

**Senator Lindsey Graham, Ranking Member**  
**Questions for the Record Judge Anne Hwang**  
**Nominee to be United States District Judge for the Central District of California**

1. **You joined the “National Asian Pacific American Judicial Council” in 2023. Why did you join this organization?**

Response: I was invited to join the organization by a colleague in the Los Angeles Superior Court, and I joined in October 2023 in order to meet and socialize with other judges.

2. **When did you become aware the “National Asian Pacific American Judicial Council” is affiliated with the National Asian Pacific American Bar Association “NAPABA”?**

Response: I became aware that the National Asian Pacific American Judicial Council is affiliated with the National Asian Pacific American Bar Association when I received these questions.

3. **Prior to receiving these questions were you aware NAPABA supports the nominations of Adeel Mangi and Judge Mustafa Kasubhai? If yes, when did you become aware?**

Response: No.

4. **Your handling of *Sasha Santana et. al. v. County of L.A. et. al.* garnered media attention. “mynewsLA.com” wrote that you:**

*dismissed most of a consolidated lawsuit brought by relatives of two El Monte police officers fatally shot by a felon in that city in 2022, repeating a concern [you] expressed in September about whether Los Angeles County entities had breached any mandatory duties. . . “The crux of plaintiffs’ argument is that the D.A.’s Office and Gascón breached a mandatory duty to exercise discretion on an individualized, case-by-case basis,” the judge wrote. “However, because a prosecutor’s duty to initiate and conduct prosecutions ... is discretionary, mandate is not available to compel the district attorney to exercise prosecutorial discretion in any particular way.”*

**The Plaintiffs claimed that the Second District Court of Appeal’s decision in *Ass’n of Deputy Dist. Att’ys for Los Angeles Cnty. v. Gascon*, 79 Cal. App. 5th 503 (2022) “expressly, directly, and categorically affirmed that there is a ‘mandatory duty to plead prior strikes.’” Does your decision contradict the appellate court’s holding in *Ass’n of Deputy Dist. Att’ys for Los Angeles Cnty. v. Gascon*?**

Response: No. My written decision explains that the California Court of Appeal for the Second District held in *Association of Deputy District Attorneys for Los Angeles County v. Gascon*, 79 Cal. App. 5th 503 (Cal. Ct. App. 2022), that the three strikes law required prosecutors to plead prior convictions, but did not require prosecutors to prove prior convictions. The Court of Appeal held that prosecutors retain the discretion to move to strike a prior conviction in the furtherance of justice under Penal Code section 1385, which the court may or may not grant, or for lack of sufficient evidence. Because the plaintiffs' argument was centered on a breach of an alleged duty to exercise discretion in proving or moving to strike a prior conviction on an individualized, case-by-case basis, which was found to be a discretionary act by the Court of Appeal, I concluded that the plaintiffs had not sufficiently alleged a breach of a mandatory duty. The plaintiffs did not appeal my decision.

5. **Please explain why you believe law enforcement should trust you to be a fair and impartial Judge despite your decision in *Sasha Santana et. al. v. County of L.A. et. al.***

Response: As a judge sitting in the Los Angeles Superior Court, where the Los Angeles County Sheriff's Department maintains safety and order in various courthouses, and having represented a law enforcement officer when I was an attorney, I appreciate the importance and significant role of law enforcement. I have worked closely with Los Angeles County Sheriff's deputies assigned to each criminal court over which I have presided, and I understand the sacrifices that law enforcement, and their families, make to keep us safe. The analysis set forth in my written decisions in that case demonstrates that I fairly and impartially applied the law to the facts, as I have done in every other case that I have decided. The plaintiffs in *Santana, et al. v. County of Los Angeles, et al.*, did not appeal my decisions.

6. **Are you a citizen of the United States?**

Response: Yes.

7. **Are you currently, or have you ever been, a citizen of another country?**
- a. **If yes, list all countries of citizenship and dates of citizenship.**
  - b. **If you are currently a citizen of a country besides the United States, do you have any plans to renounce your citizenship?**
    - i. **If not, please explain why.**

Response: No.

8. **Is it appropriate for a federal judge to consider an immutable characteristic of an attorney (such as race or sex) when deciding whether to grant oral argument? If yes, please describe in which circumstances such consideration would be appropriate.**

Response: No.

9. **Is it appropriate for a federal judge to consider an immutable characteristic of an attorney (such as race or sex) when deciding whether to grant additional oral argument time? If yes, please describe in which circumstances such consideration would be appropriate.**

Response: No.

10. **Is it ever appropriate to consider foreign law in constitutional interpretation? If yes, please describe in which circumstances such consideration would be appropriate.**

Response: No, the Constitution is a domestic document. The Supreme Court has considered English common law and British institutions, but only “*as they were when the instrument was framed and adopted.*” *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 39 (2022) (emphasis in original, citation omitted).

11. **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. A judge is obligated to apply the law fairly and impartially to the facts, without consideration of a judge’s personal views or preferences.

