges -- many of whom were appointed by Republican presidents, including President Trump -- acted improperly or in bad faith in dismissing those challenges?

Response: Congress certified President Biden as the winner of the 2020 presidential election. In keeping with the position of prior judicial nominees, I should not opine on political or policy debates regarding the integrity of any election, including the 2020 presidential election, or any court decisions concerning them. *See* Code of Conduct for United States Judges, Canons 3(A)(6), 5.

8. Have you ever, publicly or in an official capacity, questioned or disparaged: (i) the legitimacy of the 2020 presidential election results; (ii) Congress's certification of those results; or (iii) any federal or state court ruling rejecting legal challenges to those results? If so, please explain.

Response: To the best of my knowledge, I have never commented publicly or in an official capacity on (i) the legitimacy of the 2020 presidential election results; (ii) Congress's certification of those results; or (iii) any federal or state court ruling rejecting legal challenges to those results.

9. In a letter published in the Princeton Alumni Weekly, you wrote that Muslims must "take the hard step of dropping their ancient religious law and joining the rest of the world in the 21st century" and made several other Islamophobic comments. There are approximately 3.5 million Muslim Americans. Some of them are lawyers. Some of them will appear before you as litigants.

a. Do you still hold these views and have you made any other public remarks about Muslims since this publication?

Response: I respectfully disagree with your characterization of my letter as containing Islamophobic comments. The letter was part of a post-9/11 discussion occurring in the United States and around the world on what steps could be taken by certain countries to reduce terrorism by extremists from those countries. My letter noted that one step would be the expansion of rights to women in those countries, in keeping with the expansion of rights to women in other parts of the world.

b. How is a Muslim litigant or lawyer who reads those words supposed to trust that you will decide their case impartially?

Response: I do not believe that the words I wrote in this 2003 letter should lead an reasonable lawyer or litigant to believe I would be impartial as to parties and lawyers who are Muslim. Throughout my adulthood and career, I have treated everyone equally and with respect. If I am fortunate enough to be confirmed, I will continue to do so and will also faithfully uphold and apply all precedent.

c. Will you treat all individuals in your courtroom fairly regardless of their religious beliefs?

Response: Yes.

d. Would you ever consider hiring a Muslim lawyer or law student to work in your chambers?

Response: I will consider hiring lawyers and law students without regard to race, sex, ethnicity, religion, or any other protected characteristic.

10. In 1997 and 1998, you wrote that same-sex marriage was a “misconceived notion of equal rights,” that marriage benefits are “privileges” granted to heterosexual couples because they contribute to “the continuation of the citizenry.”

a. Do you continue to believe that same-sex marriage is a misconceived notion of equal right?

Response: In *Obergefell*, the U.S. Supreme Court held that there is a constitutional right to same-sex marriage, and, if I am fortunate enough to be confirmed, I would faithfully apply that and any other relevant binding precedent.

b. Do you continue to hold the view that marriage benefits are privileges extended to heterosexual couples on the basis of their capacity to continue the citizenry?

Response: In *Obergefell*, the U.S. Supreme Court held that there is a constitutional right to same-sex marriage, and, if I am fortunate enough to be confirmed, I would faithfully apply that and any other relevant binding precedent.

c. Have your views on LGBTQ+ individuals and rights shifted since you published this piece? If so, please explain how your current views differ from these comments.

Response: The article I published in 1997 did not express any views regarding individuals. Throughout my adulthood and professional career, I have treated everyone equally and with respect, no matter who they are. If I am fortunate enough to be confirmed, I will continue to do so and will also faithfully uphold and apply all U.S. Supreme Court and other applicable binding precedent.

d. Do you regret these comments? Please explain.

Response: As noted during my oral testimony on May 20, 2026, although it is inappropriate for me as judicial nominee to comment on personal views on particular subjects, the tone of the article and some of my word choices were unduly harsh and reflected my writings as a teenager in 1997.

e. Would you ever consider hiring an LGBTQ+ lawyer or law student to work in your chambers?

Response: I will hire lawyers and law students based on merit, without regard to race, sex, ethnicity, religion, or any other protected characteristic, including sexual orientation.

