**Senator Lindsey Graham, Ranking Member**
**Questions for the Record**
**Ms. Stacey D. Neumann**
**Nominee to be United States District Judge for the District of Maine**

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

   Response: Yes.

2. **Are you currently, or have you ever been, a citizen of another country?**

   Response: No.

   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.**

3. **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.

4. **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.

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

   Response: The Supreme Court has occasionally considered the historical laws of England when interpreting constitutional provisions. *See, e.g., District of Columbia v. Heller*, 554 U.S. 570 (2008). Otherwise, it is not appropriate to consider foreign law when interpreting the provisions of the Constitution.

6. **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 the statement. Judges are obligated to faithfully and impartially follow and apply the Supreme Court and relevant Circuit precedent. Judges should not exercise value judgments when resolving constitutional questions.

7. **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. For example, in *Medellin v. Texas*, 552 U.S. 491, 504 (2008), the Supreme Court emphasized that "[n]ot all international law obligations automatically constitute binding federal law enforceable in United States courts."

8. **Please define the term "prosecutorial discretion."**

   Response: According to Black's Law Dictionary (11th ed. 2019): "Prosecutorial discretion" is "[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."

9. **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. Federal district court judges must follow Supreme Court and relevant Circuit Court precedent when deciding cases.

10. **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.

11. **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.

12. **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 federal custody may seek relief from the sentence by either (1) directly appealing the district court's judgment to the Court of Appeals under 28 U.S.C. § 1291; (2) filing a motion to vacate, set aside, or correct the sentence under 28 U.S.C. § 2255; (3) filing a petition for a writ of habeas corpus under 28 U.S.C. § 2241; or (4) filing a motion for compassionate release for modification of a term of imprisonment under 18 U.S.C. § 3582(c).

13. **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 *Students for Fair Admissions, Inc. v. University of North Carolina* and *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College,* 600 U.S. 181 (2023), the Supreme Court held that the admissions policies at Harvard and the University of North Carolina violated the Equal Protection Clause of the Fourteenth Amendment and Title VI of the Civil Rights Act of 1964 by their use of race in the College Admissions process. The Court held that the admission program goals were "not sufficiently coherent for purposes of strict scrutiny," and that there existed no "meaningful connection between the means [the admissions programs] employ and the goals they pursue." *Id.* at 214-15.

14. **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 working at Murray, Plumb & Murray, as a member of the hiring committee and as a director of the firm. In this role, I, along with others on the hiring committee and within the firm, reviewed applications for summer and lateral employment, and jointly decided who to interview. I, along with others, participated in interviews of such applicants and made decisions on who to recommend for hire. The directors of the firm decided all hiring decisions collectively.

15. **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.

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

    Response: No.

17. **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.

    **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.**

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

    Response: Yes. "[A]ll racial classifications, imposed by whatever federal, state, or local governmental actor, must be analyzed by a reviewing court under strict scrutiny. In other words, such classifications are constitutional only if they are narrowly tailored measures that further compelling governmental interests." *Adarand Constructors, Inc. v. Pena*, 515 U.S. 200, 227 (1995).

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

    Response: In *303 Creative LLC v. Elenis*, the Supreme Court ruled that forcing a website designer to design a same sex wedding website that was against her religious beliefs would violate the First Amendment free speech rights of the web designer. *303 Creative LLC v. Elenis*, 600 U.S. 570 (2023).

20. **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. *West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943) remains good law. The Court cited *Barnette* in *303 Creative LLC*, on this point. *303 Creative LLC v. Elenis*, 600 U.S. 570, 585 (2023).

**21. 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: "Deciding whether a particular regulation is content based or content neutral is not always a simple task.... As a general rule, laws that by their terms distinguish favored speech from disfavored speech on the basis of the ideas or views expressed are content based." *Turner Brod Sys, Inc. v. FCC,* 512 U.S. 622, 642–643 (1994). The Supreme Court has stated that when "determining whether a regulation is content based or content neutral, we look to the purpose behind the regulation; typically, [g]overnment regulation of expressive activity is content neutral so long as it is '*justified* without reference to the content of the regulated speech.'" *Ward v. Rock Against Racism,* 491 U.S. 781, 791 (1989) (Internal citations omitted). On the other hand, a law is "content-neutral" if it focuses on the time, place, and manner of the speech as opposed to the idea or substance of the expressions. *City of Austin v. Reagan Nat'l Advert. of Austin, LLC*, 596 U.S. 61, 72 (2022). To inform my analysis as to whether a particular law that regulates speech is content-based or content-neutral, I would look first to see if the law is content-neutral on its face. Even if it appears content-neutral, I would review whether "impermissible purpose or justification underpins a facially content-neutral restriction," *Id.* at 76. A law "cannot be justified without reference to the content of the regulated speech." *Reed v. Town of Gilbert*, 576 U.S.155, 163 (2015) (citation omitted).

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

Response: According to the Supreme Court in *Counterman v. Colorado,* "true threats" are "serious expression[s] conveying that a speaker means to 'commit an act of unlawful violence.'" 600 U.S. 66, 74 (2023) (internal quotations and citations omitted). True threats of violence do not receive the First Amendment's protection. To avoid infringement on the First Amendment in a criminal case, the Government must prove that the defendant "had some subjective understanding of the threatening nature of his statements." *Id.* at 69, but need not "prove the defendant had any more specific intent to threaten the victim." *Id*. at 73.

**23. Under Supreme Court and First 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 recognized the difficulty for distinguishing questions of fact and questions of law. *See Pullman-Standard v. Swint,* 456 U.S. 273, 288 (1982) (recognizing the "vexing nature of the distinction"). Generally, the Court has found a question of fact to involve "basic or historical fact—addressing questions of who did

what, when or where, how or why." *U.S. Bank Nat'l Ass'n v. Vill. at Lakeridge,* 583 U.S. 387, 394 (2018) (internal quotations and citation omitted). On the other hand, the Court held that a question of law "require[s] courts to expound on the law, particularly by amplifying or elaborating on a broad legal standard." *Id.* at 396. The First Circuit has stated that "not all mixed questions of law and fact are mixed equally, and those that "'immerse courts in case-specific factual issues' should usually be reviewed by appellate courts with deference." *Alzaben v. Garland*, 66 F.4th 1, 7 (1st Cir. 2023) (citing *U.S. Bank Nat'l Ass'n v. Vill. at Lakeridge, LLC*, 583 U.S. 387, 388 (2018)).

**24. 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) requires federal judges to impose sentences that are "sufficient, but not greater than necessary." *Id.* In doing so, a judge must consider the "nature and circumstances of the offense," "the history and characteristics of the defendant," and the need for the sentence to "reflect the seriousness of the offense," "promote respect for the law," "provide just punishment for the offense," "afford adequate deterrence to criminal conduct," "protect the public from further crimes of the defendant," and "provide the defendant with the needed educational or vocational training, medical care, or other correctional treatment in the most effective manner." 18 U.S.C. § 3553(a)(2). The statute does not state which factor(s) are the most important. If I am confirmed**,** I will consider all of the 3553(a) factors in making sentencing determinations.

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

Response: As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from commenting on the quality of the reasoning of any particular Supreme Court decision. If confirmed, I would follow all binding Supreme Court and First Circuit precedent.

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

Response: As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from commenting on the quality of the reasoning of any particular First Circuit Court of Appeals decision. If confirmed, I would follow all binding Supreme Court and First Circuit precedent.