12. **In a concurrence in the denial of rehearing en banc in *Al-Bihani v. Obama* then-Judge Kavanaugh wrote: “international-law norms are not domestic U.S. law in the absence of action by the political branches to codify those norms.” Is this a correct statement of law?**

Response: Yes, the Supreme Court has stated that “not all international law obligations automatically constitute binding federal law enforceable in United States courts. ...[W]hile treaties ‘may comprise international commitments ... they are not domestic law unless Congress has either enacted implementing statutes or the treaty itself conveys an intention that it be ‘self-executing’ and is ratified on these terms.” *Medellin v. Texas*, 552 U.S. 491, 504-05 (2008) (citations omitted). In his concurrence in the denial of rehearing en banc in *Al-Bihani v. Obama*, 619 F.3d 1, 52 (D.C. Cir. 2010) (Mem.), Judge Williams “agree[d] with much of” then-Judge Kavanaugh’s concurrence, but disagreed on certain points. *Id.* at 53. Specifically: “Judge Kavanaugh, I think, fails to adequately distinguish between treatment of international law norms as ‘judicially enforceable limits’ on Presidential authority, *id.* at 9, or as ‘domestic U.S. law,’ *id.* at 13, and use of such norms as a ‘basis for courts to alter their interpretation of federal statutes,’ *id.* at 32. By ‘alter their interpretation,’ I take Judge Kavanaugh to mean (as I said above) for a court to allow international law to persuade it to adopt a narrower interpretation of the President’s authority than it would otherwise have chosen. I will assume that Judge

Kavanaugh is correct as to the impropriety of the stronger use of international law (treating it as ‘domestic law’), but I believe him incorrect on the weaker (allowing it to affect a court’s statutory interpretation).” *Id.* at 53.

**13. Please define the term “prosecutorial discretion.”**

Response: Black’s Law Dictionary defines prosecutorial discretion as “[a] prosecutor’s power to choose from the options available in a criminal case, such as filing charges, prosecuting, not prosecuting, plea-bargaining, and recommending a sentence to the court.” Black’s Law Dictionary (11th ed. 2019).

**14. 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: No. A judge is obligated to apply the law fairly and impartially to the facts, including by following Supreme Court precedent.

**15. 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 disqualifying 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.

**16. 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.

**17. Please describe the relevant law governing how a prisoner in custody under sentence of a federal court may seek and receive relief from the sentence.**

Response: A prisoner in custody under sentence of a federal court may seek and receive relief from the sentence by filing a petition pursuant to 28 U.S.C. § 2255 to “vacate, set

aside or correct the sentence” on the grounds that the “sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack,” or by filing a motion pursuant to 18 U.S.C. § 3582(c) for compassionate release, among other grounds.

18. **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: In these cases, the Supreme Court struck down the race-based admissions programs used by Harvard College and the University of North Carolina. The Supreme Court held that neither program survived strict scrutiny and concluded that “the Harvard and UNC admissions programs cannot be reconciled with the guarantees of the Equal Protection Clause. Both programs lack sufficiently focused and measurable objectives warranting the use of race, unavoidably employ race in a negative manner, involve racial stereotyping, and lack meaningful end points.” *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College*, 600 U.S. 181, 230 (2023).

19. **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: I have participated in hiring decisions while at the Office of the Federal Public Defender and with the Los Angeles Superior Court.

20. **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, sex, sexuality, or gender identity?**

Response: No.

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

Response: No.

22. **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, sex, sexuality, or gender identity?**

Response: No, not to my knowledge.

**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.**

**23. 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 held in *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 227 (1995), that "all racial classifications, imposed by whatever federal, state, or local governmental actor, must be analyzed by a reviewing court under strict scrutiny." *See also Mitchell v. Washington*, 818 F.3d 436, 444 (9th Cir. 2016) ("[T]he general rule is that when a state actor explicitly treats an individual differently on the basis of race, strict scrutiny is applied. ... [W]e note that the Supreme Court has 'insisted on strict scrutiny in every context, even for so-called 'benign' racial classifications, such as race-conscious university admissions policies, race-based preferences in government contracts, and race-based districting intended to improve minority representation'" (citations omitted).)

**24. Please explain the holding of the Supreme Court's decision in *303 Creative LLC v. Elenis*.**

Response: In *303 Creative LLC v. Elenis*, 600 U.S. 570 (2023), the Supreme Court held that wedding website design was speech protected by the First Amendment, and Colorado could not compel the website designer to create websites celebrating marriages that she does not endorse.

**25. In *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943), Justice Jackson, writing for the Court, said: "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein."**

**Is this a correct statement of the law?**

Response: Yes. The Supreme Court cited *West Virginia Board of Education v. Barnette*, 319 U.S. 624, 642 (1943), in *303 Creative LLC v. Elenis*, 600 U.S. 570, 584-85 (2023).

**26. How would you determine whether a law that regulates speech is “content-based” or “content-neutral”? What are some of the key questions that would inform your analysis?**

Response: In determining whether a law that regulates speech is “content-based” or “content-neutral,” I would follow Supreme Court and Ninth Circuit precedent. The Supreme Court has held that “[g]overnment regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed.” *Reed v. Town of Gilbert, Ariz.*, 576 U.S. 155, 163 (2015). Supreme Court precedents “have also recognized a separate and additional category of laws that, though facially content neutral, will be considered content-based regulations of speech: laws that cannot be ‘justified without reference to the content of the regulated speech,’ ‘or that were adopted by the government ‘because of disagreement with the message [the speech] conveys.’” *Id.* at 164 (citation omitted).

**27. What is the standard for determining whether a statement is not protected speech under the true threats doctrine?**

Response: The Supreme Court has held that true threats “are ‘serious expression[s]’ conveying that a speaker means to ‘commit an act of unlawful violence.’” *Counterman v. Colorado*, 600 U.S. 66, 74 (2023) (citation omitted).