11. During your tenure on the Attorney Grievance Committee, the Committee received complaints that Emil Bove, another of President Trump's personal attorneys, allegedly attempted to coerce New York officials to advance the Trump Administration's immigration priorities through potentially unethical or unlawful means.

a. During your tenure on the Grievance Committee, were you present for any deliberations regarding the complaints against Emil Bove?

Response: I have no knowledge of whether any formal complaints were made against Judge Bove to the New York Appellate Division, First Department Attorney Grievance Committee, and was not involved in any decisions concerning any such complaints, if made.

b. Did you take part in any decision on whether to investigate or take any action with respect to complaints made against Mr. Bove?

Response: Please see my response to Question 11.a.

12. Do you believe in a constitutional right to privacy? If so, please explain the constitutional basis for that right.

Response: In *Griswold v. Connecticut*, the U.S. Supreme Court recognized a constitutional right to privacy in the context of the use of contraception within marital relations. Subsequent U.S.

Supreme Court decisions have recognized a constitutional right to privacy in other contexts as well.

- a. Do you believe that *Griswold v. Connecticut* was correctly decided?

Response: *Griswold* is binding precedent of the U.S. Supreme Court. As stated by numerous prior judicial nominees, it would be generally inappropriate for me to opine or “grade” U.S. Supreme Court decisions.

13. At a recent speaking event at Catholic University, Justice Kavanaugh stated that he considers himself “in many ways, a Bork, Scalia, Rehnquist guy” when discussing his judicial role models. What judges or justices would you consider foundational to your judicial philosophy, and why?

Response: I consider Justices Alito, Scalia, and Harlan to be foundational to my view of the role of a judge. Justice Alito carefully studies the facts and law of each case, provides extremely clear and well-crafted guidance to lower court judges, and has shown extreme bravery by persevering through unprecedented threats against him. Justice Scalia is widely considered the foremost proponent of textualism and originalism, which are now the widely accepted proper method for constitutional and statutory interpretation. Justice Harlan is a legendary example of a jurist insisting on stating his views of the law even if those views are unpopular at the time expressed.

14. If confirmed, cases involving reproductive rights -- including access to abortion, contraception, and assisted reproductive technology -- may come before you. Do you believe that individuals have any constitutionally protected right to make reproductive healthcare decisions? Please explain.

Response: If I am fortunate enough to be confirmed, I will faithfully apply all binding Supreme Court and other precedent.

15. Judicial clerkships serve several important professional roles. They are a meaningful opportunity for recent law graduates to learn from an experienced mentor, and they serve as an important -- and often necessary -- step toward the highest levels of our legal profession. Too often, students from diverse backgrounds are overlooked for these opportunities despite equivalent qualifications.

- a. Do you believe that diversity at all levels of the federal judiciary is important? Please explain your view.

Response: I believe that everyone should be eligible to work in the federal judiciary, without regard to race, sex, ethnicity, religion, or any other protected characteristic.

- b. If confirmed, how will you personally ensure diversity among your law clerk classes?

Response: I will hire law clerks based on merit, without regard to race, sex, ethnicity, religion, or any other protected characteristic.

16. I want to give you an opportunity to discuss your views on the 22nd Amendment.

a. What does the 22nd Amendment state?

Response: “Section 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term. Section 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.”

b. Under the text of that amendment, is there any basis on which an individual who has already been elected President twice could lawfully be elected to a third term?

Response: No.

c. Donald Trump was elected President in 2016 and again in 2024. How many times has Donald Trump been elected President?

Response: Congress certified President Trump as the winner of the President election in 2016 and 2024. Accordingly, he has been elected twice.

d. Are you aware of any provision of the Constitution, federal statute, or judicial precedent that would permit Donald Trump to be elected to a third term?

Response: I am unaware of any provision of the Constitution, federal statute, or judicial precedent that would allow someone who has twice been elected to the Presidency to be elected a third time.

e. If a case came before you challenging the eligibility of any individual to appear on a presidential ballot in violation of the 22nd Amendment and you concluded a candidate was ineligible to run for under that amendment, would you have any hesitation in ruling against them regardless of that individual’s political standing or the political consequences of your decision?

Response: If I am fortunate enough to be confirmed and such a case came before me, I would faithfully apply the law and consider all of the arguments presented by the parties

before reaching a conclusion. The parties' political standing or the political consequences of my vote would not impact the conclusion I would reach.