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

Response: 18 U.S.C. § 1507 prohibits conduct that is committed "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."

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

Response: I am not aware of any Supreme Court or First Circuit precedent that has addressed the constitutionality of 18 U.S.C. § 1507. The Supreme Court upheld a similar statute in *Cox v. Louisiana*, 379.U.S. 559, 563 (1965) (upholding constitutionality of conviction for violating statute prohibiting picketing "near" a courthouse).

**29. 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?**

Response: Yes. I am generally precluded from commenting on whether a particular Supreme Court case was correctly decided as a judicial nominee under Canon 3(A)(6) of Code of Conduct for United States Judges. However, consistent with the practice of prior judicial nominees, because *Brown v. Board of Education* falls within a small class of foundational cases so unlikely to ever be relitigated, I can say that it was correctly decided.

**b. Was *Loving v. Virginia* correctly decided?**

Response: Yes. I am generally precluded from commenting on whether a particular Supreme Court case was correctly decided as a judicial nominee under Canon 3(A)(6) of Code of Conduct for United States Judges. However, consistent with the practice of prior judicial nominees, because *Loving v. Virginia* falls within a small class of foundational cases so unlikely to ever be relitigated, I can say that it was correctly decided.

**c. Was *Griswold v. Connecticut* correctly decided?**

Response: As a federal judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from commenting on whether any particular Supreme Court decision was decided correctly. If confirmed, I would faithfully follow and apply *Griswold v. Connecticut.*

**d. Was *Roe v. Wade* correctly decided?**

Response: The Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022) overturned *Roe v. Wad*e. If confirmed, I would faithfully follow and apply *Dobbs*.

**e. Was *Planned Parenthood v. Casey* correctly decided?**

Response: The Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022) overturned *Planned Parenthood v. Casey*. If confirmed, I would faithfully follow and apply *Dobbs*.

**f. Was *Gonzales v. Carhart* correctly decided?**

Response: As a federal judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from commenting on whether any particular Supreme Court decision was decided correctly. If confirmed, I would faithfully follow and apply *Gonzales v. Carhart*.

**g. Was *District of Columbia v. Heller* correctly decided?**

Response: As a federal judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from commenting on whether any particular Supreme Court decision was decided correctly. If confirmed, I would faithfully follow and apply *District of Columbia v. Heller.*

**h. Was *McDonald v. City of Chicago* correctly decided?**

Response: As a federal judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from commenting on whether any particular Supreme Court decision was decided correctly. If confirmed, I would faithfully follow and apply *McDonald v. City of Chicago.*

**i. Was *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC* correctly decided?**

Response: As a federal judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from commenting on whether any particular Supreme Court decision was decided correctly. If confirmed, I would faithfully follow and apply *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC.*

**j. Was *New York State Rifle & Pistol Association v. Bruen* correctly decided?**

Response: As a federal judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from commenting on whether any particular Supreme Court decision was decided correctly. If confirmed, I would faithfully follow and apply *New York State Rifle & Pistol Association v. Bruen.*

**k. Was *Dobbs v. Jackson Women's Health* correctly decided?**

Response: As a federal judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from commenting on whether any particular

Supreme Court decision was decided correctly. If confirmed, I would faithfully follow and apply *Dobbs v. Jackson Women's Health.*

**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?**

Response: As a federal judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from commenting on whether any particular Supreme Court decision was decided correctly. If confirmed, I would faithfully follow and apply *Students for Fair Admissions, Inc. v. University of North Carolina* and *Students for Fair Admissions Inc. v. President & Fellows of Harvard College.*

**m. Was *303 Creative LLC v. Elenis* correctly decided?**

Response: As a federal judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from commenting on whether any particular Supreme Court decision was decided correctly. If confirmed, I would faithfully follow and apply *303 Creative LLC v. Elenis.*

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

Response: In considering whether or not a regulation or statutory provision infringes on the Second Amendment, I would determine if the government has "demonstrate[d] 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" *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 7 (2022) (quotations omitted).

**31. You served as a board member (2018-2023) for the Maine Association of Criminal Defense Lawyers. The Board of Directors for MACDL released a statement "on the Murder of George Floyd and Systemic Injustice." The letter reads, in part: "The true challenge is changing the entrenched and unjust racism that pervades our criminal justice system."**

**a. Is the criminal justice system systemically racist?**

Response: Although I was a board member of the Maine Association of Criminal Defense Lawyers (MACDL) when this statement was released, I did not draft, review or vote to approve the statement, and I do not agree with this statement, which is not true to my experience working within the criminal justice system either as a former federal prosecutor, or as a defense attorney. The individuals with whom I have worked in the criminal justice system based their decisions on the relevant law and facts.

32. **You were one of several attorneys that represented 17 Black Lives Matters protesters in Portland, Maine. While the matter eventually settled based on an agreement for protesters to pay into a victims' compensation fund and a restorative justice meeting between the prosecutors, police, and district attorney's office, it was reported that the meeting fell apart at the last minute due to protester's demand that representatives from the ACLU and NAACP be present. Some of the protesters even admitted that they demanded many last-minute changes to the agreement.**

    a. **Please explain in detail the process by which this restorative justice process happened.**

    Response: To the best of my recollection, it was the prosecutor who initiated the idea of restorative justice in this matter. I do not recall the specific details of how that came about. As I recall, at the time of the restorative justice meeting, the protestors and the police were together in a large room of a church with a facilitator. The prosecutor in the case invited the representatives from the ACLU and the NAACP to be present at the restorative justice session, to which the protestors objected. A news article published at the time, reported that the prosecutor stated she "would be inviting the ACLU and the NAACP to observe," and "[t]he protesters objected to the presence of an observer from the American Civil Liberties Union of Maine, and to the presence of Rachel Talbot Ross, a state legislator and head of the local chapter of the NAACP." Matt Byrne, *Plea Deal between prosecutor, Portland Black Lives Matter protesters collapses,* Central Maine (Feb. 1, 2017), copy of article included at Neumann SJQ Amendment 5.21.

    b. **Did you participate in the settlement discussions which led to the restorative justice agreement?**

    Response: As the defense attorney for one of the protestors, I did participate in the settlement discussions.

    c. **Who insisted on ACLU and NAACP representatives' presence at the meetings?**

    Response: The prosecutor in the case invited the representatives from the ACLU and the NAACP to be present at the restorative justice session, to which the protestors objected. Matt Byrne, *Plea Deal between prosecutor, Portland Black Lives Matter protesters collapses,* Central Maine (Feb. 1, 2017), included at Neumann SJQ Amendment 5.21 (noting "The protesters objected to the presence of an observer from the American Civil Liberties Union of Maine, and to the presence of Rachel Talbot Ross, a state legislator and head of the local chapter of the NAACP," as well as quoting the prosecutor as stating she "would be inviting the ACLU and the NAACP to observe.").

33. **In your own words, what is restorative justice?**

Response: I do not have a personal definition of restorative justice. 34 U.S.C. § 10401 defines restorative justice in that section to mean "a program that emphasizes the moral accountability of an offender toward the victim and the affected community and may include community reparations boards, restitution (in the form of monetary payment or service to the victim or, where no victim can be identified, service to the affected community), and mediation between victim and offender."

**34. Is restorative justice appropriate for violent crimes?**

Response: If I were so fortunate to be confirmed, I would consider the advisory sentencing guidelines as established by the U.S. Sentencing Commission and the factors laid out in 18 U.S.C. § 3553, in order to determine a proper and lawful sentence.