**28. Under Supreme Court and Ninth Circuit precedent, what is a “fact” and what sources do courts consider in determining whether something is a question of fact or a question of law?**

Response: The Supreme Court has explained that issues of fact generally encompass “‘basic, primary, or historical facts: facts ‘in the sense of a recital of external events and the credibility of their narrators’.” *Thompson v. Keohane*, 516 U.S. 99, 109 (1995) (citation omitted). The Supreme Court has recognized that the “appropriate methodology for distinguishing questions of fact from questions of law has been, to say the least, elusive.” *Miller v. Fenton*, 474 U.S. 104, 113 (1985). “At least in those instances in which Congress has not spoken and in which the issue falls somewhere between a pristine legal standard and a simple historical fact, the fact/law distinction at times has turned on a determination that, as a matter of sound administration of justice, one judicial actor is better positioned than another to decide the issue in question.” *Id.* at 114. There, the Supreme Court noted prior decisions setting forth factors to consider in determining an issue to be one of “fact” or “law,” including the application of a relevant legal principle to the particular circumstances of a case and considerations in favor of extending deference to the trial court. *Id.* at 114-15.

**29. Which of the four primary purposes of sentencing—retribution, deterrence, incapacitation, and rehabilitation—do you personally believe is the most important?**

Response: 18 U.S.C. § 3553(a) sets forth the factors a judge must consider in imposing a sentence. The statute does not direct that any one factor is more important than another. I would weigh all of the factors set forth in the statute when imposing a sentence, as well as follow precedent from the Supreme Court and the Ninth Circuit.

**30. Please identify a Supreme Court decision from the last 50 years that you think is particularly well-reasoned and explain why.**

Response: As a sitting judge and a federal judicial nominee, I am precluded from commenting on whether a Supreme Court decision was well-reasoned. I faithfully apply all binding Supreme Court precedent and will continue to do so if confirmed.

**31. Please identify a Ninth Circuit judicial opinion from the last 50 years that you think is particularly well-reasoned and explain why.**

Response: As a sitting judge and a federal judicial nominee, I am precluded from commenting on whether a Ninth Circuit decision was well-reasoned. I will faithfully apply all binding Ninth Circuit precedent if confirmed.

**32. Please explain your understanding of 18 USC § 1507 and what conduct it prohibits.**

Response: 18 U.S.C. § 1507 provides criminal penalties for a person who “with the intent of interfering with, obstructing, or impeding the administration of justice, or with the intent of influencing any judge, juror, witness, or court officer, in the discharge of his duty, pickets or parades in or near a building housing a court of the United States, or in or near a building or residence occupied or used by such judge, juror, witness, or court officer, or with such intent uses any sound-truck or similar device or resorts to any other demonstration in or near any such building or residence.”

**33. Is 18 U.S.C. § 1507 constitutional?**

Response: I am not aware of any Supreme Court or Ninth Circuit precedent addressing the constitutionality of 18 U.S.C. § 1507, however, the Supreme Court has upheld a similar state statute. *See Cox v. Louisiana*, 379 U.S. 559 (1965). As a federal judicial nominee, I am precluded from opining on matters that might come before me, including the constitutionality of this particular statute.

**34. Please answer the following questions yes or no. If you would like to include an additional narrative response, you may do so, but only after a yes or no answer:**

- a. Was *Brown v. Board of Education* correctly decided?
- b. Was *Loving v. Virginia* correctly decided?
- c. Was *Griswold v. Connecticut* correctly decided?
- d. Was *Roe v. Wade* correctly decided?



- e. Was *Planned Parenthood v. Casey* correctly decided?
- f. Was *Gonzales v. Carhart* correctly decided?
- g. Was *District of Columbia v. Heller* correctly decided?
- h. Was *McDonald v. City of Chicago* correctly decided?
- i. Was *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC* correctly decided?
- j. Was *New York State Rifle & Pistol Association v. Bruen* correctly decided?
- k. Was *Dobbs v. Jackson Women’s Health* correctly decided?
- l. Were *Students for Fair Admissions, Inc. v. University of North Carolina* and *Students for Fair Admissions Inc. v. President & Fellows of Harvard College* correctly decided?
- m. Was *303 Creative LLC v. Elenis* correctly decided?

Response: As a sitting judge and a federal judicial nominee, I am precluded from commenting on whether a Supreme Court decision was correctly decided. *See* Canon 3(A)(6) of the Code of Conduct for United States Judges and Canon 3B(9) of the California Code of Judicial Ethics. Consistent with the practice of prior judicial nominees, however, I can state that the issues of *de jure* segregation of schools and laws banning interracial marriage are unlikely to come before me, and therefore I can state that *Brown v. Board of Education*, 347 U.S. 483 (1954), and *Loving v. Virginia*, 388 U.S. 1 (1967) were correctly decided. In *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. 215 (2022), the Supreme Court overruled *Roe v. Wade*, 410 U.S. 113 (1973) and *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992). If confirmed, I would faithfully apply all binding Supreme Court and Ninth Circuit precedent.

**35. What legal standard would you apply in evaluating whether or not a regulation or statutory provision infringes on Second Amendment rights?**

Response: I would apply binding Supreme Court and Ninth Circuit precedent in evaluating whether a regulation or statutory provision infringes on Second Amendment rights. In *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 17 (2022), the Supreme Court held that “when the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct. To justify its regulation, the government may not simply posit that the regulation promotes an important interest. Rather, the government must demonstrate that the regulation is consistent with this Nation’s historical tradition of firearm regulation. Only if a firearm regulation is consistent with this Nation’s historical tradition may a court conclude that the individual’s conduct falls outside the Second Amendment’s ‘unqualified command.’”