17. If confirmed, cases involving discrimination claims brought by LGBTQ+ individuals under Title VII or other federal civil rights statutes may come before you. Will you commit to treating these individuals with dignity by ensuring that your courtroom is a forum where all LGBTQ+ litigants, witnesses, and counsel are addressed respectfully -- including by use of their correct name and gender identity -- and where their claims receive the same full and fair consideration afforded to all parties?

Response: If I am fortunate enough to be confirmed, I will treat all individuals appropriately and afford the same full and fair consideration to all claims, regardless of who brings them.

18. Do you believe that individuals in immigration removal proceedings, including those who entered the United States without authorization, are entitled to the due process protections guaranteed under the US Constitution? Please explain.

Response: The U.S. Supreme Court has held that "all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent" are entitled to certain levels of due process. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). If I am fortunate enough to be confirmed, I will faithfully apply all relevant binding U.S. Supreme Court and other binding precedents in appeals concerning claims brought by individuals in immigration removal proceedings, including individuals who are in the United States illegally.

19. If confirmed, will you commit to ensuring that every person who appears before you is treated with dignity and afforded the full protection of the Constitution and federal law regardless of their immigration status, national origin, or language?

Response: If I am fortunate enough to be confirmed, I will treat every person who appears before me appropriately and seek to properly apply all relevant protections afforded by the U.S. Constitution and federal law.

20. What recourse do you believe is available to a federal judge whose orders are not followed?

Response: Federal courts might be able to enforce orders through various means, including one or more of the following: sanctions, civil and criminal contempt proceedings, and criminal referrals.

Senator Peter Welch
Senate Judiciary Committee
Written Questions for Matthew Schwartz
Hearing on “Nominations”
Wednesday, May 20, 2026

1. In your role as a partner at Sullivan & Cromwell LLP, you have personally represented President Trump in both criminal and civil matters. During your nomination hearing, you told Ranking Member Durbin and Senator Booker that you would recuse yourself from all matters in which you previously represented President Trump. Do you also commit to recusing yourself from all matters in which President Trump is a named party?

Response: If confirmed, I will recuse myself from all matters on which I worked for President Trump or any other client as a lawyer. I will consider actual or potential conflicts of interest for other matters by looking to the relevant laws, codes of conduct, rules, regulations, and practices, including 28 U.S.C. § 455 and the Code of Conduct for U.S. Judges. I will consult with colleagues and judicial ethics officials as appropriate.

2. During your nomination hearing, you testified to Senator Booker that “if there is profit” from the amount your firm makes in your representing President Trump, “I receive a miniscule amount of money.”
 - a. How much does President Trump owe your firm?

Response: Under Rule 1.6 of the New York Rules of Professional Conduct, a client’s financial arrangement with the client’s lawyer is considered the client’s confidential information and the lawyer may not disclose it without client consent. *See, e.g.,* N.Y. State Bar Ass’n Comm. on Prof’l Ethics, Op. 1118 (2017).

- b. Is any of that amount past due?

Response: Please see my response to Question 2.a.

- c. Will you be eligible to receive any portion of those funds, if they are paid, prior to your confirmation?

Response: As a partner of Sullivan & Cromwell LLP, I am eligible to receive a portion of any firm profits that are distributed while I am a partner. It is possible that if funds are paid to Sullivan & Cromwell LLP but not factored into any profit

distribution before my resignation as a partner (assuming I am confirmed), I would not be eligible receive any portion of those funds.

- d. Will you be eligible to receive any portion of those funds, if they are paid, after your confirmation?

Response: I would not be eligible to receive any distribution of profits from Sullivan & Cromwell after my resignation as a partner. If I am fortunate enough to be confirmed, I intend to resign from the partnership shortly thereafter in order to provide time to transition my matters to other Sullivan & Cromwell LLP partners.

Questions for the Record
Sen. Adam Schiff (CA)

**Matthew A. Schwartz, Nominee to the United States Court of Appeals
for the Second Circuit.**

1. How would you define public corruption as a matter of federal law?

Response: I am unaware of a single definition of public corruption under federal law. Conduct that would typically fall into a commonly understood definition of public corruption might include bribery, extortion, fraud, and embezzlement of or by elected or appointed officials, government employees, and people doing business with government.

a. If you are confirmed and you learn that one of your federal law clerks came up with a scheme to use their job to give money to their friends, would that raise public corruption concerns for you?

