Senator Lindsey Graham, Ranking Member
Questions for the Record
Judge Ramona Villagomez Manglona
Nominee to be Judge for the District for the Northern Mariana Islands

1. **Please explain whether you agree or disagree with the following statement: "The judgments about the Constitution are value judgments. Judges exercise their own independent value judgments. You reach the answer that essentially your values tell you to reach."**

   Response: I disagree with this statement. Judges pass judgment on issues before them based upon the relevant constitutional text and binding precedent, not based on one's personal beliefs or value. The answer is reached after a thorough review of the applicable text and precedent, consideration of the arguments presented, and the application of the facts in the record.

2. **When asked why he wrote opinions that he knew the Supreme Court would reverse, Judge Stephen Reinhardt's response was: "They can't catch 'em all." Is this an appropriate approach for a federal judge to take?**

   Response: This is not an appropriate approach for a federal judge to take. As a trial court judge, I follow the law and apply binding precedent from the United States Supreme Court and Ninth Circuit. I have not and will not issue a decision that I know will be reversed by any appellate court.

3. **Do you consider a law student's public endorsement of or praise for an organization listed as a "Foreign Terrorist Organization," such as Hamas or the Popular Front for the Liberation of Palestine, to be a disqualification for a potential clerkship in your chambers? Please provide a yes or no answer. If you would like to include an additional narrative response, you may do so, but only after a yes or no answer. Failure to provide a yes or no answer will be construed as a "no."**

   Response: Yes, if I were to be informed of a law student's public endorsement of or praise for an organization listed as a "Foreign Terrorist Organization," I would consider this fact to be a disqualifier for a potential clerkship in my chambers.

4. **In the aftermath of the brutal terrorist attack on Israel on October 7, 2023 the president of New York University's student bar association wrote "Israel bears full responsibility for this tremendous loss of life. This regime of state-sanctioned violence created the conditions that made resistance necessary." Do you consider such a statement, publicly made by a law student, to be disqualifying with regards to a potential clerkship in your chambers? Please provide a yes or no answer. If you would like to include an additional narrative response, you may do so, but only after a yes or no answer. Failure to provide a yes or no answer will be construed as a "no."**

Response: Yes. If the applicant qualified for an interview, and I am informed about the applicant's public statement, I would inquire about the applicant's position about any organization that has been identified as a terrorist organization such as Hamas. A confirmation of support for such organization or an expressed discriminatory opinion would be a disqualifier for a clerkship in my chambers.

5. **Please explain the facts and holding of the Supreme Court decisions in *Students for Fair Admissions, Inc. v. University of North Carolina* and *Students for Fair Admissions Inc. v. President & Fellows of Harvard College*.**

Response: Plaintiff in both cases is Students for Fair Admissions, Inc. (SFFA), a nonprofit organization whose purpose is "to defend human and civil rights secured by law, including the right of individuals to equal protection under the law." 143 S.Ct. 2141 (2023). SFFA filed separate lawsuits against a public and private university that were two of the oldest institutions of higher learning in the United States, University of North Carolina (UNC) and Harvard College. SFFA alleged that the UNC used race in its undergraduate admission programs which violated the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. SFFA alleged Harvard used race in its college admissions program in violation of Title VI of the Civil Rights Act of 1964. The trial courts, applying Supreme Court precedents, found both admissions programs permissible. The Supreme Court first held that SFFA had organizational standing to sue on behalf of its members. It then turned to the merits of the case, and applied strict scrutiny to the universities' race-based admissions policies. The Court concluded that the policies did not survive strict scrutiny, and held that Harvard's and UNC's admissions programs violate the Equal Protection Clause of the Fourteenth Amendment, which applied directly to UNC as a state institution and to Harvard College through Title VI of the Civil Rights Act of 1964 as a private institution that received federal funds.

6. **Have you ever participated in a decision, either individually or as a member of a group, to hire someone or to solicit applications for employment?**

Response: Yes.

If yes, please list each job or role where you participated in hiring decisions.