**36. 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, including Brian Fallon, Christopher Kang, Tamara Brummer, Jen Dansereau, and/or Becky Bond, 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, including, but not limited to: Brian Fallon, Christopher Kang, Tamara Brummer, Jen Dansereau, and/or Becky Bond,? If so, who?**

Response: No.

- c. Have you ever been in contact with anyone associated with Demand Justice, including, but not limited to: Brian Fallon, Christopher Kang, Tamara Brummer, Jen Dansereau, and/or Becky Bond,? If so, who?**

Response: Prior to submitting an application to Senator Diane Feinstein's and Senator Alex Padilla's Judicial Advisory Committees, I was introduced to and spoke with Christopher Kang, who provided general information about the nominations process.

**37. 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, including, but not limited to, Rakim Brooks, Betsy Miller Kittredge, Nan Aron, Jake Faleschini, and/or Zachery Morris, 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 including, but not limited to: Rakim Brooks, Betsy Miller Kittredge, Nan Aron, Jake Faleschini, and/or Zachery Morris? If so, who?**

Response: No.

- c. Have you ever been in contact with anyone associated with Alliance for Justice, including, but not limited to: Rakim Brooks, Betsy Miller Kittredge, Nan Aron, Jake Faleschini, and/or Zachery Morris? If so, who?**

Response: No.

38. **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?**
    - i. **Please include in this answer anyone associated with Arabella’s subsidiaries, including the Sixteen Thirty Fund, the New Venture Fund, the Hopewell Fund, the Windward Fund, the North Fund, or any other such Arabella dark-money fund.**

Response: No.

- b. **Are you currently in contact with anyone associated with Arabella Advisors, including, but not limited to: Eric Kessler, Himesh Bhise, Joseph Brooks, Isaiah Castilla, and/or Saurabh Gupta?**
  - i. **Please include in this answer anyone associated with Arabella’s subsidiaries, including the Sixteen Thirty Fund, the New Venture Fund, the Hopewell Fund, the Windward Fund, the North Fund, or any other such Arabella dark-money fund that is still shrouded.**

Response: No.

- c. **Have you ever been in contact with anyone associated with Arabella Advisors, including, but not limited to: Eric Kessler, Himesh Bhise, Joseph Brooks, Isaiah Castilla, and/or Saurabh Gupta?**
  - i. **Please include in this answer anyone associated with Arabella’s subsidiaries, such as the Sixteen Thirty Fund, the New Venture Fund, the Hopewell Fund, the Windward Fund, the North Fund, or any other such Arabella dark-money fund that is still shrouded.**

Response: No.

39. **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, including but not limited to: George Soros, Alexander Soros, Mark Malloch-Brown, and/or Binaifer Nowrojee?**

Response: No.

- c. **Have you ever been in contact with anyone associated with the Open Society Foundations including but not limited to: George Soros, Alexander Soros, Mark Malloch-Brown, and/or Binaifer Nowrojee?**

Response: No.

- d. **Have you ever received any funding, or participated in any fellowship or similar program affiliated with the Open Society network?**

Response: No.

**40. 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, including, but not limited to: Gabe Roth, and/or Josh Cohen? If so, who?**

Response: No.

- c. **Have you ever been in contact with anyone associated with Fix the Court including, but not limited to: Gabe Roth, and/or Josh Cohen? If so, who?**

Response: No.

**41. The Raben Group is a lobbying group that “champions diversity, equity, and justice as core values that ignite our mission for impactful change in corporate, nonprofit, government and foundation work.” The group prioritizes judicial nominations and its list of clients have included the Open Society Foundations, the American Civil Liberties Union, the New Venture Fund, the Sixteen Thirty Fund, and the Hopewell Fund. It staffs the Committee for a Fair Judiciary.**

- a. **Has anyone associated with The Raben Group 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 Raben Group, including but not limited to: Robert Raben, Donald Walker, Patty First, Joe Onek, Gara LaMarche, Steve Sereno, Dylan Tureff and/or Katherine Huffman? If so, who?**

Response: No.

- c. **Have you ever been in contact with anyone associated with The Raben Group including but not limited to: Robert Raben, Donald Walker, Patty First, Joe Onek, Gara LaMarche, Steve Sereno, Dylan Tureff, and/or Katherine Huffman? If so, who?**

Response: No.

- d. **Has anyone associated with the Raben Group offered to assist you with your nomination, including but not limited to organizing letters of support?**

Response: No.

42. **The Committee for a Fair Judiciary “fights to confirm diverse and progressive federal judges to counter illegitimate right-wing dominated courts” and is staffed by founder Robert Raben.**

- a. **Has anyone associated with the Committee for a Fair Judiciary requested that you provide 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 Committee for a Fair Judiciary, including, but not limited to: Jeremy Paris, Erika West, Elliot Williams, Nancy Zirkin, and/or Joe Onek? If so, who?**

Response: No.

**Have you ever been in contact with anyone associated with the Committee for a Fair Judiciary, including, but not limited to: Jeremy Paris, Erika West, Elliot Williams, Nancy Zirkin, and/or Joe Onek? If so, who?**

Response: No.

