

Responses of Marina Garcia Marmolejo
Nominee to be United States District Judge for the Southern District of Texas
to the Written Questions of Senator Chuck Grassley

- 1. In your Questionnaire, you indicated that most of your experience falls within criminal law. Would you please explain your civil law experience and how it has prepared you to sit as a federal district court judge, if confirmed?**

Response: I have gained extensive experience in civil and commercial litigation during my tenure as an attorney in private practice since 2007. I represented individuals and companies involved in a variety of civil disputes and have worked closely with partners who devote their entire practice to civil litigation. I have a firm grasp of the rules of civil procedure and the practicalities faced by litigants in civil disputes. Though less than 5% of the docket in the Laredo Division is civil litigation, I feel confident that my experience has prepared me to effectively preside over these types of cases. I believe that my overall experience as a federal prosecutor, federal defender, and private practitioner has prepared me to preside over the civil and criminal dockets should I be fortunate enough to be confirmed.

- 2. Do you believe it is proper for a judge, consistent with governing precedent, to strike down an act of Congress that it deems unconstitutional? If so, under what circumstances, and applying what factors?**

Response: Yes. Judicial review makes it proper for a judge, consistent with governing precedent, to hold that an act of Congress is unconstitutional when Congress has exceeded its authority under the Constitution. Before holding a statute unconstitutional, however, I would carefully review and apply Supreme Court precedent to ensure that I am correctly applying all necessary guiding principles.

- 3. What is the most important attribute of a judge, and do you possess it?**

Response: The most important attribute of a judge is the ability to objectively apply the law to the facts of each case. I believe I possess this attribute.

- 4. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

Response: A judge should lend a listening ear and should keep an open mind to the arguments being presented. A judge should never prejudice any case. A judge should treat all litigants and counsel with respect and dignity. If I am fortunate enough to be confirmed, I will remain true to these convictions.

- 5. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Are you committed to following the precedents of higher courts faithfully**

and giving them full force and effect, even if you personally disagree with such precedents?

Response: Yes.

- 6. At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

Response: In considering a case of first impression, I would begin by reviewing the prior rulings of the Fifth Circuit and the Supreme Court to determine if there is an analogous situation. In matters concerning statutory interpretation, I would examine the plain language of the statute. If the language of the statute is ambiguous, I would consider legislative history and intent if available and appropriate. I would also look to analogous precedent from other Circuit and District Courts.

- 7. What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits, or your best judgment of the merits?**

Response: The role of a district judge is to faithfully apply the law. If confirmed, I would follow precedent regardless of any personal beliefs.

- 8. As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?**

Response: If confirmed, I would set reasonable, but firm scheduling deadlines. I would work closely with my staff to make certain that items ripe for dispositive resolution are handled expeditiously. I would work diligently to resolve pending motions on a timely basis.

- 9. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

Response: Yes, I believe judges have a role in controlling the pace and conduct of litigation by scheduling regular hearings, setting and enforcing deadlines, and carefully monitoring the progress of cases. If confirmed, I intend to work closely with my staff and avail myself of the assistance of Magistrate Judges when appropriate.

- 10. Please describe with particularity the process by which these questions were answered.**

Response: I received the questions on May 31, 2011. I prepared responses the next day. I then reviewed my responses with representatives of the Department of Justice, after which I finalized my responses. I then authorized their transmittal to the Committee.

11. Do these answers reflect your true and personal views?

Response: Yes.