**35. You served as a board member (2018-2023) for the Maine Association of Criminal Defense Lawyers. This group strenuously objects to raising penalties for almost any crime—including sex offenses against children and fentanyl trafficking. The MACDL appears to frequently present positions and advocate to the Maine Legislature on a variety of legislation. The following letters were sent while you were a member of the board and your name was prominently displayed on the letterhead. Please explain, with respect to each letter (1) whether you agree with the position taken by your organization and (2) whether you played any role in advocating for the position taken in the letter (this includes drafting or approving the letter, as well as advocating for the letter's position in any other way).**

Response: I played no role whatsoever in advocating for the position taken in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL). I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way. As I understand it, the positions in these letters reflected the input only of the MACDL legislative subcommittee, on which I never served, and without the input of the Board or the members.

- **Opposing a law that would make "commercial sexual exploitation of a child" and "solicitation of a child for commercial sexual exploitation" a felony (as opposed to a misdemeanor, which it was before the legislation at issue).[1]**

  Response: I played no role whatsoever in advocating for the position taken in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL). I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way.

  When I was a federal prosecutor, I was the Project Safe Childhood Coordinator for the District of Maine. As such, I was the lead federal prosecutor for the prosecutions of crimes against children, particularly the sexual exploitation of children. In this role,

[1] SJQ Attach. at 425; *see also* LD 1435, 131st Sess. (Me. 2023), https://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP0931&item=1&snum=131.

I worked closely with victims, their families and law enforcement in order to prosecute these heinous crimes. As the lead prosecutor, I was responsible for reviewing the horrific evidence related to these reprehensible offenses, and so know first-hand of the damage and danger such criminal activity brings to our community.

I have never espoused the views expressed in that letter and cannot envision ever doing so as an advocate. Moreover, the decision to enact laws and determine the range for punishment is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from opining on such matters. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law.

- **Opposing legislation that would create a mandatory minimum sentence of 25 years for convicted gross sexual assault against someone younger than 12 years, a mandatory life sentence for repeat offenders, and a mandatory minimum sentence of 25 years for convicted sex trafficking of those less than 12 years old.[2]**

  Response: I played no role whatsoever in advocating for the position taken in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL). I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way.

  When I was a federal prosecutor, I was the Project Safe Childhood Coordinator for the District of Maine. As such, I was the lead federal prosecutor for the prosecutions of crimes against children, particularly the sexual exploitation of children. In this role, I worked closely with victims, their families and law enforcement in order to prosecute these heinous crimes. As the lead prosecutor, I was responsible for reviewing the horrific evidence related to these reprehensible offenses, and so know first-hand of the damage and danger such criminal activity brings to our community.

  I have never espoused the views expressed in that letter and cannot envision ever doing so as an advocate. Moreover, the decision to enact laws and determine the range for punishment is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from opining on such matters. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law.

  - **The letter stated in part "Mandatory minimum sentences are never a good idea . . . the mandatory minimum sentences here that involve sentences of not less than 25 years in prison are on the same level as a murder case. While we can all appreciate that gross sexual assault and sex trafficking of children are terrible crimes, they should not be put on the same plane as murder cases."[3]**

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[2] SJQ Attach. at 428; LD 1261, 131st Sess. (Me. 2023), https://legislature.maine.gov/legis/bills/getPDF.asp?paper=HP0809&item=1&snum=131.
[3] SJQ Attach. at 428.

Response: I played no role whatsoever in advocating for the position taken in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL). I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way.

When I was a federal prosecutor, I was the Project Safe Childhood Coordinator for the District of Maine. As such, I was the lead federal prosecutor for the prosecutions of crimes against children, particularly the sexual exploitation of children. In this role, I worked closely with victims, their families and law enforcement in order to prosecute these heinous crimes. As the lead prosecutor, I was responsible for reviewing the horrific evidence related to these reprehensible offenses, and so know first-hand of the damage and danger such criminal activity brings to our community.

I have never espoused the views expressed in that letter and cannot envision ever doing as an advocate. Moreover, the decision to enact laws and determine the range for punishment is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from opining on such matters. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law.

- **Opposing a bill that would make death or bodily injury to a child resulting from reckless engagement of that child a felony and create a felony for aggravated endangerment of a child's welfare when bodily injury that creates a substantial risk of death or extended recovery.**[4]

Response: I played no role whatsoever in advocating for the position taken in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL). I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way.

When I was a federal prosecutor, I was the Project Safe Childhood Coordinator for the District of Maine. As such, I was the lead federal prosecutor for the prosecutions of crimes against children, particularly the sexual exploitation of children. In this role, I worked closely with victims, their families and law enforcement in order to prosecute these heinous crimes. As the lead prosecutor, I was responsible for reviewing the horrific evidence related to these reprehensible offenses, and so know first-hand of the damage and danger such criminal activity brings to our community.

I have never espoused the views expressed in that letter and cannot envision ever doing so as an advocate. Moreover, the decision to enact laws and determine the

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[4] *Id.* at 430; LD 761, 131st Sess. (Me. 2023), https://legislature.maine.gov/legis/bills/getPDF.asp?paper=SP0319&item=1&snum=131.

range for punishment is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from opining on such matters. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law.

- **Opposing legislation that would make upskirting or voyeurism of children less than 16 years old a felony because "only 5% of sex offenders--sexually fixated pedophiles--have a high risk of re-offense" and "[t]here is nothing to suggest that violation of this particular crime means that someone is so dangerous that they need to be put on a registry."[5]**

Response: I played no role whatsoever in advocating for the position taken in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL). I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way.

When I was a federal prosecutor, I was the Project Safe Childhood Coordinator for the District of Maine. As such, I was the lead federal prosecutor for the prosecutions of crimes against children, particularly the sexual exploitation of children. In this role, I worked closely with victims, their families and law enforcement in order to prosecute these heinous crimes. As the lead prosecutor, I was responsible for reviewing the horrific evidence related to these reprehensible offenses, and so know first-hand of the damage and danger such criminal activity brings to our community.

I have never espoused the views expressed in that letter and cannot envision ever doing so as an advocate. Moreover, the decision to enact laws and determine the range for punishment is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from opining on such matters. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law.

- **Supporting legislation what would "decriminalize possession of items that can be used to inject, ingest, inhale or otherwise consume a scheduled drug" so that "intravenous drug users would be able to purchase as many clean needles as they need and carry them without fear of reprisals from law enforcement."[6]**

Response: I played no role whatsoever in advocating for the position taken in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL). I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way.

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[5] SJQ at 448; LD 115, 131st Sess. (Me. 2023), https://legislature.maine.gov/bills/getPDF.asp?paper=SP0054&item=1&snum=131.

[6] SJQ Attach. at 461; *see also* LD 944, 130th Sess. (Me. 2021), https://legislature.maine.gov/legis/bills/getPDF.asp?paper=HP0732&item=1&snum=130.

I have never espoused the views expressed in that letter and cannot envision ever doing so as an advocate. Moreover, the decision to enact laws and determine the range for punishment is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from opining on such matters. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law.

- **Opposing a bill that would increase the penalty for aggravated sex trafficking of children under 14 years old.[7]**

  Response: I played no role whatsoever in advocating for the position taken in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL). I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way.