**43. The American Constitution Society is “the nation’s foremost progressive legal organization” that seeks to “support and advocate for laws and legal systems that redress the founding failures of our Constitution, strengthen our democratic legitimacy, uphold the role of law, and realize the promise of equality for all, including people of color, women, LGBTQ+ people, people with disabilities, and other historically excluded communities.”**

**a. Has anyone associated with the American Constitution Society, 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 American Constitution Society including, but not limited to Russ Feingold? If so, who?**

Response: No.

**c. Have you ever been in contact with anyone associated with the American Constitution Society including, but not limited to Russ Feingold? If so, who?**

Response: No.

**44. 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: On January 22, 2021, I submitted an application to Senator Diane Feinstein’s Judicial Advisory Committee. On February 17, 2021, I submitted an application to Senator Alex Padilla’s Judicial Advisory Committee. On April 23, 2021, I was interviewed by Senator Feinstein’s Central District Appointment Committee. On May 14, 2021, I was interviewed by the chair of Senator Feinstein’s Judicial Advisory Process. On August 24, 2021, I was interviewed by attorneys with the White House Counsel’s Office. On December 20, 2021, I was interviewed by Senator Padilla’s Judicial Commission. On January 22, 2024, I was interviewed by Senator Laphonza Butler’s Chief Counsel. On January 30, 2024, I was interviewed by Senator Laphonza Butler. On February 7, 2024, I was interviewed by attorneys with the White House Counsel’s Office. Since February 7,

2024, I have been in contact with officials from the Office of Legal Policy at the United States Department of Justice. On April 24, 2024, the President announced his intent to nominate me.

- 45. 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.

- 46. During your selection process, did you talk with any officials from or anyone directly associated with Alliance for Justice, or did anyone do so on your behalf? If so, what was the nature of those discussions?**

Response: No.

- 47. 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, the Hopewell Fund, the Windward Fund, the North Fund, or any other such Arabella dark-money fund that is still shrouded.**

Response: No.

- 48. During or leading up to 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.

- 49. During or leading up to 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.

- 50. During or leading up to your selection process, did you talk with any officials from or anyone directly associated with The Raben Group or the Committee for a Fair Judiciary, or did anyone do so on your behalf? If so, what was the nature of those discussions?**

Response: No.

**51. 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.

**52. 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?**

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: Attorneys from the Office of Legal Policy provided general information to include in my questionnaire cases that reflect my breadth of experience as a judge, and I made all decisions about which cases to include.

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

Response: On February 7, 2024, I was interviewed by attorneys with the White House Counsel's Office. Since February 7, 2024, I have been in contact with officials from the Office of Legal Policy at the United States Department of Justice. On April 24, 2024, the President announced his intent to nominate me.

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

Response: I received these questions on May 29, 2024. I completed a draft of my answers to these questions on my own. I provided the draft to the Office of Legal Policy and had one conversation about the draft. I submitted my finalized answers to the Office of Legal Policy for submission to the Senate Judiciary Committee.



**Senator Mike Lee**  
**Questions for the Record**

**Anne Hwang, Nominee for District Court Judge for the Central District of California**

**1. How would you describe your judicial philosophy?**

Response: My philosophy as a Superior Court judge is to listen to the parties with an open mind, to thoroughly research the law, and to apply the law fairly and impartially to the facts. In issuing decisions, I endeavor to provide clear opinions in an expeditious manner. If confirmed as a district judge, I will continue to abide by this philosophy.

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

Response: In interpreting a federal statute, I would look to applicable Supreme Court and Ninth Circuit precedent. If there was no binding precedent, I would start with the text of the statute. If the text is ambiguous, I would look to applicable canons of construction, canons of interpretation recognized by the Supreme Court and Ninth Circuit, persuasive authority from other circuits, and legislative history where authorized by Supreme Court and Ninth Circuit precedent.

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

Response: In interpreting a constitutional provision, I would look to applicable Supreme Court and Ninth Circuit precedent. In the unusual case of a constitutional question of first impression, I would first look to the text. If the meaning of the provision remained unclear, I would look to methods of interpretation recognized by the Supreme Court and the Ninth Circuit, such as a review of the historical background of the provision, and would consider persuasive authority from other circuits.

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

Response: The Supreme Court has held that the text and original meaning play a significant role in interpreting the Constitution. *See, e.g., District of Columbia v. Heller*, 554 U.S. 570 (2008); *Crawford v. Washington*, 541 U.S. 36 (2004).

**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.

**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 plain meaning of a statute or constitutional provision refers to the “ordinary public meaning of its terms at the time of its enactment.” *Bostock v. Clayton County, Georgia*, 590 U.S. 644, 654 (2020); see also *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 20 (2022).

**7. What are the constitutional requirements for standing?**

Response: The Supreme Court has held that a plaintiff “must have (1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision.” *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016) (citations omitted).

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

Response: The powers of Congress are enumerated in Article I of the Constitution. Congress also has the power to enact laws that are necessary and proper to carry out those enumerated powers. See, e.g., *McCulloch v. Maryland*, 4 Wheat. 316, 405 (1819); *Nat’l Fed’n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 559 (2012) (“The power to ‘make all Laws which shall be necessary and proper for carrying into Execution’ the powers enumerated in the Constitution, Art. I, § 8, cl. 18, vests Congress with authority to enact provisions ‘incidental to the [enumerated] power, and conducive to its beneficial exercise.’ Although 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. Instead, the Clause is ‘merely a declaration, for the removal of all uncertainty, that the means of carrying into execution those [powers] otherwise granted are included in the grant’” (citations omitted).)

