

Responses of Richard G. Andrews
Nominee to be United States District Judge for the District of Delaware
to the Written Questions of Senator Chuck Grassley

- 1. The Delaware Center for Justice appointed you to a task force undertaking a “Racial Improvement Project.” The project, which was announced this previous March, essentially investigates racism in the judicial system. As a member of this group, what were your observations or findings regarding evidence that Delaware’s judicial system was plagued by racism? If confirmed, what consideration would you give to the race of the defendant or victim in sentencing?**

Response: In 2010, I was appointed by the Delaware Attorney General to the “Racial Justice Improvement Project Task Force,” which is led by a Justice of the Delaware Supreme Court. One part of the Task Force’s charge is to select an aspect of the criminal justice system in Delaware in which there are, or appear to be, unexplained racial disparities, and to consider possible changes that might reduce the disparities. As a member of the Task Force, I have not made any findings regarding Delaware’s judicial system and racism. If confirmed, I would give no consideration to the race of the defendant or the victim in sentencing.

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

Response: The most important attribute of a judge is to have an appropriate judicial temperament. I understand that to include respect for the law and for all litigants, impartiality, open-mindedness, a willingness and commitment to listen, modesty, and an even disposition. I believe I have an appropriate judicial temperament.

- 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: I believe the appropriate temperament of a judge includes respect for the law and all litigants, impartiality, open-mindedness, a willingness and commitment to listen, modesty, and an even disposition, and I believe I have them.

- 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.

- 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: When confronted with a case of first impression, that is, one which controlling precedent did not resolve, my decision-making process would depend upon the nature of the issue. As a general matter, my most likely approach would be to reason by analogy from precedents deciding similar issues. In situations which involved the text of a statute, a regulation, or a rule, I would start with the text of the statute, regulation, or rule.

- 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 binding precedent dictated the outcome of a particular issue that needed to be decided, I would follow the precedent, whether I agreed with it or not.

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

Response: When there is an issue of the constitutionality of a statute enacted by Congress, it is preferable that a federal court decide the case on other grounds if such grounds are available. If the federal court must decide the issue, however, it is duty-bound to follow faithfully the controlling precedents, which could require a determination that a statute is unconstitutional.

- 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: I intend to manage the caseload by three means. First, there are automated reports that can be run on a regular basis so that judicial attention can be maintained over the entire caseload, and I intend to use them. Second, every case needs to have a scheduled date for some future event. Third, I intend to use scheduling and pretrial conferences to set dates and to keep everything moving toward a timely disposition.

- 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, judges are responsible for controlling the pace and conduct of litigation. There are two specific steps I would take to control the docket. First, every case needs to have a scheduled date for some future event. Second, I intend to use scheduling and pretrial conferences to set dates and to keep everything moving toward a timely disposition.

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

Response: I read the questions. I wrote responses to all of the questions. I later edited the responses. I then sent the questions and responses to representatives of the Department of Justice. I talked with a Department of Justice representative. I then authorized the Department of Justice to send the questions and responses to the Senate Judiciary Committee.

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

Response: Yes.