  When I was a federal prosecutor, I was the Project Safe Childhood Coordinator for the District of Maine. As such, I was the lead federal prosecutor for the prosecutions of crimes against children, particularly the sexual exploitation of children. In this role, I worked closely with victims, their families and law enforcement in order to prosecute these heinous crimes. As the lead prosecutor, I was responsible for reviewing the horrific evidence related to these reprehensible offenses, and so know first-hand of the damage and danger such criminal activity brings to our community.

  I have never espoused the views expressed in that letter and cannot envision ever doing so as an advocate. Moreover, the decision to enact laws and determine the range for punishment is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from opining on such matters. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law.

- **Opposing a bill that would make destruction of public property, art, or business infrastructure; theft in connection with destruction of business infrastructure; using fire, bricks, rocks to threaten or cause injury or death; arson during a protest, demonstration, or assembly; or assaulting a law enforcement officer during a protest, demonstration, or assembly a felony.[8]**

  Response: I played no role whatsoever in advocating for the position taken in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL). I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way.

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[7] SJQ Attach. at 465; LD 813, 130th Sess. (Me. 2021), https://legislature.maine.gov/bills/getPDF.asp?paper=SP0162&item=1&snum=130.

[8] SJQ Attach. at 470; LD 1016, 130th Sess. (Me. 2021), https://legislature.maine.gov/legis/bills/getPDF.asp?paper=HP0754&item=1&snum=130.

I have never espoused the views expressed in that letter and cannot envision ever doing so as an advocate. Moreover, the decision to enact laws and determine the range for punishment is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from opining on such matters. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law.

- **Supporting bail reform legislation that creates a "rebuttable presumption that, except for formerly capital offenses, a defendant must be released on personal recognizance with no conditions," "[i]ncreases the burden of proof for justifying not releasing a defendant on personal recognizance or upon execution of an unsecured appearance bond," "[r]emoves from the list of authorized bail conditions the condition of refraining from the possession, use or excessive use of alcohol or use of illegal drugs," "[r]emoves from bail conditions requirements that the defendant refrain from criminal conduct."[9]**

  Response: I played no role whatsoever in advocating for the position taken in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL). I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way.

  When I was a federal prosecutor, I was the Project Safe Childhood Coordinator for the District of Maine. As such, I was the lead federal prosecutor for the prosecutions of crimes against children, particularly the sexual exploitation of children. In this role, I worked closely with victims, their families and law enforcement in order to prosecute these heinous crimes. As the lead prosecutor, I was responsible for reviewing the horrific evidence related to these reprehensible offenses, and so know first-hand of the damage and danger such criminal activity brings to our community.

  I have never espoused the views expressed in that letter and cannot envision ever doing so as an advocate. Moreover, the decision to enact laws and determine the range for punishment is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from opining on such matters. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law.

- **Advocating against removing statutes of limitations for prosecution of sex offenses.[10]**

  Response: I played no role whatsoever in advocating for the position taken in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL).

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[9] LDD 1421, 129th Sess. (Me. 2019), https://legislature.maine.gov/legis/bills/getPDF.asp?paper=HP1034&item=1&snum=129; *see also* SJQ Attach. at 495.

[10] SJQ Attach. at 510-11; LD 332, 129th Sess. (Me. 2019), https://legislature.maine.gov/legis/bills/getPDF.asp?paper=HP0257&item=1&snum=129.

I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way.

When I was a federal prosecutor, I was the Project Safe Childhood Coordinator for the District of Maine. As such, I was the lead federal prosecutor for the prosecutions of crimes against children, particularly the sexual exploitation of children. In this role, I worked closely with victims, their families and law enforcement in order to prosecute these heinous crimes. As the lead prosecutor, I was responsible for reviewing the horrific evidence related to these reprehensible offenses, and so know first-hand of the damage and danger such criminal activity brings to our community.

I have never espoused the views expressed in that letter and cannot envision ever doing so as an advocate. Moreover, the decision to enact laws and determine the range for punishment is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from opining on such matters. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law.

- **Opposing legislation that would prohibit a convicted sex offenders whose victim was less than 14 years old from intentionally or knowingly living in multi-unit housing where a minor also lives.[11]**
  - **The MACDL opposed this legislation because "95% of persons convicted of sexual offenses have no higher degrees of recidivism than those or car burglars, shoplifters, or unlawful gamblers" and that sex offenders "would be subject to 'a modern-day version of banishment.'"[12]**

    Response: I played no role whatsoever in advocating for the position taken in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL). I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way.

    When I was a federal prosecutor, I was the Project Safe Childhood Coordinator for the District of Maine. As such, I was the lead federal prosecutor for the prosecutions of crimes against children, particularly the sexual exploitation of children. In this role, I worked closely with victims, their families and law enforcement in order to prosecute these heinous crimes. As the lead prosecutor, I was responsible for reviewing the horrific evidence related to these reprehensible offenses, and so know first-hand of the damage and danger such criminal activity brings to our community.

    I have never espoused the views expressed in that letter and cannot envision ever doing so as an advocate. Moreover, the decision to enact laws and

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[11] LD 263. 129th Sess. (Me. 2019), https://legislature.maine.gov/legis/bills/getPDF.asp?paper=SP0075&item=1&snum=129.

[12] SJQ Attach. at 517.

determine the range for punishment is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from opining on such matters. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law.

- **Opposing legislation that would make aggravated assault against law enforcement or corrections officers a felony.[13]**

  Response: I played no role whatsoever in advocating for the position taken in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL). I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way.

  When I was a federal prosecutor, I was the Project Safe Childhood Coordinator for the District of Maine. As such, I was the lead federal prosecutor for the prosecutions of crimes against children, particularly the sexual exploitation of children. In this role, I worked closely with victims, their families and law enforcement in order to prosecute these heinous crimes. As the lead prosecutor, I was responsible for reviewing the horrific evidence related to these reprehensible offenses, and so know first-hand of the damage and danger such criminal activity brings to our community.

  I have never espoused the views expressed in that letter and cannot envision ever doing so as an advocate. Moreover, the decision to enact laws and determine the range for punishment is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from opining on such matters. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law.

- **Opposing a law that would explicitly criminalize female genital mutilation as a felony offense.[14]**

  Response: I played no role whatsoever in advocating for the position taken in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL). I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way.

  When I was a federal prosecutor, I was the Project Safe Childhood Coordinator for the District of Maine. As such, I was the lead federal prosecutor for the prosecutions of crimes against children, particularly the sexual exploitation of children. In this role, I worked closely with victims, their families and law enforcement in order to prosecute these heinous crimes. As the lead prosecutor, I was responsible for

[13] SJQ Attach. at 530; LD 262, 129th Sess. (Me. 2019), https://legislature.maine.gov/legis/bills/getPDF.asp?paper=SP0074&item=1&snum=129.
[14] SJQ Attach. at 535-38; *see also* LD 1822, 128th Sess. (Me. 2018), https://legislature.maine.gov/legis/bills/getPDF.asp?paper=HP1264&item=1&snum=128.

reviewing the horrific evidence related to these reprehensible offenses, and so know first-hand of the damage and danger such criminal activity brings to our community.

I have never espoused the views expressed in that letter and cannot envision ever doing so in my capacity as an advocate. Moreover, the decision to enact laws and determine the range for punishment is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from opining on such matters. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law.

- **Opposing a bill that would increase the penalty for "visual sexual aggression against a child" (i.e. exposing genitals to a minor, causing a minor to expose genitals, or surveilling a child less than 14 years old for erotic purposes) from a misdemeanor to a felony.**[15]

  Response: I played no role whatsoever in advocating for the position taken in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL). I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way.