Response: As the Chief Judge (2011-current), I have individually hired law clerks and chambers staff, and joined in the group decisions to hire staff in the Office of the Clerk of Court. As a Superior Court judge, I participated in the hiring of law clerks and chambers staff. As the former CNMI Attorney General, I participated in group decisions in hiring assistant attorneys general and staff. As the President of my parent's family company, I participated in hiring company employees.

7. **Have you ever given preference to a candidate for employment or for another benefit (such as a scholarship, internship, bonus, promotion, or award) on account of that candidate's race, ethnicity, religion, or sex?**

   Response: No.

8. **Have you ever solicited applications for employment on the basis of race, ethnicity, religion, or sex?**

   Response: No.

9. **Have you ever worked for an employer (such as a law firm) that gave preference to a candidate for employment or for another benefit (such as a scholarship, internship, bonus, promotion, or award) on account of that candidate's race, ethnicity, religion, or sex?**

   Response: No.

   If yes, please list each responsive employer and your role at that employer. Please also describe, with respect to each employer, the preference given. Please state whether you played any part in the employer's decision to grant the preference.

   Response: Not applicable.

10. **Under current Supreme Court and Ninth Circuit precedent, are government classifications on the basis of race subject to strict scrutiny?**

    Response: Yes, the Supreme Court and the Ninth Circuit apply strict scrutiny to race-based differentiations. *See Student for Fair Admissions, Inc. v. President and Fellows of Harvard Coll.,* 143 S.Ct. 2141 (2023); *Mitchell v. Wash.*, 818 F.3d 436 (9th Cir. 2016).

11. **Demand Justice is a progressive organization dedicated to "restor[ing] ideological balance and legitimacy to our nation's courts."**

    a. **Has anyone associated with Demand Justice requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

       Response: No.

    b. **Are you currently in contact with anyone associated with Demand Justice? If so, who?**

Response: No.

c. **Have you ever been in contact with anyone associated with Demand Justice? If so, who?**

Response: No.

12. **The Alliance for Justice is a "national association of over 120 organizations, representing a broad array of groups committed to progressive values and the creation of an equitable, just, and free society."**

a. **Has anyone associated with Alliance for Justice requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

b. **Are you currently in contact with anyone associated with the Alliance for Justice? If so, who?**

Response: No.

c. **Have you ever been in contact with anyone associated with the Alliance for Justice? If so, who?**

Response: No.

13. **Arabella Advisors is a progressive organization founded "to provide strategic guidance for effective philanthropy" that has evolved into a "mission-driven, Certified B Corporation" to "increase their philanthropic impact."**

a. **Has anyone associated with Arabella Advisors requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

b. **Please include in this answer anyone associated with Arabella's known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund.**

Response: No.

c. **Are you currently in contact with anyone associated with Arabella Advisors? Please include in this answer anyone associated with Arabella's known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund that is still shrouded.**

Response: No.

d. **Have you ever been in contact with anyone associated with Arabella Advisors? Please include in this answer anyone associated with Arabella's known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund that is still shrouded.**

Response: No.

14. **The Open Society Foundations is a progressive organization that "work[s] to build vibrant and inclusive democracies whose governments are accountable to their citizens."**

a. **Has anyone associated with Open Society Fund requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

b. **Are you currently in contact with anyone associated with the Open Society Foundations? If so, who?**

Response: No.

c. **Have you ever been in contact with anyone associated with the Open Society Foundations? If so, who?**

Response: No.

15. **Fix the Court is a "non-partisan, 501(C)(3) organization that advocates for non-ideological 'fixes' that would make the federal courts, and primarily the U.S. Supreme Court, more open and more accountable to the American people."**

a. **Has anyone associated with Fix the Court requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

b. Are you currently in contact with anyone associated with Fix the Court? If so, who?

Response: No.

c. Have you ever been in contact with anyone associated with Fix the Court? If so, who?

Response: No.

16. Please describe the selection process that led to your nomination to be a United States District Judge, from beginning to end (including the circumstances that led to your nomination and the interviews in which you participated).