Response: Yes.

2. Have you represented any clients in private practice or public service that argued they were the subject of “weaponization” or “lawfare” by the federal government? If so, please list the client name, time frame of your representation, forum where they made this argument, and a summary of their claim of “weaponization” or “lawfare.”

Response: In *People of the State of New York v. President Donald J. Trump*, No. 2025-00648 (App. Div. 1st Dep’t), on behalf of President Trump, we argue, with overwhelming evidence, that President Trump was targeted for criminal prosecution and punishment for political reasons.

In *People of the State of New York v. President Donald J. Trump*, No. 2025-00171 (N.Y. Ct. App.), on behalf of President Trump, Donald Trump Jr., Eric Trump, and various entities within the Trump Organization, we argue, again with overwhelming evidence, that President Trump was targeted for political reasons.

3. Do you agree that Article III courts are courts of limited subject matter jurisdiction?

Response: As the U.S. Supreme Court recently explained, federal courts:

are courts of limited jurisdiction. Limited first by the Constitution, to only the kinds of ‘Cases’ and ‘Controversies’ listed in Article III. And for all lower federal courts, limited as well by statute. Congress determines, through its grants of jurisdiction, which suits those courts can resolve. So, for example, Congress has always given federal courts power to decide ‘diversity’ cases, between ‘citizens of different States’ whose dispute involves more than a stated sum (the so-called amount-in-controversy). § 1332(a). And of special importance here, Congress has long conferred jurisdiction on federal courts to resolve cases ‘arising under’ federal law. § 1331.

Royal Canin U.S.A., Inc. v. Wullschleger, 604 U.S. 22, 26 (2025) (certain internal citations omitted).

a. What is your understanding of the Article III cases and controversies requirement?

Response: The U.S. Supreme Court has held that, under Article III of the U.S. Constitution, federal courts may only hear cases and controversies. The Court has further explained that, when considering whether a matter is a case or controversy, federal courts should consider the doctrines of standing, mootness, ripeness, and political question. *See, e.g., DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 352 (2006).

b. Do you agree that federal courts are limited to cases and controversies where the parties have adverse legal interests?

Response: The U.S. Supreme Court has stated that Article III generally requires a concrete dispute between parties with adverse legal interests. *See United States v. Windsor*, 570 U.S. 744 (2013).

c. Would a lawsuit where the plaintiff and defendant are the same individual be frivolous?

Response: This is not an area I have studied. If I am fortunate enough to be confirmed and sit on a panel where an appeal involves a plaintiff and defendant who are the same individual, I would consider all arguments and authorities (both those raised in the brief and *sua sponte*) concerning whether there is an Article III subject matter jurisdiction concern.

d. How does the legal profession typically respond to frivolous lawsuits?

Response: Without prejudging whether a hypothetical lawsuit described in question 3.c above would be frivolous, judges and/or lawyers usually respond to frivolous lawsuits in federal court by invoking the procedures under Rule 11 of the Federal Rules of Civil Procedure, Rule 38 of the Federal Rules of Appellate Procedure, the inherent authority of federal courts to issue sanctions for frivolous lawsuits, and, potentially, referral for disciplinary proceedings.

4. You represented President Trump in appealing two high profile fraud cases, including his appeal of his felony convictions for false records related to payments to Stormy Daniels. In your Questionnaire, you described that case as the most significant matter you have litigated in your career.

a. As of the date of your response to these questions for the record, are you still a partner at Sullivan & Cromwell?

Response: Yes.

b. What kind of partnership do you have at Sullivan & Cromwell, and are you entitled to share the firm's proceeds?

Response: I am an equity partner of Sullivan & Cromwell LLP and am entitled to share in the firm's profits.

c. As of the date of your response to these questions for the record, do you still have an attorney-client relationship with Donald Trump? If not, what date did you stop representing Trump?

Response: Sullivan & Cromwell LLP, including me, has an attorney-client relationship with President Trump.

d. Will you agree to recuse yourself from all future cases involving President Trump?