  When I was a federal prosecutor, I was the Project Safe Childhood Coordinator for the District of Maine. As such, I was the lead federal prosecutor for the prosecutions of crimes against children, particularly the sexual exploitation of children. In this role, I worked closely with victims, their families and law enforcement in order to prosecute these heinous crimes. As the lead prosecutor, I was responsible for reviewing the horrific evidence related to these reprehensible offenses, and so know first-hand of the damage and danger such criminal activity brings to our community.

  I have never espoused the views expressed in that letter and cannot envision ever doing so as an advocate. Moreover, the decision to enact laws and determine the range for punishment is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from opining on such matters. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law.

- **Opposing legislation that would increase the penalty for fentanyl trafficking from a 10 year maximum incarceration to a 30 year maximum incarceration.**[16]

  Response: I played no role whatsoever in advocating for the position taken in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL).

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[15] SJQ Attach. at 539; LD 1728, 128th Sess. (Me. 2017), https://legislature.maine.gov/legis/bills/getPDF.asp?paper=SP0627&item=1&snum=128.
[16] SJQ Attach. at 541; LD 1783, 128th Sess. (Me. 2017), https://legislature.maine.gov/legis/bills/getPDF.asp?paper=HP1228&item=1&snum=128.

I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way.

When I was a federal prosecutor, I worked closely with law enforcement officers on may drug crimes; I saw firsthand the travesty that fentanyl trafficking has on our communities.

I have never espoused the views expressed in that letter and cannot envision ever doing so as an advocate. Moreover, the decision to enact laws and determine the range for punishment is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from opining on such matters. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law.

**36. What role do offenses committed under the age of majority play in sentencing?**

Response: 18 U.S.C. § 3553, requires federal judges to impose sentences that are "sufficient, but not greater than necessary." *Id.* In doing so, a judge must consider the "nature and circumstances of the offense," "the history and characteristics of the defendant," and the need for the sentence to "reflect the seriousness of the offense," "promote respect for the law," "provide just punishment for the offense," "afford adequate deterrence to criminal conduct," "protect the public from further crimes of the defendant," and "provide the defendant with the needed educational or vocational training, medical care, or other correctional treatment in the most effective manner." 18 U.S.C. § 3553(a)(2).

The Federal Sentencing Guidelines establish the guidelines for calculating prior criminal history at § 4A1.2.

If I am confirmed**,** I will faithfully calculate and consider the Federal Sentencing Guidelines as required by law, as well as consider all of the 3553(a) sentencing factors in making a sentencing determination. *Gall v. United States*, 552 U.S. 38, 49 (2007).

**a. Should they play any role at all? Why or why not?**

Response: If I am confirmed**,** I will faithfully calculate and consider the Federal Sentencing Guidelines as required by law, as well as consider all of the 3553(a) sentencing factors in making a sentencing determination. *Gall v. United States*, 552 U.S. 38, 49 (2007).

**b. What authorities would you make this determination should you be confirmed?**

Response: If I am confirmed**,** I will faithfully calculate and consider the Federal Sentencing Guidelines as required by law, as well as consider all of the 3553(a) sentencing factors in making a sentencing determination. *Gall v. United States*, 552 U.S. 38, 49 (2007).

**37. Are you still a Member of the Maine Commission on Governmental Ethics & Elections Practices?**

Response: At the time of this writing, yes.

**a. If so, have you attended any meetings since the White House expressed it would nominate you for this seat?**

Response: No.

**b. If no, why?**

Response: It is the policy of the Maine Commission on Governmental Ethics & Elections Practices for Commissioners to avoid any association with a political party that could suggest an appearance of impropriety. I was concerned that my pending nomination by the President would lead to an appearance of partisanship on the Commission, which the Commission strives to avoid.

**38. When is it appropriate to hear from victims of crime in the course of litigation?**

Response: The Crime Victims' Rights Act is codified at 18 U.S.C. § 3771, which provides that "A crime victim has the following rights: "(1) The right to be reasonably protected from the accused; (2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused; (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding; (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding; (5) The reasonable right to confer with the attorney for the Government in the case; (6) The right to full and timely restitution as provided in law; (7) The right to proceedings free from unreasonable delay; (8) The right to be treated with fairness and with respect for the victim's dignity and privacy; (9) The right to be informed in a timely manner of any plea bargain or deferred prosecution agreement; (10) The right to be informed of the rights under this section and the services described in section 503(c) of the Victims' Rights and Restitution Act of 1990 . . . and provided contact information for the Office of the Victims' Rights Ombudsman of the Department of Justice." 18 U.S.C. § 3771. It is appropriate to hear from victims pursuant to 18 U.S.C. § 3771.

**39. When do victims become overinvolved?**

Response: The Crime Victims' Rights Act, 18 U.S.C. § 3771, establishes the rights of crime victims and when they can be involved in relevant matters.

**a. Under what authorities would you make this determination should you be confirmed?**

Response: If confirmed, I will abide by 18 U.S.C. § 3771 and all relevant Supreme Court and First Circuit precedent.

40. **What concerns cut against having a victim involved in a case or prosecution?**

    Response: If confirmed, I will abide by 18 U.S.C. § 3771 and all relevant Supreme Court and First Circuit precedent.

    a. **Under what authorities would you make this determination should you be confirmed?**

       Response: If confirmed, I will abide by 18 U.S.C. § 3771 and all relevant Supreme Court and First Circuit precedent.

41. **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: No

42. **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

43. **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

1. **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.**

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?**

Response: No

1. **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.**

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?**

   Response: No

   1. **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.**

44. **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

45. **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

46. **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

**47. 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

**c. 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

**48. 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."**
**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

**a. 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

**b. 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

49. **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 November 22, 2023, I submitted an application to the judicial screening committee for Representative Chellie Pingree, Representative Jared Golden, and Senator Angus King. Thereafter, the due date for applications was extended and I resubmitted my application on December 15, 2023. On January 4, 2024, I interviewed with the screening committee. On January 15, 2024, I interviewed with attorneys from the White House Counsel's Office, and spoke with Senator King by telephone on January 19, 2024. Attorneys from the White House Counsel's Office informed me on March 14, 2024, that I would be moving forward with the selection process. Since then, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On April 24, 2024, the President announced his intent to nominate me.

50. **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

51. **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

52. **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

53. **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

54. **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

55. **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

56. **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

57. **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: Office of Legal Policy officials gave me general guidance on listing cases that reflect the breadth of my experience. I chose the particular cases to include on my questionnaire.

    a. **If yes,**
        1. **Who?**
        2. **What advice did they give?**
        3. **Did they suggest that you omit or include any particular case or type of case in your questionnaire?**

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

    Response: On January 15, 2024, I interviewed with attorneys from the White House Counsel's Office. Attorneys from the White House Counsel's Office informed me on March 14, 2024, that I would be moving forward with the selection process. Since then, I have been in contact with officials from the Office of Legal Policy at the Department of

Justice. On April 24, 2024, the President announced his intent to nominate me.

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

Response: On May 29, 2024, I received the Questions for the Record from the Office of Legal Policy (OLP) at the Department of Justice. I reviewed the questions and prepared my responses after conducting legal research and reviewing my own records. I submitted my draft answers to OLP. I received and considered limited feedback from OLP. I finalized my answers and submitted the answers to OLP for transmission.