Response: There is no selection commission in the Northern Mariana Islands to recommend judicial candidates for the U.S. District Court for the Northern Mariana Islands. In December 2020, United States Congressman Gregorio Kilili Sablan and I met, and he informed me that he would recommend me to the White House for renomination after my initial ten year term expired in July 2021. On February 4, 2021, Congressman Sablan sent a letter to the President recommending that I be renominated for a second term as District Court Judge for the Northern Mariana Islands. On May 3, 2023, Congressman Sablan called and informed me that the White House would be contacting me about my potential renomination. I interviewed with attorneys from the White House Counsel's Office on May 4, 2023. Since May 6, 2023, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On August 30, 2023, the President announced his intent to nominate me.

17. During your selection process did you talk with any officials from or anyone directly associated with the organization Demand Justice, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: No.

18. During your selection process did you talk with any officials from or anyone directly associated with the American Constitution Society, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: No.

19. During your selection process, did you talk with any officials from or anyone directly associated with Arabella Advisors, or did anyone do so on your behalf? If so, what was the nature of those discussions? Please include in this answer anyone associated with Arabella's known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund that is still shrouded.

Response: No.

20. During your selection process did you talk with any officials from or anyone directly associated with the Open Society Foundations, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: No.

21. During your selection process did you talk with any officials from or anyone directly associated with Fix the Court, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: No.

22. Since you were first approached about the possibility of being nominated, did anyone associated with the Biden administration or Senate Democrats give you advice about which cases to list on your committee questionnaire?

Response: No.

a. If yes,
   i. Who?
   ii. What advice did they give?
   iii. Did they suggest that you omit or include any particular case or type of case in your questionnaire?

Response: Not applicable.

23. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding your nomination.

Response: There is no selection commission in the Northern Mariana Islands to recommend judicial candidates for the U.S. District Court for the Northern Mariana Islands. In December 2020, United States Congressman Gregorio Kilili Sablan and I met, and he informed me that he would recommend me to the White House for renomination after my initial ten year term expired in July 2021. On February 4, 2021, Congressman Sablan sent a letter to the President recommending that I be renominated for a second term as District Court Judge for the Northern Mariana Islands. On May 3, 2023,

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24. Please explain, with particularity, the process whereby you answered these questions.

Response: I received these questions on November 22, 2023, reviewed my files, conducted legal research, and drafted my responses. I submitted my draft responses to the Office of Legal Policy at the Department of Justice on November 24, 2023, and I received limited feedback. I then finalized and submitted my answers.

Senator Mike Lee
Questions for the Record
Ramona Villagomez Manglona
Nominee to be Judge for the District Court of the Northern Mariana Islands

1. How would you describe your judicial philosophy?

Response: For the past 20 years as a state court and now federal judge, my philosophy has been to approach every case with an open mind, review all the applicable law, consider the arguments of the parties, and render a decision impartially based solely on the facts and the applicable law. In this process, I make it a point to treat everyone that enters the courtroom with respect, which includes litigants, counsel, witnesses, jurors, the public, and court staff.

2. What sources would you consult when deciding a case that turned on the interpretation of a federal statute?

Response: When deciding a case that turned on the interpretation of a federal statute, I begin with applying any Supreme Court or Ninth Circuit precedent that interpreted that statute. If there is no binding precedent, then I would consider the plain text, any definition provided in the statute, and the statutory scheme or structure to interpret the text in a manner that gives effect to all of its provisions. *See*, *e.g., Ysleta Del Sur Pueblo v. Texas*, 142 S. Ct. 1929, 1939 (2022). If the plain text is unambiguous, then the inquiry ends. However, if there is ambiguity in the text and there is no binding precedent, then I would consider the canons of construction directed by the Supreme Court and the Ninth Circuit. At this stage, I would also review opinions from other federal circuits and district courts to determine if those opinions would be persuasive.

