

**Nomination of Colm Connolly
to the United States District Court for the District of Delaware
Questions for the Record February 21, 2018**

QUESTIONS FROM SENATOR FEINSTEIN

1. Please respond with your views on the proper application of precedent by judges.

a. When, if ever, is it appropriate for lower courts to depart from Supreme Court precedent?

It is never appropriate for lower courts to depart from Supreme Court precedent.

b. Do you believe it is proper for a circuit court judge to question Supreme Court precedent in a concurring opinion? What about a dissent?

As a nominee for the district court, I have not had occasion to study and have no opinion as to whether it would ever be proper for a circuit judge to question Supreme Court precedent in a concurring or dissenting opinion.

c. When, in your view, is it appropriate for a circuit court to overturn its own precedent?

As a nominee for the district court, I would defer to the rules and precedent of the particular circuit court in question as to when it is appropriate for that circuit court to overturn its own precedent.

d. When, in your view, is it appropriate for the Supreme Court to overturn its own precedent?

Because a district court is bound by Supreme Court precedent, as a nominee for the district court, I believe it would be inappropriate for me to express a view or opinion as to when it would be appropriate for the Supreme Court to overturn its own precedent.

2. When Chief Justice Roberts was before the Committee for his nomination, Senator Specter referred to the history and precedent of *Roe v. Wade* as “super-stare decisis.” A text book on the law of judicial precedent, co-authored by Justice Neil Gorsuch, refers to *Roe v. Wade* as a “super-precedent” because it has survived more than three dozen attempts to overturn it. (The Law of Judicial Precedent, Thomas West, p. 802 (2016).) The book explains that “superprecedent” is “precedent that defines the law and its requirements so effectively that it prevents divergent holdings in later legal decisions on similar facts or induces disputants to settle their claims without litigation.” (The Law of Judicial Precedent, Thomas West, p. 802 (2016))

a. Do you agree that *Roe v. Wade* is “super-stare decisis”? Do you agree it is

“superprecedent”?

I am not familiar with the concepts of “super-stare decisis” or “super-precedent.” I agree that *Roe v. Wade* is binding Supreme Court precedent.

b. Is it settled law?

Yes.

3. According to your Senate Judiciary Questionnaire (SJQ), from 1994 to 1996 you served as the president of the board of trustees of an entity called “Mom’s House, Inc. of Wilmington.” (SJQ at p. 4)

a. What services did you provide to this organization in your capacity as president of the board of trustees?

I ran the board meetings, helped with fundraising and strategic planning, participated in the hiring of staff, participated in the negotiations for the purchase of a day-care center, and helped build and clean the day-care facility.

b. How did you choose to join the board of this organization?

I cannot recall how I came to serve on the board. I know that I chose to become a board member because I believed in the organization’s mission.

c. At the time that you served on the board, what was your understanding of the work that the organization performed?

My understanding was that Mom’s House provided free day-care and support to unwed mothers so that they could complete their education.

4. Mom’s House, Inc. of Wilmington is affiliated with a national organization also called Mom’s House, which is headquartered in Johnstown, Pennsylvania. According to the organization’s website, “Mom’s House® offers single parents, facing an unplanned pregnancy, with a viable, practical alternative to the despair of abortion and the tragedy of welfare.” (<http://www.momshouse.org/momsstory.html>) And a page on the organization’s website entitled “Joys and Sorrows” states: “What sorrow there is in the immense unplanned-pregnancy and abortion tragedy in this country!” (<http://www.momshouse.org/joyssorrows.html>)

a. At the time you chose to join the board of Mom’s House, Inc. of Wilmington, were you aware of the organization’s mission with respect to unplanned pregnancies and abortion?

I was aware that, by providing free day-care, Mom’s House offered some single women with unplanned pregnancies an alternative to abortion.

b. At the time you served on the organization's board, were you aware of the statements quoted above?

No.

c. Do you agree with these statements?

As a nominee for the district court, I think it would be inappropriate for me to answer this question under the judicial canons.

5. At any point during the process that led to your nomination, did you have any discussions with anyone—including but not limited to individuals at the White House, at the Justice Department, or at outside groups—about loyalty to President Trump? If so, please elaborate.

No.

6. Please describe with particularity the process by which you answered these questions.

I received these questions by email from the Office of Legal Policy on February 21, 2018. I reviewed the questions, personally drafted answers to them, and emailed my responses to the Office of Legal policy on February 23, 2018.