**Senator Mike Lee**
**Questions for the Record**
**Stacey D. Neumann, Nominee for District Court Judge for the District of Maine**

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

   Response: If I were so fortunate as to be confirmed, my judicial philosophy will be to listen carefully and respectfully to the parties before me, to consider the facts at issue, to apply the law to the facts evenly and with an open mind, and to issue a clear and concise ruling on the matter at hand.

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

   Response: If confirmed, my first step when deciding a case that turned on the interpretation of a federal statute would be to determine if any binding Supreme Court or First Circuit precedent interpreting the text of the statute. If such precedent existed, I would follow that precedent. Absent any such precedent, I would look at the text of the statute and the plain meaning of the words. *See, Groff v. DeJoy*, 600 U.S. 447, 468 (2023) (internal citations and quotations omitted) ("After all, as we have stressed over and over again in recent years, statutory interpretation must begin with and ultimately heed, what a statute actually says"). "[I]f the statutory language is unambiguous and 'the statutory scheme is coherent and consistent, then [the] inquiry must cease." *Penobscot Nation v. Frey*, 3 F.4th 484, 490 (1st Cir. 2021) (internal citations omitted). If the text of a statute is ambiguous, I would consult other canons of construction and nonbinding authority from other circuits.

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

   Response: If confirmed, my first step when deciding a case that turned on the interpretation of a constitutional provision would be to determine if any binding Supreme Court or First Circuit precedent interpreted the provision at issue. If such precedent existed, I would follow that precedent. Absent any such precedent, I would review the text of the provision. If the "text alone did not resolve the matter," *Crawford v. Washington*, 541 U.S. 36, 42–43 (2004), I would look to the precedent of the Supreme Court and the First Circuit regarding the proper methodology to apply to properly interpret the provision. *See, e.g., N.Y. State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1 (2022); *Crawford v. Washington*, 541 U.S. 36, 42–43 (2004) ("The Constitution's text does not alone resolve this case . . . We must therefore turn to the historical background of the Clause to understand its meaning.").

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 certain constitutional provisions should be interpreted according to how they would have been understood at the time of

ratification or enactment. See *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 20 (2022) ("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"); *Crawford v. Washington*, 541 U.S. 36 (2004) ("The Constitution's text does not alone resolve this case . . . We must therefore turn to the historical background of the Clause to understand its meaning.").

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: See 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 Constitution and federal statutes are generally interpreted according to how they would have been understood at the time of ratification or enactment. See *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 20 (2022) (constitutional interpretation) (citing *United States v. Jones*, 565 U.S. 400, 404–5 (2012) (holding that installation of a tracking device was "a physical intrusion [that] would have been considered a 'search' within the meaning of the Fourth Amendment when it was adopted")); *Bostock v. Clayton Cnty.*, 590 U.S. 644, 654 (2020) ("A statute [should be read] in accord with the ordinary public meaning of its terms at the time of its enactment."). The meaning of the Constitution does not change. Instead, the Constitution endures and applies to new circumstances that the Framers could not have envisioned: "the Founders created a Constitution . . . 'intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs.'" *Bruen*, 597 U.S. at 31, quoting *McCulloch v. Maryland*, 4 Wheat. 316, 415 (1819).

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

Response. Under Article III of the Constitution, to have standing an individual must show: 1) an "injury in fact"; 2) a "causal connection between the injury and the conduct complained of"; and 3) it must be "likely" that the "injury will be redressed by a favorable decision." *Lujan v. Defenders 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 bestowed Congress with powers "necessary and proper" for it to carry out its enumerated powers. U.S. Const. Art. I, § 8; *see also McCulloch v. Maryland*, 17 U.S. 316 (1819) (holding Congress has implied powers beyond those specifically enumerated). For example, Congress has an implied power to create a national bank, *id.*

**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 held in *Nat'l Fed. Of Ind. Bus. v. Sebelius*, 567 U.S. 519, 570 (2012), that "[t]he question of the constitutionality of action taken by Congress does not depend on recitals of power which it undertakes to exercise." If confirmed, I would apply binding precedent from the Supreme Court and the First Circuit to determine whether Congress has appropriately exercised its enumerated or implied power.

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

Response: The Supreme Court acknowledged in *Dobbs v. Jackson Women's Health Org.*, 142 S. Ct. 2228 (2022), that the Court has held that the Due Process Clause of the Fourteenth Amendment guarantees "some rights that are not mentioned in the Constitution" but that those rights must be "'deeply rooted in this Nation's history and tradition' and 'implicit in the concept of ordered liberty.'" *Id*. at 2242 (quoting *Washington v. Glucksberg*, 521 U.S. 702, 721, (1997) (internal quotation marks omitted)). As listed in *Glucksberg*, examples of such rights include the right to marry, to have children, to direct the education and upbringing of one's children, to marital privacy, to use contraception, and to bodily integrity. *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997).

**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 v. Parrish*, 300 U.S. 379 (1937). As such, *Lochner* is no longer good law or binding precedent. In *Griswold v. Connecticut*, 381 U.S. 479 (1965), the Supreme Court found a right of marital privacy protected by substantive due process. *Griswold* has not been overturned and remains good law. If confirmed, I would follow all binding precedent by the Supreme Court and the First Circuit.

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

Response: According to the Supreme Court, there are three categories of regulation in which Congress can exercise its power 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, . . . i.e., those activities that substantially affect interstate commerce.'" *Taylor v. United States*, 579 U.S. 301, 306 (2016) (internal 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 race, religion, national origin, and alienage qualify as suspect classifications that would trigger strict scrutiny. *See New Orleans v. Dukes,* 427 U.S. 297, 303 (1976); *Graham v. Richardson*, 403 U.S. 365, 371-72 (1971).

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

Response: The principles of the separation of powers and checks and balances of our Constitution are established in Articles I, II, and III of the Constitution, which establish the respective powers of the legislative, executive, and judicial branches. This structure avoids the concentration of power in any one branch. *See Perez v. Mortg. Bankers Ass'n,* 575 U.S. 92, 118 (2015) (J. Thomas, concurring) ("To the Framers, the separation of powers and checks and balances were more than just theories. They were practical and real protections for individual liberty in the new Constitution.").

**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: If confirmed, I consider the text of the Constitution, the authority at issue, and would follow the Supreme Court and First Circuit precedent to determine if one branch had assumed unconstitutional authority. *See, e.g. Youngstown Sheet & Tube v. Sawyer*, 343 U.S. 579 (1952) (holding the President had no power to act except in cases expressly or implicitly authorized by the Constitution or an Act of Congress).

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

Response: A judge should treat every individual with respect and fairness. However, a judge's decisions should be based on an even-handed, impartial application of the law to the relevant facts.

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

Response: Both outcomes are improper.

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 researched these trends and the potential reasons that might account for this change. If confirmed, I would apply the precedent of the Supreme Court and the First Circuit when considering any federal statute before me.

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, especially the courts' power to invalidate legislative and executive actions as being unconstitutional." 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, especially U.S. Supreme Court interpretations, are binding on the coordinate branches of the federal government and the states."

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: "It is emphatically the province and duty of the judicial department to say what the law is. The federal judiciary is supreme in the exposition of the law of the Constitution." *Cooper v. Aaron,* 358 U.S. 1, 4 (1958); *sese also Marbury v. Madison*, 5 U.S. 137 (1803) (establishing power of judicial review). Article VI of the Constitution requires all elected officials to be bound by oath or affirmation to support the Constitution. *See Cooper v. Aaron,* 358 U.S. 1, 18 (1958) ("no state legislature or executive or judicial officer can war against the Constitution without violating his undertaking to support it").