3. What sources would you consult when deciding a case that turned on the interpretation of a constitutional provision?

Response: When deciding a case that turned on the interpretation of a constitutional provision, I would begin with a review and application of any binding Supreme Court and Ninth Circuit decision. In the rare event that it is a case of first impression, I would interpret the text in a manner consistent with the methods of interpretation that the Supreme Court has used. For example, the Supreme Court analyzed the original public meaning of the constitutional provisions informed by history and tradition when it interpreted the Second Amendment and the Sixth Amendment in *District of Columbia v. Heller*, 554 U.S. 570 (2008) and *Crawford v. Washington,* 541 U.S. 36 (2004), respectively.

4. What role do the text and original meaning of a constitutional provision play when interpreting the Constitution?

Response: Please see my response to Question 3, above.

5. How would you describe your approach to reading statutes? Specifically, how much weight do you give to the plain meaning of the text?

Response: Please see my response to Question 2, above.

6. Does the "plain meaning" of a statute or constitutional provision refer to the public understanding of the relevant language at the time of enactment, or does the meaning change as social norms and linguistic conventions evolve?

Response: The Supreme Court has interpreted the "plain meaning" of a statute or constitutional provision to refer to the ordinary public meaning of the relevant language at the time of enactment. *See, e.g. Bostock v. Clayton County*, 140 S. Ct. 1731, 1737 (2020) (examining the meaning of "because of" and "sex" in Title VII of the Civil Rights Act of 1964); *New York State Rifle & Pistol Assoc. v. Bruen,* 142 S. Ct. 2111 (2022) (interpreting Second Amendment under the original public meaning informed of history and tradition).

7. What are the constitutional requirements for standing?

Response: The Supreme Court has held that Article III standing requires a plaintiff to allege sufficient facts to show plaintiff has suffered an injury in fact that is (1) concrete and particularized, and actual or imminent, not conjectural or hypothetical; (2) a causal connection between the injury and the conduct complained of; and (3) a likelihood beyond mere speculation that the injury will be redressed by a favorable decision. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560-61 (1992).

8. Do you believe Congress has implied powers beyond those enumerated in the Constitution? If so, what are those implied powers?

Response: Article I, section 8 of the Constitution enumerates the powers granted to Congress. One of those enumerated powers is the Necessary and Proper Clause, which states Congress has the power "[t]o make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof." The Supreme Court in *McCulloch v. Maryland*, 17 U.S. 316, 418 (1819) held that Congress is authorized to pass all laws "incidental to the [enumerated] power, and conducive to its beneficial exercise." The Supreme Court also recognized that "[a]lthough the Clause gives Congress authority to 'legislate on that vast mass of incidental powers which must be involved in the constitution,' it does not license the exercise of any 'great substantive and independent power[s]' beyond those specifically enumerated." *NFIB v. Sebelius*, 132 S. Ct. 2566, 2591 (2012) (*citing McCulloch* at 411, 421).

9. Where Congress enacts a law without reference to a specific Constitutional enumerated power, how would you evaluate the constitutionality of that law?

Response: The Supreme Court in *NFIB v. Sebelius* held that "questions of constitutionality of action taken by Congress does not depend on recitals of power which it undertakes to exercise." 132 S. Ct. at 2598. I would evaluate the constitutionality of a law by faithfully applying binding Supreme Court and Ninth Circuit precedent, including the applicable means of statutory and constitutional construction.

10. Does the Constitution protect rights that are not expressly enumerated in the Constitution? Which rights?

Response: Yes, as the Ninth Amendment to the Constitution provides, "[t]he enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." The Supreme Court in *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997) identified the two part method of substantive due process analysis to determine whether an unenumerated right is protected by the Due Process Clause of the Constitution. It held the Fifth and Fourteenth Amendments protect "those fundamental rights and liberties which are, objectively, deeply rooted in this Nation's history and tradition," and are "implicit in the concept of ordered liberty." *Id*. The Supreme Court in *Dobbs v. Jackson Women's Health Organization* identified a list of unenumerated rights it previously recognized, such as the right to marry a person of a different race, the right to marry while in prison, the right to obtain contraceptives, the right to reside with relatives, the right to make decisions about the education of one's children, the right not to be sterilized without consent, and the right in certain circumstances not to undergo involuntary surgery, forced administration of drugs, or other substantially similar procedures. 142 S. Ct. 2228, 2257-58 (citing cases).