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

Response: In evaluating the constitutionality of a law that Congress enacted without reference to a specific Constitutional enumerated power, I would apply all binding Supreme Court and Ninth Circuit precedent. See, e.g., *Nat’l Fed’n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 570 (2012) (“The ‘question of the constitutionality of action taken by Congress does not depend on recitals of the power which it undertakes to exercise.’”) (citation omitted).

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

Response: The Supreme Court has held that the Due Process Clause of the Fourteenth Amendment “specially protects those fundamental rights and liberties which are, objectively, ‘deeply rooted in this Nation’s history and tradition,’ and ‘implicit in the concept of ordered liberty,’ such that ‘neither liberty nor justice would exist if they

were sacrificed.” *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997) (citations omitted). The Supreme Court has further held that in substantive-due-process cases, a “careful description” of the “asserted fundamental liberty interest” is required. *Id.* at 721. In *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. 215 (2022), the Supreme Court listed prior cases which recognized “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,” as well as the “right to engage in private, consensual sexual acts” and the “right to marry a person of the same sex.” *Id.* at 256-57 (citations omitted).

**11. What rights are protected under substantive due process?**

Response: Please see my response to Question 10.

**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 overturned *Lochner v. New York*, 198 U.S. 45 (1905), in *West Coast Hotel Co. v. Parrish*, 300 U.S. 379 (1937). By contrast, the Supreme Court has held that substantive due process protects those personal rights as explained in *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997).

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

Response: The Supreme Court has “identified three broad categories of activity that Congress may regulate under its commerce power. First, Congress may regulate the use of the channels of interstate commerce. Second, Congress is empowered to regulate and protect the instrumentalities of interstate commerce, or persons or things in interstate commerce, even though the threat may come only from intrastate activities. Finally, Congress’ commerce authority includes the power to regulate those activities having a substantial relation to interstate commerce.” *United States v. Lopez*, 514 U.S. 549, 558-59 (1995) (citations omitted).

**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 recognized that a class that exhibits “obvious, immutable, or distinguishing characteristics that define them as a discrete group,” such as race, religion, national origin, and alienage, is a suspect class. *Lyng v. Castillo*, 477 U.S. 635, 638 (1986); *see also City of New Orleans v. Dukes*, 427 U.S.

297, 303 (1976); *City of Cleburne, Tex. v. Cleburne Living Ctr.*, 473 U.S. 432, 440 (1985).

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

Response: The Supreme Court has stated that the "Framers recognized that, in the long term, structural protections against abuse of power were critical to preserving liberty. Their solution to governmental power and its perils was simple: divide it. To prevent the 'gradual concentration' of power in the same hands, they enabled '[a]mbition ... to counteract ambition' at every turn." *Seila Law LLC v. Consumer Fin. Prot. Bureau*, 591 U.S. 197, 223 (2020) (citations omitted).

**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: I would apply binding Supreme Court and Ninth Circuit precedent to determine a case in which one branch assumed an authority not granted it by the text of the Constitution. *See, e.g., Gregory v. Ashcroft*, 501 U.S. 452, 458 (1991) ("Perhaps the principal benefit of the federalist system is a check on abuses of government power. ... Just as the separation and independence of the coordinate branches of the Federal Government serve to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front") (citations omitted).)

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

Response: Empathy should play no role in a judge's determination of a case. A judge must decide cases based on the application of the law to the facts, without regard to any personal feelings about anyone involved in the case.

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

Response: Both must be avoided.

**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 studied these trends in the Supreme Court's constitutional jurisprudence. As a district judge, I would faithfully follow all Supreme Court and Ninth Circuit precedent.

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

Response: Judicial review refers to the power of courts to evaluate the constitutionality of legislative acts. *Moore v. Harper*, 600 U.S. 1, 19-20 (2023). Judicial supremacy is the "doctrine that interpretations of the Constitution by the federal judiciary in the exercise of judicial review ... are binding on the coordinate branches of the federal government and the states." Black's Law Dictionary (11th ed. 2019).

**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: As a sitting judge and a federal judicial nominee, I am precluded from opining as to how elected officials should balance their obligations. However, if I were presented with a case involving a claim that an elected official failed to follow the Constitution or duly rendered judicial decisions, I would apply Supreme Court and Ninth Circuit precedent. For example, the Supreme Court has stated that "[n]o state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it." *Cooper v. Aaron*, 358 U.S. 1, 18 (1958).

**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: The role of a judge is to apply the law fairly and impartially to the facts. The judiciary does not exercise the powers of other branches of government under our Constitution. If confirmed, I will decide each case based on the facts and the law.

**23. As a federal judge, you would be bound by both Supreme Court precedent and prior circuit court precedent. What is the duty of a federal 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 federal judge extend the**

**precedent to cover new cases, or limit its application where appropriate and reasonably possible?**

Response: Federal district judges are bound by precedent of the Supreme Court and of their circuit, without regard to their personal views about the soundness of such precedent. I will follow binding Supreme Court and Ninth Circuit precedent regardless of any personal views about its correctness. District judges must “follow the case which directly controls” and has “direct application in a case.” *Mallory v. Norfolk Southern Railway Co.*, 600 U.S. 122, 136 (2023) (citation omitted).

- 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 judge’s sentencing analysis?**

Response: None.

