

**Nomination of Kyle Duncan to the
United States Circuit Court for the Fifth Circuit
Questions for the Record
Submitted January 12, 2018**

QUESTIONS FROM SENATOR BOOKER

1. Your law firm biography describes you as having served as “Louisiana’s first Solicitor General.” Louisiana did not, however, create the position of Solicitor General until 2016, and the state Attorney General’s website states that Liz Murrill was appointed as the “first Solicitor General for Louisiana” that year. How do you explain that discrepancy?

As stated in my response to Question 16(b)(i) of the Senate Judiciary Questionnaire, “[i]n 2008 ... I was appointed the first Appellate Chief of the Louisiana Department of Justice. In that role, I performed the functions of a state solicitor general, advising the Attorney General on general legal matters concerning appeals and taking the lead on briefing and argument of selected appeals.” The term “solicitor general” is commonly understood in the American legal community to refer to the official chiefly responsible for representing a government, its entities, and employees in appellate matters in court, though States may use many different titles for that official. See James Layton, *The Rise of Appellate Litigators and State Solicitors General*, 29 Rev. Litig. 545, 635-636 (2010) (explaining that a state solicitor general is not defined “based on title” or “relationship to the attorney general” but based on “responsibility for all or nearly all of the civil appeals in the office” of the state attorney general). That is the role I fulfilled for the State of Louisiana for several years, and to my knowledge, I was the first person ever to do so. The State has recently made the function of my old position clear by changing the title of the Louisiana “Appellate Chief” to the Louisiana “Solicitor General.”

- a. Even if, as you say, you “fulfilled the functions of a state solicitor general” during your tenure as the Appellate Chief of the Louisiana Department of Justice, why do you think it was appropriate to publicly claim a title you never held?

Please see my response above to Question 1.

2. Since you became a legal adult, have you ever made unwanted requests for sexual favors, or committed any verbal or physical harassment or assault of a sexual nature?

No.

- a. Have you ever faced discipline or entered into a settlement related to this kind of conduct?

No.