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 statement reflects the limited role of a judge, which is to apply the law to the applicable facts, and render a reasoned, clear decision on the limited matter at issue.

**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: If I were so fortunate to be confirmed as a district court judge, I would be bound to follow the Supreme Court and First Circuit precedent in all matters.

**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 statement or the context in which the statement was made. Black's Law Dictionary (11th ed. 2019) defines "equity" is as "[f]airness; impartiality; evenhanded dealing." If confirmed, I would seek to be fair, impartial, and evenhanded.

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

Response: I have not studied the differences between these two words.

**27. Does the 14th Amendment's equal protection clause guarantee "equity" as defined by the Biden Administration (listed above in question 25)?**

Response: The Equal Protection Clause of the Fourteenth Amendment provides that "[n]o State shall . . .deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV. To my knowledge, no Supreme Court or First Circuit precedent applies the term "equity" as discussed in questions 25 and 27.

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

Response: "Systemic racism" is not a term that I have used personally and I do not have a personal definition of that term.

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

Response: "Critical Race Theory" is not a term that I have used personally and I do not have a personal definition of that term.

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

Response: I have not researched critical race theory or systemic racism and could not compare or contrast the concepts. Please also see my responses to Questions 28 and 29.

**31. You have been a member of the Maine Association of Criminal Defense Lawyers ("MACDL") since 2014, including service on the MACDL Board of Directors from 2018 to 2023. MACDL published a series of policy letters during your tenure. While you may not have authored most or any of MACDL's letters during that period of time, your name appears on the letterhead of each letter and you maintained your leadership role with MACDL with the knowledge of these radical positions. Because you did not clarify which positions you agree with in your prior submissions to this Committee, these questions are an opportunity to express your beliefs. Do you agree with MACDL that "entrenched and unjust racism [] pervades our criminal justice system?"**

Response: Although I was a board member of the Maine Association of Criminal Defense Lawyers (MACDL) when this statement was released, I did not draft, review or vote to approve the statement, and I do not agree with this statement, which is not true to my experience working within the criminal justice system either as a former federal prosecutor, or as a defense attorney. The individuals with whom I have worked in the criminal justice system based their decisions on the relevant law and facts.

**32. Do you agree with your statement through MACDL that bail reform should include a "rebuttable presumption that, except for formerly capital offenses, a defendant must be released on personal recognizance with no conditions"? If your answer is yes, would this include accused domestic abusers? Child traffickers?**

Response: I played no role whatsoever in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL). I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way.

When I was a federal prosecutor, I was the Project Safe Childhood Coordinator for the District of Maine. As such, I was the lead federal prosecutor for the prosecutions of crimes against children, particularly the sexual exploitation of children. In this role, I worked closely with victims, their families and law enforcement in order to prosecute these heinous crimes. As the lead prosecutor, I was responsible for reviewing the horrific evidence related to these reprehensible offenses, and so know first-hand of the damage and danger such criminal activity brings to our community.

I have never espoused the views expressed in that letter and cannot envision ever doing so as an advocate. Moreover, the decision to enact laws and determine the range for punishment is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from opining on such matters. Bail is governed in the federal court by 18 U.S.C. § 3142, and relevant First Circuit and Supreme Court caselaw. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law.

**33. That same letter indicated that courts should remove any requirement that a defendant should refrain from criminal conduct while on bail. Do you agree?**

Response: I played no role whatsoever in advocating for the position taken in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL). I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way.

I have never espoused the views expressed in that letter and cannot envision ever doing so as an advocate. All persons should refrain from criminal activity. Moreover, the decision to enact laws and determine the range for punishment is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from opining on such matters. Bail is governed in the federal court by 18 U.S.C. § 3142, and relevant First Circuit and Supreme Court caselaw. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law.

**34. Do you agree with your position through MACDL to oppose a Maine law that would have made "commercial sexual exploitation of a child" and "solicitation of a child for commercial sexual exploitation" felony offenses?**

Response: I played no role whatsoever in advocating for the position taken in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL).

I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way.

When I was a federal prosecutor, I was the Project Safe Childhood Coordinator for the District of Maine. As such, I was the lead federal prosecutor for the prosecutions of crimes against children, particularly the sexual exploitation of children. In this role, I worked closely with victims, their families and law enforcement, and was responsible for reviewing the horrific evidence of the criminal activity, in order to prosecute these heinous crimes.

I have never espoused the views expressed in that letter and cannot envision ever doing so as an advocate. Moreover, the decision to enact laws and determine the range for punishment is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from opining on such matters. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law.

**35. MACDL opposed legislation that would have created a 25-year mandatory minimum sentence for those convicted of gross sexual assault against someone younger than 12-years-old, a mandatory life sentence for repeat offenders, and a 25-year mandatory minimum sentence for those convicted of sex trafficking of victims younger than 12-years-old. Why did you, through MACDL, oppose this legislation?**

Response: I played no role whatsoever in advocating for the position taken in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL). I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way.

When I was a federal prosecutor, I was the Project Safe Childhood Coordinator for the District of Maine. As such, I was the lead federal prosecutor for the prosecutions of crimes against children, particularly the sexual exploitation of children. In this role, I worked closely with victims, their families and law enforcement in order to prosecute these heinous crimes. As the lead prosecutor, I was responsible for reviewing the horrific evidence related to these reprehensible offenses, and so know first-hand of the damage and danger such criminal activity brings to our community.

I have never espoused the views expressed in that letter and cannot envision ever doing so as an advocate. Moreover, the decision to enact laws and determine the range for punishment is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from opining on such matters. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law, including any relevant statutes concerning mandatory minimum sentences.

**36. The MACDL wrote a letter, with your name on the letterhead, opposing a law that would put those convicted of voyeurism of children younger than 16 on the National Sex Offender's Registry. Do you believe that a parent with young children has the right to know if their next door neighbor has been convicted of voyeurism of a child? Why or why not?**

Response: I played no role whatsoever in advocating for the position taken in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL). I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way.

When I was a federal prosecutor, I was the Project Safe Childhood Coordinator for the District of Maine. As such, I was the lead federal prosecutor for the prosecutions of crimes against children, particularly the sexual exploitation of children. In this role, I worked closely with victims, their families and law enforcement in order to prosecute these heinous crimes. As the lead prosecutor, I was responsible for reviewing the horrific evidence related to these reprehensible offenses, and so know first-hand of the damage and danger such criminal activity brings to our community.

I have never espoused the views expressed in that letter and cannot envision ever doing so as an advocate. Moreover, the decision to enact laws and determine the range for punishment is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from opining on such matters. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law.

**37. You, through MACDL, opposed increasing the penalty for "visual sexual aggression against a child," otherwise known as flashing ones genitals to a child, from a misdemeanor to a felony. Do you still agree with this position?**

Response: I played no role whatsoever in advocating for the position taken in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL). I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way.

When I was a federal prosecutor, I was the Project Safe Childhood Coordinator for the District of Maine. As such, I was the lead federal prosecutor for the prosecutions of crimes against children, particularly the sexual exploitation of children. In this role, I worked closely with victims, their families and law enforcement in order to prosecute these heinous crimes. As the lead prosecutor, I was responsible for reviewing the horrific evidence related to these reprehensible offenses, and so know first-hand of the damage and danger such criminal activity brings to our community.