- 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 this definition of “equity.” Black’s Law Dictionary defines equity to include “[f]airness; impartiality; evenhanded dealing.” Black’s Law Dictionary (11th ed. 2019). To the extent that the term “equity” became an issue in any case before me, I would apply Supreme Court and Ninth Circuit precedent and refer to the text of any statute or regulation that contained that term.

- 26. Without citing a dictionary definition, do you believe there is a difference between “equity” and “equality?” If so, what is it?**

Response: My general understanding of the term “equity” comports with the definition set forth in response to Question 25. Generally, my understanding of the term “equality” means to be equal. To the extent that these terms became an issue in any case before me, I would apply Supreme Court and Ninth Circuit precedent and refer to the text of any statute or regulation that contained these terms.

- 27. Does the 14<sup>th</sup> Amendment’s equal protection clause guarantee “equity” as defined by the Biden Administration (listed above in question 25)?**

Response: I am not aware of any Supreme Court or Ninth Circuit case that interprets the Fourteenth Amendment's Equal Protection Clause to guarantee equity as defined in Question 25.

**28. According to your current understanding, and without citing a dictionary definition, how do you define “systemic racism?”**

Response: I am not aware of a consensus definition of “systemic racism,” and I have not encountered a case where that term was an issue. To the extent that the term “systemic racism” became an issue in any case before me, I would apply Supreme Court and Ninth Circuit precedent and refer to the text of any statute or regulation that contained that term.

**29. According to your current understanding, and without citing a dictionary definition, how do you define “Critical Race Theory?”**

Response: I am not aware of a consensus definition of “critical race theory,” and I have not encountered a case where that term was an issue. To the extent that the term “critical race theory” became an issue in any case before me, I would apply Supreme Court and Ninth Circuit precedent and refer to the text of any statute or regulation that contained that term.

**30. Do you distinguish “Critical Race Theory” from “systemic racism,” and if so, how?**

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

**31. You have been a member of the national Asian Pacific American Judicial Council (“NPAJC”) since 2023, a membership organization of the National Asian Pacific Bar Association (“NAPABA”). NAPABA has publicly taken many extreme, Left-leaning positions. As a member of NPAJC, you may not necessarily agree with every position stated by NAPABA. However, you decided to maintain membership in NPAJC despite NAPABA’s highly partisan positions. NAPABA has stated that state and local governmental entities that refuse to honor ICE detainer requests and limit voluntary cooperation with federal immigration enforcement should be “support[ed].” Do you agree? Do you apply the law as you hope it to be in immigration matters, or do you believe in applying the law as-written?**

Response: I became a member of the National Asian Pacific American Judicial Council (“NAPAJC”) in October 2023. I was unaware that NAPAJC was a membership organization of the National Asian Pacific American Bar Association (“NAPABA”) until these questions. I was not aware of this statement by NAPABA, played no role in its issuance, and it does not reflect views that I have expressed. I will apply the law as written, as well as any binding Supreme Court and Ninth Circuit precedent. As a sitting judge and a federal judicial nominee, I am precluded from

providing an opinion about whether state and local governmental entities should be supported.

- 32. Do you agree with NAPABA in opposing H.R. 734, “Protection of Women and Girls in Sports Act of 2023,” which would require school-age athletes to compete against members of their own biological sex? Do you believe that adolescent boys and girls should compete against members of the opposite sex in sports that are traditionally segregated by sex?**

Response: I became a member of the National Asian Pacific American Judicial Council (“NAPAJC”) in October 2023. I was unaware that NAPAJC was a membership organization of the National Asian Pacific American Bar Association (“NAPABA”) until these questions. I was not aware of this opposition by NAPABA, played no role in its issuance, and it does not reflect views that I have expressed. As a sitting judge and a federal judicial nominee, I am precluded from providing an opinion about H.R. 734 or whether adolescent boys and girls should compete against members of the opposite sex in sports that are traditionally segregated by sex.

- 33. Do you agree with NAPABA that large domestic land purchases by Chinese nationals should not be reviewed for possible connections to the Chinese Communist Party? If you disagree, why did you maintain your membership in NPAJC?**

Response: I became a member of the National Asian Pacific American Judicial Council (“NAPAJC”) in October 2023. I was unaware that NAPAJC was a membership organization of the National Asian Pacific American Bar Association (“NAPABA”) until these questions. I was not aware of this statement by NAPABA, played no role in its issuance, and it does not reflect views that I have expressed. As a sitting judge and a federal judicial nominee, I am precluded from providing an opinion about whether large domestic land purchases by Chinese nationals should be reviewed.



**Senator John Kennedy  
Questions for the Record**

**Anne Hwang**

- 1. Are there any circumstances under which it is justifiable to sentence a criminal defendant to death? Please explain.**

Response: Yes. 18 U.S.C. § 3591-3599 sets forth the procedures and circumstances for the imposition of a federal sentence of death.

- 2. Should a judge's opinions on the morality of the death penalty factor into the judge's decision to sentence a criminal defendant to death in accordance with the laws prescribed by Congress and the Eighth Amendment?**

Response: No.

- 3. Is the U.S. Supreme Court a legitimate institution?**

Response: Yes.

- 4. Is the current composition of the U.S. Supreme Court legitimate?**

Response: Yes.

- 5. Please describe your judicial philosophy. Be as specific as possible.**

Response: My philosophy as a Superior Court judge is to listen to the parties with an open mind, to thoroughly research the law, and to apply the law fairly and impartially to the facts. In issuing decisions, I endeavor to provide clear opinions in an expeditious manner. If confirmed as a district judge, I will continue to abide by this philosophy.

