

Responses of Margo Kitsy Brodie
Nominee to be United States District Judge for the Eastern District of New York
to the Written Questions of Senator Chuck Grassley

- 1. As I mentioned at your hearing, you have had some experience with a foreign judicial system. I am interested on your comparative views of our Constitutional system and the role of judges.**

- a. What, in your view, is the primary characteristic of our federal court system?**

Response: In my view, the primary characteristic of our federal court system is its ability to decide cases fairly and expeditiously in pursuit of the rule of law. This stands in contrast to countries like Nigeria, which, though it may also have judges who perform a limited role within a tripartite system of government, are still trying to achieve the same level of even-handedness and efficiency.

- b. How would you best describe your judicial philosophy?**

Response: My judicial philosophy is that a district court judge plays a very narrow, albeit important, role in our federal court system. That role is to decide the case or controversy before the court, based on the facts before the court and the decisions of the United States Supreme Court and the Court of Appeals for the circuit in which the court sits. If confirmed, I would endeavor to fulfill that role.

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

Response: I believe the most important attributes of a judge are even-handedness, even-temperament and the ability to decide every case before the court impartially and expeditiously. I believe I possess these attributes.

- 3. 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 be fair, impartial, open-minded, even-handed, patient, modest and respectful of the parties and all who come in contact with the court. I believe I possess these qualities.

- 4. 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. If confirmed, I would follow the precedents of the United States Supreme Court and the United States Court of Appeals for the Second Circuit, regardless of my personal views.

- 5. 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: If confirmed and faced with a case of first impression, I would generally start with the text of the statute or other relevant legal provision. I would look at decisions of the United States Supreme Court and the United States Court of Appeals for the Second Circuit on similar statutes or areas of law and, if necessary, consider decisions from other Courts of Appeal or District Courts.

- 6. 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: If confirmed, I would always follow the decisions of the United States Supreme Court and the United States Court of Appeals for the Second Circuit regardless of my personal views.

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

Response: I believe that it is appropriate for a federal court to declare a statute enacted by Congress unconstitutional if Congress exceeds its powers under the Constitution or enacts a law inconsistent with a provision of the Constitution. If confirmed, I would apply the precedents of the United States Supreme Court and the United States Court of Appeals for the Second Circuit to evaluate whether Congress had done so.

- 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 manage my caseload by publishing and enforcing clear rules with deadlines for pretrial discovery and motion practice. With the assistance of the magistrate judges, I would ensure that discovery deadlines are adhered to, and encourage early settlement discussions. In addition, I would rule expeditiously on matters before the court since I strongly believe that justice delayed is indeed justice denied.

- 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 do believe that judges have a responsibility to ensure that all matters are heard, considered and decided quickly and impartially, and that all litigants are treated fairly and with respect. As discussed in response to question 8 above, if confirmed, I would strive to decide cases fairly and expeditiously.

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

Response: I received the questions on Wednesday, September 14, 2011. I drafted responses to the questions the following day. I discussed my responses with an official from the Department of Justice, after which I finalized my responses. I then forwarded my responses to the Department of Justice for submission to the Senate Judiciary Committee.

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

Response: Yes

Responses of Margo Kitsy Brodie
Nominee to be United States District Judge for the Eastern District of New York
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 that a district court judge plays a very narrow, albeit important, role in our federal court system. That role is to decide the case or controversy before the court, based on the facts before the court and the decisions of the United States Supreme Court and the Court of Appeals for the circuit in which the court sits. If confirmed, I would endeavor to fulfill that role.

- 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: I firmly believe that everyone is entitled to equal justice under the law, without regard to political belief, economic status and social status. Throughout my legal career I have demonstrated my commitment to this principle and, in particular, have done so over the past 12 years as a federal prosecutor. If confirmed, I will continue to practice this principle by ensuring the fair, equal and courteous treatment of the parties and all who come in contact with the court.

- 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: In my opinion, all judges are bound by the doctrine of *stare decisis*. District court judges are bound by the decisions of the United States Supreme Court and the Court of Appeals for the circuit in which they sit.