Response: If I am fortunate enough to be confirmed, I will recuse myself from all matters on which I worked for President Trump or any other former client. I will consider actual or potential conflicts of interest for other matters by looking to the relevant laws, codes of conduct, rules, regulations, and practices, including 28 U.S.C. § 455 and the Code of Conduct for U.S. Judges. I will consult with colleagues and judicial ethics officials as appropriate.

e. What is the current status of the cases where you represented President Trump, and are they still pending before a court?

Response: The appeal in *People of the State of New York v. President Donald J. Trump*, No. 2025-00648, is currently partially briefed and pending in the New York Appellate Division, First Department. There is also a motion for leave to remove that appeal to federal court pending before the U.S. District Court for the Southern District of New York. The appeal in *People of the State of New York v. President Donald J. Trump*, No. 2025-00171, is currently partially briefed and pending before the New York Court of Appeals.

5. Would you agree that your representation of Donald Trump contributed to your nomination to this lifetime appointment?

Response: I cannot agree or disagree with the suggestion that my representation of President Trump contributed to my nomination, as I was not told why I was nominated other than my qualifications and references. I believe that my legal career and quality of prior experience demonstrate that I am fully qualified for this position regardless of any particular cases on which I have worked.

6. At your confirmation hearing you cited the significant annual revenues of Sullivan & Cromwell as context for explaining why you did not know the amount of money owed by Donald Trump or his political action committee to your firm. What are the correct total annual revenues of Sullivan & Cromwell for the past three years?

Response: I respectfully do not agree with this characterization of my testimony at the hearing. I testified that I do not know how much money, if any, is owed to Sullivan & Cromwell LLP for legal work for President Trump because I do not handle that aspect of the firm's relationship with President Trump. In addition, under Rule 1.6 of the New York Rules of Professional Conduct, a client's financial arrangement with the client's lawyer is considered the client's confidential information and the lawyer may not disclose it without client consent. *See, e.g.,* N.Y. State Bar Ass'n Comm. on Prof'l Ethics, Op. 1118 (2017).

a. Do you know what the total legal bills are for your firm's representation of Trump?

Response: I do not. In addition, under Rule 1.6 of the New York Rules of Professional Conduct, a client's financial arrangement with the client's lawyer is considered the client's confidential information and the lawyer may not disclose it without client consent. *See, e.g.,* N.Y. State Bar Ass'n Comm. on Prof'l Ethics, Op. 1118 (2017).

b. What hourly rate did you bill for your personal work in representing Donald Trump?

Response: Under Rule 1.6 of the New York Rules of Professional Conduct, a client's financial arrangement with the client's lawyer is considered the client's confidential information and the lawyer may not disclose it without client consent. *See, e.g.,* N.Y. State Bar Ass'n Comm. on Prof'l Ethics, Op. 1118 (2017).

c. Did you or your firm ever write off or decrease the legal fees billed to Donald Trump? If so, what is the exact amount of the decrease in legal fees, and when did the firm communicate those changes to Donald Trump or his representatives?

Response: Please see my response to Question 6.b. To the extent this question implies that Sullivan & Cromwell LLP ever wrote off or decreased the legal fees billed to President Trump so that I would be nominated to the Second Circuit, that implication is false.

d. Was the Trump Save America PAC responsible for paying any bills for Donald Trump?

Response: Please see my response to Question 6.b.

e. Which other individuals or entities have paid legal bills to Sullivan & Cromwell related to representation of Donald Trump?

Response: Please see my response to Question 6.b.

7. FEC records from March 2026 state that Donald Trump’s Save America Political Action Committee (PAC) has a debt of \$396,448.42 to Sullivan & Cromwell for “legal consulting” services.

a. When did the Save America PAC first engage Sullivan & Cromwell for legal services?

Response: Under Rule 1.6 of the New York Rules of Professional Conduct, the timing of a client’s retention of counsel can be considered the client’s confidential information and the lawyer may not disclose it without client consent.

b. Have any other Trump-affiliated PACs or other fundraising organizations engaged Sullivan & Cromwell for legal services?

Response: Not to my knowledge.

c. What is the total amount of legal expenses charged by Sullivan & Cromwell to Trump-affiliated PACs or other fundraising organizations for legal services?

Response: Please see my response to Question 6.b.

d. While you were a partner at Sullivan & Cromwell, did you or any of your fellow partners write off or reduce the legal fees for a Trump-affiliated PAC?