11. What rights are protected under substantive due process?

Response: Please see my response to Question 10, above.

12. If you believe substantive due process protects some personal rights such as a right to contraceptives, but not economic rights such as those at stake in *Lochner v. New York*, on what basis do you distinguish these types of rights for constitutional purposes?

Response: The Supreme Court held in *Griswold v. Connecticut*, 381 U.S. 479 (1965) the individual's right to obtain contraceptives under the right of marital privacy. In *Lochner v. New York*, 25 S. Ct. 539 (1905), the Supreme Court struck down a New York labor law limiting the number of hours an employee in bakeries may work to 60 hours a week as an arbitrary interference with the freedom to contract and an invalid exercise of police power to protect the public health, safety, morals, or general welfare. Thirty years after *Lochner* was decided, it was overturned in *West Coast Hotel v. Parrish*, 57 S. Ct. 578 (1937), where the Supreme Court upheld the constitutionality of the Washington state minimum wage legislation on the basis that a state may use its police powers to restrict the individual freedom to contract.

13. What are the limits on Congress's power under the Commerce Clause?

Response: The Supreme Court in *United States v. Lopez*, 514 U.S. 549, 558-59 (1995) identified three broad categories of activity that Congress may regulate under the Commerce Clause: (1) the use of the channels of interstate commerce; (2) the instrumentalities of interstate commerce, or persons or things in interstate commerce, even though the threat may come only from intrastate activities; and (3) those activities having a substantial relation to interstate commerce.

14. What qualifies a particular group as a "suspect class," such that laws affecting that group must survive strict scrutiny?

Response: The Supreme Court has identified race, religion, national origin, and alienage as inherently suspect distinctions subject to strict scrutiny. *See, e.g., City of New Orleans v. Dukes*, 427 U.S. 297, 303 (1976); *Graham v. Richardson*, 403 U.S. 365, 372 (1971).

15. How would you describe the role that checks and balances and separation of powers play in the Constitution's structure?

Response: The checks and balances and separation of powers in the Constitution's structure are important facets of our constitutional design to ensure the proper functioning of our national government and to preserve individual liberty. As the Supreme Court recently restated, "The Framers recognized that, in the long term, structural protections against abuse of power were critical to preserving liberty." *Seila Law LLC v. Consumer Financial Protection Bureau*, 140 S. Ct. 2183, 2202 (2020). "Their solution to governmental power and its perils was simple: divide it." *Id*.

16. How would you go about deciding a case in which one branch assumed an authority not granted it by the text of the Constitution?

Response: The Supreme Court has decided cases in which a branch of government exceeded its constitutional authority. *See, e.g., National Federation of Independent Business v. Sebelius*, 567 U.S. 519 (2012) (individual mandate, imposing minimum essential coverage requirement under which certain individuals must purchase and maintain health coverage insurance coverage exceeded Congress's power under Commerce Clause); *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952) (Presidential seizure order amounts to lawmaking, a legislative function, and not within constitutional power of the President). If a case were to come before me alleging a violation of the separate of powers doctrine, I will apply the applicable Supreme Court and Ninth Circuit precedent to determine if there is in fact a constitutional violation.

17. What role should empathy play in a judge's consideration of a case?

Response: None. As a sitting district court judge, I must decide a case based solely on the facts and the applicable law.

18. Which is worse; invalidating a law that is, in fact, constitutional, or upholding a law that is, in fact, unconstitutional?

Response: Neither is acceptable and both are contrary to a judge's duty to support the Constitution and the laws enacted pursuant to the Constitution.

19. From 1789 to 1857, the Supreme Court exercised its power of judicial review to strike down federal statutes as unconstitutional only twice. Since then, the invalidation of federal statutes by the Supreme Court has become significantly more common. What do you believe accounts for this change? What are the downsides to the aggressive exercise of judicial review? What are the downsides to judicial passivity?