- 6. Is originalism a legitimate method of constitutional interpretation?**

Response: Yes. *See, e.g., New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022); *Crawford v. Washington*, 541 U.S. 36 (2004).

- 7. If called on to resolve a constitutional question of first impression with no applicable precedents from either the U.S. Supreme Court or the U.S. Courts of Appeals, to what sources of law would you look for guidance?**

Response: In interpreting a constitutional provision, I would look to applicable Supreme Court and Ninth Circuit precedent. In the unusual case of a constitutional question of first impression, I would first look to the text. If the meaning of the provision remained unclear, I would look to methods of interpretation recognized by the Supreme Court and

the Ninth Circuit, such as a review of the historical background of the provision, and would consider persuasive authority from other circuits.

**8. Is textualism a legitimate method of statutory interpretation?**

Response: Yes. *See, e.g., Bostock v. Clayton County, Georgia*, 590 U.S. 644 (2020).

**9. When is it appropriate for a judge to look beyond textual sources when determining the meaning of a statute or provision?**

Response: The Supreme Court has stated that “in interpreting a statute a court should always turn first to one, cardinal canon before all others. [The Supreme Court has] stated time and again that courts must presume that a legislature says in a statute what it means and means in a statute what it says there. When the words of a statute are unambiguous, then, this first canon is also the last: ‘judicial inquiry is complete.’” *Connecticut Nat’l Bank v. Germain*, 503 U.S. 249, 253-54 (1992). If the meaning of the provision is unclear, a judge should look to sources authorized by the Supreme Court and the circuit in interpreting similar provisions, such as applicable canons of construction, canons of interpretation recognized by the Supreme Court or the circuit, and persuasive authority from other circuits. The Supreme Court has “consulted legislative history when interpreting *ambiguous* statutory language,” but has cautioned that “[l]egislative history, for those who take it into account, is meant to clear up ambiguity, not create it.” *Bostock v. Clayton County, Georgia*, 590 U.S. 644, 674 (2020) (emphasis in original, citation omitted).

**10. Does the meaning (rather than the applications) of the U.S. Constitution change over time? If yes, please explain the circumstances under which the U.S. Constitution’s meaning changes over time and the relevant constitutional provisions.**

Response: No, the Constitution is an enduring document that can only be amended pursuant to Article V. *See, e.g., New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 28 (2022) (noting that the “meaning” of the Constitution is “fixed”).

**11. Please describe the legal rule employed in *Rivas-Villegas v. Cortesluna*, 595 U.S. 1 (2021), and explain why the U.S. Supreme Court sided with the Petitioner.**

Response: In *Rivas-Villegas v. Cortesluna*, 595 U.S. 1, 6 (2021), the Supreme Court found that the petitioner was entitled to qualified immunity because the respondent had not identified a case that put the petitioner on notice that his specific conduct was unlawful. The Supreme Court reversed the decision of the Ninth Circuit, which relied on a case that the Supreme Court found to be materially distinguishable and therefore did not provide notice to the petitioner. *Id.* at 7.

**12. When is it appropriate for a district judge to issue a nationwide injunction? Please also explain the legal basis for issuing nationwide injunctions and the relevant factors a district judge should consider before issuing one.**

Response: The Ninth Circuit has held that the “scope of the remedy must be no broader and no narrower than necessary to redress the injury shown by the plaintiff.” *California v. Azar*, 911 F.3d 558, 584 (9th Cir. 2018) (finding the district court abused its discretion in granting a nationwide injunction where an injunction that applies only to the plaintiff would provide complete relief). “The Supreme Court has repeatedly emphasized that nationwide injunctions have detrimental consequences to the development of law and deprive appellate courts of a wider range of perspectives.” *Id.* at 583. “The detrimental consequences of a nationwide injunction are not limited to their effects on judicial decisionmaking. There are also the equities of non-parties who are deprived the right to litigate in other forums.” *Id.* “Nationwide injunctions are also associated with forum shopping, which hinders the equitable administration of laws.” *Id.*

**13. Is there ever a circumstance in which a district judge may seek to circumvent a published precedent of the U.S. Court of Appeals under which it sits or the U.S. Supreme Court?**

Response: No.

**14. Will you faithfully apply all precedents of the U.S. Supreme Court and the U.S. Court of Appeals for the Ninth Circuit?**

Response: Yes.

**15. If confirmed, please describe what role U.S. Supreme Court dicta would play in your decisions.**

Response: The Ninth Circuit has noted that “[w]e do not treat considered dicta from the Supreme Court lightly. Rather, we accord it appropriate deference. ... As we have frequently acknowledged, Supreme Court dicta ‘have a weight that is greater than ordinary judicial dicta as prophecy of what that Court might hold’; accordingly, we do ‘not blandly shrug them off because they were not a holding.’ ... Nevertheless, we have on occasion followed the Supreme Court’s admonition that, although dictum ‘may be followed if sufficiently persuasive,’ it ‘ought not to control the judgment in a subsequent suit.’” *United States v. Montero-Camargo*, 208 F.3d 1122, 1132 n.17 (2000) (citations omitted).

**16. When reviewing applications from persons seeking to serve as a law clerk in your chambers, what role if any would the race, sex, or religion of the applicants play in your consideration?**

Response: None; in making hiring decisions, I will select the most qualified applicant for the position.