Response: Please see my response to Question 6.b. To the extent this question implies that Sullivan & Cromwell LLP ever wrote off or decreased the legal fees billed to any PACs affiliated with President Trump so that I would be nominated to the Second Circuit, that implication is false.

e. If so, why did you reduce those legal fees?

Response: Please see my responses to Question 6.b and 7.d.

8. While at Princeton, you wrote “If the homosexual lobby succeeds in changing current marriage laws (most likely through judicial activism), they will deal a blow to prudent public policy and will damage basic rights theory.” Why do you believe same-sex marriage is against public policy?

Response: As a judicial nominee, it is inappropriate for me to discuss personal beliefs on issues of public policy. If I am fortunate enough to be confirmed, I will faithfully apply all U.S. Supreme Court precedent, including precedent concerning same-sex marriage such as *Obergefell*.

a. You also questioned whether same-sex parents can raise children that are emotionally and psychologically healthy. As of your nomination, do you believe that same-sex parents can raise children who are emotionally and psychologically healthy?

Response: It is inappropriate for me as a judicial nominee to discuss my personal views on policy and political matters, *see* Code of Conduct for United States Judges, Canon 5A. I am aware that there is relevant U.S. Supreme Court precedent concerning the rights of same-sex couples to have and raise children, *e.g.*, *Pavan v. Smith*, 582 U.S. 563 (2017), and, if I am fortunate enough to be confirmed, I would faithfully apply this and all other binding precedent.

b. How can you convince us that your personal views on same-sex marriage will not affect your approach to judging cases involving gay couples or the right to gay marriage recognized by the Supreme Court?

Response: Throughout my adulthood and professional career, I have treated everyone equally and with respect, no matter who they are. If I am fortunate enough to be confirmed, I will continue to do so and will also faithfully apply all U.S. Supreme Court precedent, including precedent concerning same-sex marriage such as *Obergefell*.

9. According to your written submissions, you served on the New York Attorney Grievance Committee in 2025 and 2026.

a. What are the duties and authorities of the Grievance Committee?

Response: The Grievance Committee of the First Judicial Department investigates complaints against lawyers whose offices are located in Manhattan or the Bronx. Those investigations can result in, among other things, dismissal of a complaint, the issuance of letters of advisement or admonition, or recommendations for charges. The basis for Committee's authority is set forth in N.Y. Comp. Codes R. & Regs. Tit. 22 § 603.4.

10. In March of 2025, members of this Committee sent the New York Attorney Grievance Committee a letter expressing our concerns about misconduct by Emil Bove, who was subsequently confirmed to the Third Circuit Court of Appeals.

a. What steps did the Attorney Grievance Committee take in response to our letter?

Response: I have no personal knowledge of whether any formal complaints were made against Judge Bove to the New York Appellate Division, First Department Attorney Grievance Committee, and was not involved in any steps concerning any such complaints, if made.

b. Do you agree that government attorneys are subject to State laws and rules that govern attorneys?

Response: Yes, although I understand that the extent of the application of those laws and rules to attorneys for actions taken while working for the federal government is currently the subject of public dispute and litigation.

c. Do you agree that state bar enforcers like the Grievance Committee can investigate and determine misconduct by all attorneys, including government attorneys?

Response: Please see my answer to question 10.b above.

d. What, if any, is your relationship with Emil Bove?

Response: To the best of my recollection, I have never met or spoken to Judge Bove.

11. In April 2026, the Third Judicial Department New York Attorney Grievance Committee issued a letter stating there was “sufficient basis for a finding of professional misconduct” against Acting U.S. Attorney John Sarcone of the Northern District of New York.

a. Do you believe that the Committee’s decision finding of misconduct by a Department of Justice attorney was within its authorities to regulate attorney conduct?

Response: I have no knowledge of the facts and circumstances of the Third Judicial Department New York Attorney Grievance Committee’s decision concerning Acting U.S. Attorney John Sarcone of the Northern District of New York, and so cannot comment on the whether the decision was within its authority to regulate attorney conduct.

b. Has the Grievance Committee of which you are a member ever disciplined an attorney representing the federal government?

Response: To the best of my recollection, the Grievance Committee of which I am a member has, since I began serving on it, never disciplined an attorney representing the federal government.

c. If confirmed, would you expect government attorneys to uphold the same professional standards as every other attorney?

Response: Yes.