

**Responses of Timothy S. Hillman**  
**Nominee to be United States District Judge for the District of Massachusetts**  
**to the Written Questions of Senator Chuck Grassley**

1. **A 2006 Worcester Telegram & Gazette article titled “Judge Hillman defends judiciary; Unpopular rulings protect rights,” covered a speech you gave to the County Bar Association. According to the article, you said lawyers and judges are “slow moving targets” for critics on both ends of the political fence who have little regard for the rights of others and little understanding of the American Legal System.**

- a. **Can you please explain what you meant by this?**

Response: As a trial judge for the past 22 years, I am sworn to dispense justice fairly and evenly without regard to the political, social, or philosophical leaning of the litigants. Because judges are bound to decide the cases before them according to the law, without regard to public opinion, they are naturally subject to discussion, speculation, and criticism.

2. **You have a long career as a judge in the state and now federal court system. what is the most difficult decision you have made?**

Response: The decision to dismiss the charges in the “Worcester Six” fire case mentioned in Question 3 below.

3. **In a case that received significant media attention, you dismissed charges against two homeless individuals indicted in the “Worcester Six” incident, where a fire set by the defendants killed six firefighters. The Massachusetts Supreme Court later reversed your dismissal.**

- a. **Can you explain your decision to dismiss the charges against these individuals?**

Response: The Defendants, two homeless adults, each of whom suffered from a severe intellectual disability, accidentally started a fire in an abandoned warehouse and failed to report it. The issue of whether individuals in their situation were liable for involuntary manslaughter was an open question of law in Massachusetts. Based upon the facts, the arguments of the parties, and the law as it existed in Massachusetts at the time, I found their conduct did not meet the legal standard for involuntary manslaughter and dismissed the case.

- b. **In hindsight, what do you think of the Massachusetts Supreme Court’s logic in overruling your decision?**

Response: As noted, this case presented a difficult and previously unresolved legal question. I made my decision based upon my best interpretation of the law

at the time, but the Massachusetts Supreme Judicial Court resolved the question differently. Although it differed from my own, the court's logic was reasonable. More importantly, because the Massachusetts Supreme Judicial Court is the highest authority interpreting Massachusetts law, its decision settled the previously open question and became binding precedent for me and other lower court judges in the state.

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

Response: I believe that the most important attribute of a judge is respect. Respect for oneself, respect for the litigants and lawyers who appear before the court, and most importantly, respect for the laws as they are enacted by Congress and interpreted by the First Circuit and Supreme Court. I believe that I possess this attribute.

**5. 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: I believe that a judge should demonstrate patience, respect, and a willingness to learn. A judge must make every litigant feel that they have had a full and fair opportunity to have their case heard. Also, a judge should not be afraid to be educated by the parties about an issue in a case that is new or untested. I believe that I meet this standard.

**6. 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, I am.

**7. At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on 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: If the case involved statutory interpretation, I would begin with the text of the statute. If the text were unclear or if no text were at issue, I would look to whether courts in other jurisdictions, both federal and state, had issued instructive opinions on the issue. I would also carefully research the legal principles involved to see if the First Circuit or Supreme Court had issued instructive opinions on similar issues, or if there were any parallels in other areas of the law. In addition, I would make sure that I had a command of the factual underpinnings that gave rise to the

issue. I would also ask the litigants to brief discrete aspects of the issue if I thought they would be of assistance.

- 8. 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 decisions of the First Circuit and the Supreme Court are binding precedent and I would apply the decision and not substitute my own judgment. It is not my role to substitute my judgment for that of a higher court.

- 9. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: In my 22 years as a trial judge, I have never declared a state or federal law unconstitutional. An inquiry into the constitutionality of a federal statute should be undertaken with the understanding that all statutes are entitled to a strong presumption that they are constitutional and are, if possible, to be interpreted in a manner that renders them constitutional.

- 10. 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 I am fortunate enough to be confirmed, I intend to actively manage my caseload. I have learned during my 22 years as a trial judge that getting involved early in the life of the case is critical. I intend to meet with the litigants soon after the case is entered in court so that a realistic, but firm schedule can be entered. I also will schedule follow-up sessions with the litigants to make sure that they remain on task. In addition, the District of Massachusetts has a robust mediation program which is intended to facilitate case settlement, while lowering the expense to both the litigants and the court. I intend to strongly urge parties to participate in the court's mediation program.

- 11. 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: In addition to the measures outlined in my answer to Question 10 above, I intend to take advantage of our court's technology to conduct telephonic and video hearings and conferences. As a magistrate judge, I have had the privilege of conducting pretrial proceedings for the District Judges on a substantial number of criminal and civil cases. It is extremely important to stay involved in the case to make sure that the parties are meeting their scheduling obligations and to maximize the opportunity to explore a non-trial resolution. The use of video and telephonic

conferences helps the court stay in contact with the litigants, control the case schedule and reduce expenses.

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

Response: I received these questions late in the day on February 22<sup>nd</sup>. I worked on them the evening of February 22<sup>nd</sup> and during the day on February 23<sup>rd</sup>. Late in the day of February 23<sup>rd</sup>, I forwarded my answers to the Department of Justice for review, together with a letter of transmittal to the Senate Judiciary Committee. On February 24th, I reviewed the draft with a Justice Department official before their submission.

**13. Do these answers reflect your true and personal views?**

Response: Yes they do.

**Responses of Timothy S. Hillman**  
**Nominee to be United States District Judge for the District of Massachusetts**  
**to the Written Questions of Senator Amy Klobuchar**

- 1. If you had to describe it, how would you characterize your judicial philosophy? How do you see the role of the judge in our constitutional system?**

Response: My judicial philosophy is to decide my cases fairly and expeditiously. It is critical to promoting confidence in the judicial system that decisions be made promptly. In addition, my judicial philosophy is based upon respect. Respect for myself, respect for the litigants, and most importantly, respect for the law as enacted by Congress and as interpreted by the First Circuit and the Supreme Court.

- 2. What assurances can you give that litigants coming into your courtroom will be treated fairly regardless of their political beliefs or whether they are rich or poor, defendant or plaintiff?**

Response: In my 22 years as a trial judge, I have strived to treat every litigant with respect and dignity. Judges must remember that what we do on a daily basis is oftentimes a monumental, life-changing event for the litigants. It is extremely important that all litigants who appear before me have been given an opportunity to fully present their position (and feel that they have had that opportunity), and that their cases be decided fairly and according to the law. These principles apply equally to all parties regardless of their beliefs, wealth, or other characteristics.

- 3. In your opinion, how strongly should judges bind themselves to the doctrine of stare decisis? How does the commitment to stare decisis vary depending on the court?**

Response: District Judges are bound by their oath to follow the precedents established by the Circuit Courts and the Supreme Court. Any deviation from this standard is a violation of that oath.