Response: I have not examined nor am I familiar with the data on the Supreme Court's judicial review and frequency of invalidations, therefore I cannot offer any opinion on the cause of the change. As a sitting district court judge, I am bound to apply binding Supreme Court and Ninth Circuit precedent on any judicial review case.

20. How would you explain the difference between judicial review and judicial supremacy?

Response: Black's Law Dictionary (11th ed. 2019) defines "judicial review" as "[a] court's power to review the actions of other branches or levels of government; esp., the courts' power to invalidate legislative and executive actions as being unconstitutional." The Supreme Court in *Marbury v. Madison*, 1 Cranch 137, 5 U.S. 137 (1803) declared that "[i]t is emphatically the province and duty of the judicial department to say what the law is." Black's Law Dictionary (11th ed. 2019) defines "judicial supremacy" as "[t]he doctrine that interpretations of the Constitution by the federal judiciary in the exercise of judicial review, esp. U.S. Supreme Court interpretations, are binding on the coordinate branches of the federal government and the states." An example is the Supreme Court decision in *Cooper v. Aaron*, 358 U.S. 1 (1958), which held that the governor and legislature of the state were bound by its prior decision under Article VI of the Constitution.

21. Abraham Lincoln explained his refusal to honor the Dred Scott decision by asserting that "If the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court . . . the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal." How do you think elected officials should balance their independent obligation to follow the Constitution with the need to respect duly rendered judicial decisions?

Response: Article VI of the Constitution requires all government officials, including elected state and federal officials and judicial officers, to take an oath to support the Constitution as the supreme law of the land. The Supreme Court has held that pursuant to Article VI, elected state officials must follow duly rendered judicial decisions. *Cooper v. Aaron*, 358 U.S. 1, 18 (1958). Article V of the Constitution provides the process for amending the Constitution. Pursuant to that authority, constitutional amendments have been passed to overturn or reject decisions of the Supreme Court. For example, the Supreme Court's decision in *Chisolm v. Georgia*, 2 U.S. 419 (1793) was overturned by the Eleventh Amendment, and the *Dred Scott* case was overturned by the Fourteenth Amendment.

22. In Federalist 78, Hamilton says that the courts are the least dangerous branch because they have neither force nor will, but only judgment. Explain why that's important to keep in mind when judging.

Response: This is an important distinction of the powers among the three branches, and that the ultimate authority of the courts is to render judgment. As the Supreme Court recognized early on in our republic, "the framers of the constitution contemplated that instrument, as a rule for the government of *courts*, as well as of the legislature," "and that *courts*, as well as other departments, are bound by that instrument." *Marbury v. Madison*, 5 U.S. 137, 179-180 (1803) (emphasis in original).

23. As a district court judge, you would be bound by both Supreme Court precedent and prior circuit court precedent. What is the duty of a lower court judge when confronted with a case where the precedent in question does not seem to be rooted in constitutional text, history, or tradition and also does not appear to speak directly to the issue at hand? In applying a precedent that has questionable constitutional underpinnings, should a lower court judge extend the precedent to cover new cases, or limit its application where appropriate and reasonably possible?

Response: As a lower court judge, I am bound to faithfully apply binding precedent set by the Supreme Court and Ninth Circuit, regardless of the precedent's underpinnings. Only the Supreme Court and Ninth Circuit may reverse their own precedent if they have an opportunity to recognize that a prior precedent is not rooted in constitutional text, history, or tradition and also does not appear to speak directly to the issue at hand, but I do not have such authority.

24. When sentencing an individual defendant in a criminal case, what role, if any, should the defendant's group identity(ies) (e.g., race, gender, nationality, sexual orientation or gender identity) play in the judges' sentencing analysis?