I have never espoused the views expressed in that letter and cannot envision ever doing so as an advocate. Moreover, the decision to enact laws and determine the range for punishment is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges

precludes me from opining on such matters. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law.

**38. You, through MACDL, opposed legislation that would have made it a felony to assault a law enforcement officer during a protest, demonstration, or assembly. Do violent individuals deserve more latitude to assault police officers because they are participating in a protest?**

Response: I played no role whatsoever in advocating for the position taken in any of the letters drafted by the Maine Association of Criminal Defense Lawyers (MACDL). I did not draft, review, consider, vote to approve, discuss these letters or these issues, or advocate for them, in any way.

When I was a federal prosecutor, I worked closely with local, state and federal law enforcement officers throughout Maine, and have the utmost respect for them, their service, and their dedication to public safety and the community.

I have never espoused the views expressed in that letter and cannot envision ever doing so as an advocate. Moreover, the decision to enact laws and determine the range for punishment is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from opining on such matters. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law.

**39. Should statutes of limitations exist for the prosecution of sex offenses? Why or why not?**

Response: The decision to enact states of limitations is a policy determination properly left to the legislature. As a judicial nominee, Canon 3(A)(6) of Code of Conduct for United States Judges precludes me from opining on such matters. If I am so fortunate as to be confirmed, I would faithfully apply all relevant law.

**40. MACDL's public Facebook page made noteworthy statements during the period of your membership and leadership, including a call for its members to "keep up" the "radical spirit," and to "combine legal work with political advocacy." Do you intend to combine political advocacy with legal work as a federal judge? If you disagree with MACDL's extreme and inflammatory positions, why did you maintain a leadership position in the organization?**

Response: I am not familiar with MACDL's Facebook page or the statements contained thereon, and certainly had no role in drafting, reviewing, discussing or approving any statements posted on such a page, or any similar page. Advocacy of any kind has no role whatsoever within the judiciary. If I were so fortunate as to be confirmed, my judicial philosophy will be to listen carefully and respectfully to the parties before me, to consider the facts at issue, to apply the law to the facts evenly and with an open mind, and to issue a clear and concise ruling on the matter at hand.

**Senator John Kennedy**
**Questions for the Record**

**Stacey Neumann**

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 sets forth the circumstances in which a criminal defendant may be sentenced to death. In *Gregg v. Georgia,* 428 U.S. 153 (1976), the United States Supreme Court held that the death penalty was constitutional under the Eighth Amendment.

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: If I were so fortunate as to be confirmed, my judicial philosophy will be to listen carefully and respectfully to the parties before me, to consider the facts at issue, to apply the law to the facts evenly and with an open mind, and to issue a clear and concise ruling on the matter at hand.

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

   Response: Yes. For example, in *Bruen* the Supreme Court applied methods of originalism, holding 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.'"

*N. Y. State Rifle & Pistol Ass'n. v. Bruen*, 597 U.S. 1, 19 (2022). If confirmed as a district judge, I would faithfully apply Supreme Court and First Circuit precedent.

**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: Absent any binding precedent, I would review the text of the provision. If the "text alone did not resolve the matter," *Crawford v. Washington*, 541 U.S. 36, 42–43 (2004), I would look to the precedent of the Supreme Court and the First Circuit regarding the proper methodology to apply to properly interpret the provision. *See, e.g., N.Y. State Rifle & Pistol Ass'n, v. Bruen*, 597 U.S. 1 (2022); *Crawford v. Washington*, 541 U.S. 36, 42–43 (2004) ("The Constitution's text does not alone resolve this case . . . We must therefore turn to the historical background of the Clause to understand its meaning.").

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

Response: Yes. For example, in *Smith v. Spizzirri,* 601 U.S.___ (2024), the Supreme Court held that the plain text of Section 3 of the Federal Arbitration Act compels the court to issue a stay when a lawsuit involves an arbitrable dispute and a party has requested a stay pending arbitration, noting that "text, structure, and purpose all point to the same conclusion." *Id.*; *see also Groff v. DeJoy*, 600 U.S. 447, 468 (2023) (internal citations and quotations omitted) ("After all, as we have stressed over and over again in recent years, statutory interpretation must begin with and ultimately heed, what a statute actually says"); *Hartford Underwriters Ins. v. Union Planters Bank, N. A.,* 530 U.S. 1, 6 (2000) (internal quotations omitted) ("It is well established that when the statute's language is plain, the sole function of the courts—at least where the disposition required by the text is not absurd—is to enforce it according to its terms.").

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

Response: "[I]f the statutory language is unambiguous and 'the statutory scheme is coherent and consistent,' then '[o]ur inquiry must cease.'" *Penobscot Nation v. Frey*, 3 F.4th 484, 490 (1st Cir. 2021) (internal citations omitted). "The plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which that language is used, and the broader context of the statute as a whole." *Robinson v. Shell Oil Co.,* 519 U.S. 337, 341 (1997) (internal citations omitted). When the text of a statute is ambiguous, a judge should refer to precedent and interpretations of the statute that are controlling. Absent controlling precedent, a judge should look for interpretations of analogous statutes or precedent in other circuits and all other authorized canons of construction.

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: The Supreme Court has referred to the enduring quality of the Constitution: "the Founders created a Constitution . . . 'intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs.'" *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 31 (2022) (quoting *McCulloch v. Maryland*, 4 Wheat. 316, 415 (1819)). The Court also has acknowledged that "applying constitutional principles to novel modern conditions can be difficult and leave close questions at the margins. But that is . . . an essential component of judicial decisionmaking under our enduring Constitution." *Bruen*, 597 U.S. at 31 (quoting *Heller v. District of Columbia*, 670 F.3d 1244, 1275 (Kavanaugh, J., dissenting)).

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 (2021) a suspect filed a § 1983 action against an officer who had arrested him, asserting claims of excessive force. The Supreme Court reiterated that "[q]ualified immunity attaches when an official's conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Id.* at 5 (internal citations omitted). The Court explained that "[a] right is clearly established when it is 'sufficiently clear that every reasonable official would have understood that what he is doing violates that right' and that the inquiry must consider the specific context of the case, as opposed to a broad general proposition." *Id.* at 5-6 (internal quotations and citations omitted). The Court held that the officer's conduct did not violate a clearly established statutory or constitutional right because the suspect and the Ninth Circuit failed to "identify a case that put Rivas-Villegas on notice that his specific conduct was unlawful." *Id.* at 6.

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: Federal Rule of Civil Procedure 65 governs the procedures for issuing injunctive relief by federal courts. Although the Supreme Court has addressed some nationwide injunctions, it has not considered the constitutionality or other legal basis for such orders. *See, e.g., Trump v. Hawaii,* 585 U.S. 667, 713 (2018) (Thomas, J., concurring) (internal citation omitted); *see also Dep't of Homeland Sec. v. New York*, 140 S. Ct. 599, 600 (2020) (Gorsuch, J., concurring) (referencing nationwide injunctions: "It has become increasingly apparent that this Court must, at some point, confront these important objections to this increasingly widespread practice.")

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 First Circuit?**

    Response: Yes.

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

    Response: According to the First Circuit, "[d]ictum constitutes neither the law of the case nor the stuff of binding precedent, rather, it comprises observations in a judicial opinion or order that are 'not essential' to the determination of the legal questions then before the court." *Arcam Pharm. Corp. v. Faria*, 513 F.3d 1, 3 (1st Cir. 2007) (internal citations and quotations 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.