

**Nomination of Claria Boom to the
United States District Court for the
Eastern and Western Districts of Kentucky
Questions for the Record
Submitted November 22, 2017**

QUESTIONS FROM SENATOR WHITEHOUSE

1. During his confirmation hearing, Chief Justice Roberts likened the judicial role to that of a baseball umpire, saying “[m]y job is to call balls and strikes and not to pitch or bat.”
 - a. Do you agree with Justice Roberts’ metaphor? Why or why not?

Response: Yes; I agree with Justice Roberts’ metaphor. A judge does not make the law. Rather, a judge’s role is to apply the law fairly and impartially.

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

Response: A judge’s role is to fairly and impartially apply the law to the facts presented in each particular case, regardless of the practical consequences.

- c. Federal Rule of Civil Procedure 56 provides that a court “shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact” in a case. Do you agree that determining whether there is a “genuine dispute as to any material fact” in a case requires a judge to make a subjective determination?

Response: No. The determination of whether a genuine issue of material fact exists should be made objectively, based on the applicable law in the case and the record. If a subjective determination is necessary as to those facts, the resolution must be reserved for the jury.

2. During Justice Sotomayor’s confirmation proceedings, President Obama expressed his view that a judge benefits from having a sense of empathy, for instance “to recognize what it’s like to be a young teenage mom, the empathy to understand what it’s like to be poor or African-American or gay or disabled or old.”
 - a. What role, if any, should empathy play in a judge’s decision-making process?

Response: Judges should treat all parties with dignity, respect and patience. A judge’s decision-making, however, should not be influenced by empathy. Instead, a judge must “administer justice without respect to persons, and do equal right to the poor and to the rich.” 28 U.S.C. § 453.

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

Response: I believe my personal life experiences, including growing up in a rural town in Eastern Kentucky, will influence my ability to treat everyone who comes before me with equal dignity, respect and patience. However, a judge’s personal beliefs and experiences should not affect his or her decision-making.

- c. Do you believe you can empathize with “a young teenage mom,” or understand what it is like to be “poor or African-American or gay or disabled or old”? If so, which life experiences lead you to that sense of empathy? Will you bring those life experiences to bear in exercising your judicial role?

Response: If I am fortunate enough to be confirmed, I believe my personal life experiences, including growing up in a rural town in Eastern Kentucky and being a single mom for a time, will enable me to treat everyone who comes before me with equal dignity, respect and patience. If confirmed, I will “administer justice without respect to persons, and do equal right to the poor and to the rich.” 28 U.S.C. § 453.

3. In your view, is it ever appropriate for a judge to ignore, disregard, refuse to implement, or issue an order that is contrary to an order from a superior court?

Response: It is never appropriate for a district court to ignore precedent established by the Supreme Court or the relevant circuit court.

4. Most of your legal career has been devoted to defending and advising corporate interests—various banks, pipeline companies, and insurance companies.
- a. What assurance can you provide this Committee and the American people that you would, as a federal judge, equally uphold the interests of the “little guy,” specifically litigants who do not have the same kind of resources to spend on their legal representation as large corporations?

Response: If I am fortunate enough to be confirmed, I will treat everyone who comes before me with impartiality. I will faithfully abide by my oath to “administer justice without respect to persons, and do equal right to the poor and to the rich, and . . . [to] faithfully and impartially discharge and perform all the duties incumbent upon me as [a judge] under the Constitution and laws of the United States.” 28 U.S.C. § 453.

- b. In civil litigation, well-resourced parties commonly employ “paper blizzard” tactics to overwhelm their adversaries or force settlements through burdensome discovery demands, pretrial motions, and the like. Do you believe these tactics are acceptable? Or are they problematic? If they are problematic, what can and should a judge do to prevent them?

Response: If I am fortunate enough to be confirmed, I will ensure all litigants follow the Federal Rules of Civil Procedure. I will engage in active, hands-on case management, and ensure that proportionality be an integral part of the scope of discovery in every case. Fed. R. Civ. P. 26(b)(1). I will seek input from all parties and determine the appropriate scope of discovery to ensure a “just, speedy and inexpensive determination of every action and proceeding.” Fed. R. Civ. P. 1.