Response: An individual defendant's race, gender, nationality, sexual orientation, or gender identity do not play any role in a judge's sentencing analysis; the only permissible factors to be considered in imposing sentence are pursuant to 18 U.S.C. §

3553(a). In addition, Congress has directed the U.S. Sentencing Commission to assure the guidelines and policy statements are entirely neutral as to the race, sex, national origin, creed, and socioeconomic status of offenders. 28 U.S.C. § 994.

25. The Biden Administration has defined "equity" as: "the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality." Do you agree with that definition? If not, how would you define equity?

Response: I am not familiar with the statement in question or the context in which it was made. Black's Law Dictionary (11th ed. 2019) defines "equity" as "[f]airness; impartiality; evenhanded dealing," as well as "[t]he body of principles constituting what is fair and right; natural law."

26. Is there a difference between "equity" and "equality?" If so, what is it?

Response: Black's Law Dictionary (11th ed. 2019) defines "equity" as "[f]airness; impartiality; evenhanded dealing," as well as "[t]he body of principles constituting what is fair and right; natural law." Black's Law Dictionary (11th ed. 2019) defines "equality" as "the quality, state, or condition of being equal; esp., likeness in power or political status."

27. Does the 14th Amendment's equal protection clause guarantee "equity" as defined by the Biden Administration (listed above in question 24)?

Response: The Fourteenth Amendment's Equal Protection Clause provides that no state shall make or enforce any law that denies to any person within its jurisdiction the equal protection of the laws. The Equal Protection Clause does not specifically refer to "equity."

28. How do you define "systemic racism?"

Response: I am not aware of any Supreme Court or Ninth Circuit decision that defines "systemic racism." The Oxford English Dictionary (2023) defines "systemic racism" as "[d]iscrimination or unequal treatment on the basis of membership of a particular racial or ethnic group (typically one that is a minority or marginalized), arising from systems, structures, or expectations that have become established within society or an institution."

29. How do you define "critical race theory?"

Response: Black's Law Dictionary (11th ed. 2019) defines "critical race theory" as "[a] reform movement within the legal profession, particularly within academia, whose adherents believe that the legal system has disempowered racial minorities."

30. Do you distinguish "critical race theory" from "systemic racism," and if so, how?

Response: Please see my responses to Questions 28 and 29 above.

Questions from Senator Thom Tillis
for Ramona Villagomez Manglona
Nominee to be Judge for the District Court of the Northern Mariana Islands

1. **Can a judge's personal views and background benefit them in interpreting and applying the law, or would you say that they are irrelevant?**

   Response: As a sitting judge on the state and federal courts for over 20 years, I would say that a judge's personal views and background do not and should not factor into the duty of a judge to interpret and apply the law impartially. It must be based solely on the text of the law and any binding precedent from the Supreme Court and Ninth Circuit.

2. **Do you believe impartiality is an aspiration or an expectation for a judge?**

   Response: Impartiality is a necessary expectation for every judge. Disqualification is warranted when a judge's impartiality might reasonably be questioned. Canon 3C(1); 28 U.S.C. § 455(a).

3. **What is judicial activism? Do you consider judicial activism appropriate?**

   Response: Black's Law Dictionary (11th ed. 2019) defines "judicial activism" as "[a] philosophy of judicial decision-making whereby judges allow their personal views about public policy, among other factors, to guide their decisions, usually with the suggestion that adherents of this philosophy tend to find constitutional violations and are willing to ignore governing texts and precedents." Judicial activism is inappropriate and the antithesis to the mandate that all judges take an oath to support the Constitution and uphold the rule of law.

4. **Should a judge second-guess policy decisions by Congress or state legislative bodies to reach a desired outcome?**

   Response: No.

5. **Does faithfully interpreting the law sometimes result in an undesirable outcome? How, as a judge, do you reconcile that?**

   Response: Yes, there may be occasions when the proper interpretation of the law results in an undesirable outcome for a party. As a judge, my role is to faithfully and impartially apply the law to the facts of the case pending before me without regard to any party's desired outcome.

6. **What will you do if you are confirmed to ensure that Americans feel confident that their Second Amendment rights are protected?**

Response: The Second Amendment is a fundamental right. *See District of Columbia v. Heller*, 554 U.S. 570 (2008); *McDonald v. City of Chicago*, 561 U.S. 742 (2010), and *New York State Rifle & Pistol Association v. Bruen*, 142 S. Ct. 2111 (2022). As a district judge, I have issued decisions that upheld the Second Amendment rights of persons. *Radich v. Guerrero*, No. 1:14-cv-00020, 2016 WL 1212437 (D. N. Mar. I. Mar. 28, 2016); *Murphy v. Guerrero*, No. 1:14-cv-00026, 2016 WL 5508998 (D. N. Mar. I. Sept. 28, 2016). I will continue to faithfully apply Supreme Court and Ninth Circuit precedent on the Second Amendment to any matter that comes before me.

7. **What process do you follow when considering qualified immunity cases, and under the law, when must the court grant qualified immunity to law enforcement personnel and departments?**

   Response: When considering qualified immunity cases, I apply binding Supreme Court and Ninth Circuit precedent. See *District of Columbia v. Wesby,* 138 S. Ct. 577 (2018) and *Hopson v. Alexander*, 71 F.4th 692, 697 (9th Cir. 2023). Officers are entitled to qualified immunity under § 1983 unless (1) they violated a federal statutory or constitutional right, and (2) the unlawfulness of their conduct was "clearly established at the time." *Wesby*, at 62-63. "Clearly established" means that, at the time of the officer's conduct, the law was "sufficiently clear" that every "reasonable official would understand that what he is doing" is unlawful. *Id*. at 63. In other words, existing law must have placed the constitutionality of the officer's conduct "beyond debate." This demanding standard protects "all but the plainly incompetent or those who knowingly violate the law." *Id*.

8. **Do you believe that qualified immunity jurisprudence provides sufficient protection for law enforcement officers who must make split-second decisions when protecting public safety?**

   Response: Whether qualified immunity jurisprudence provides sufficient protection for law enforcement officers who must make split-second decisions when protecting public safety is a policy question that is properly addressed by policy makers. As a district judge, I apply Supreme Court and Ninth Circuit precedent to determine if an officer is entitled to the defense of qualified immunity.

9. **What do you believe should be the proper scope of qualified immunity protections for law enforcement?**

   Response: Please see my answer to Question 8.

10. **What are your thoughts regarding the importance of ensuring that all IP rights are in fact enforced?**

Response: Article 1, section 8, clause 8 of the Constitution grants Congress the power to make laws to secure to inventors exclusive rights. Any litigant asserting a statutory IP right will be accorded the same right to be heard as any other litigant, and I would faithfully apply binding Supreme Court and Ninth Circuit precedent to the facts presented.

11. In the context of patent litigation, in some judicial districts plaintiffs are allowed to request that their case be heard within a particular division. When the requested division has only one judge, this allows plaintiffs to effectively select the judge who will hear their case. What are your thoughts on this practice, which typically is referred to as "forum shopping" and/or "judge shopping?"

Response: In the District Court for the Northern Mariana Islands, there are no divisions. I am not sufficiently familiar with how other judicial districts with divisions assign patent litigation. The Supreme Court has considered the concept of forum shopping in change of venue cases, and "sought to fashion a rule that would not create opportunities for forum shopping." *Ferens v. John Deere Co*., 494 U.S. 516, 527 (*citing Van Dusen v. Barrack,* 376 U.S. 612 (1964).

12. The Supreme Court has repeatedly waded into the area of patent eligibility, producing a series of opinions in cases that have only muddled the standards for what is patent eligible. The current state of eligibility jurisprudence is in shambles. What are your thoughts regarding the Supreme Court's patent eligibility jurisprudence?

Response: As a sitting district judge, it would be inappropriate for me to opine on the quality of the Supreme Court's patent eligibility jurisprudence. *See* Code of Conduct for United States Judges, Canon 3A(6). If confirmed for another term, I will faithfully follow and apply binding precedent from the Supreme Court and the Federal Circuit on 35 U.S.C. § 101 to the cases that come before me.