

**Nomination of Grace Karaffa Obermann to the United States Court of Federal Claims
Questions for the Record
Submitted November 20, 2019**

QUESTIONS FROM SENATOR FEINSTEIN

1. In May 2014, President Obama nominated five individuals to open seats on the Court of Federal Claims—Judge Nancy Firestone, Thomas Halkowski, Patricia McCarthy, Jeri Somers, and Armando Bonilla. All of them received hearings in June and July 2014, and were voice-voted out of Committee between June and August of 2014. Nevertheless, their nominations were blocked by Senator Tom Cotton, who argued that the Court of Federal Claims’ workload did not justify confirming any nominees to those vacancies. Senator Cotton stated, “The reason we should not confirm new judges to the Court of Federal Claims has little to do with these nominees and more to do with the court itself. It doesn’t need new judges. We should keep in mind that the number of active judges authorized for the Court of Federal Claims by statute, 16, isn’t a minimum number, it is a maximum. It is our duty as Senators to determine if the court needs that full contingent and to balance judicial needs in light of our obligation to be good stewards of taxpayer dollars.... [It] makes no sense to spend more taxpayer dollars on judges that the court simply does not need.” (Floor statement, July 14, 2015)

a. What is your understanding of the court’s current caseload and its need for judges?

The decision to fill judicial vacancies is a political issue committed to the President and the Senate. As a judicial nominee and current Administrative Patent Judge, it would be inappropriate to comment about the political issue that is the subject of this question.

b. Do you agree with Senator Cotton that “it makes no sense to spend more taxpayer dollars on judges that the court simply does not need”?

Please see my response to subpart (a).

2. Please respond with your views on the proper application of precedent by judges.

a. When, if ever, is it appropriate for the Court of Federal Claims to depart from Supreme Court or relevant circuit court precedent?

Never.

b. When, in your view, is it appropriate for the Supreme Court to overturn its own precedent?

Only the Supreme Court has the authority to decide when to overturn its precedents and it has said it will only do so under “special justification.” *Gamble v. United*

States, 139 S. Ct. 1960, 1969 (2019). The Supreme Court has identified several factors it considers in evaluating precedent, such as its workability, any reliance interests, the soundness of its reasoning, and whether its statutory or doctrinal underpinnings have eroded over time. See, e.g., *Montejo v. Louisiana*, 556 U.S. 778, 792 (2009).

3. When Chief Justice Roberts was before the Committee for his nomination, Senator Specter referred to the history and precedent of *Roe v. Wade* as “super-stare decisis.” A text book on the law of judicial precedent, co-authored by Justice Neil Gorsuch, refers to *Roe v. Wade* as a “super-precedent” because it has survived more than three dozen attempts to overturn it. (The Law of Judicial Precedent, Thomas West, p. 802 (2016).) The book explains that “superprecedent” is “precedent that defines the law and its requirements so effectively that it prevents divergent holdings in later legal decisions on similar facts or induces disputants to settle their claims without litigation.” (The Law of Judicial Precedent, Thomas West, p. 802 (2016))

- a. **Do you agree that *Roe v. Wade* is “super-stare decisis”? Do you agree it is “superprecedent”?**

All Supreme Court precedent, including *Roe v. Wade*, is binding on lower court judges, including Judges of the Court of Federal Claims. If confirmed, I will follow this case and all other Supreme Court precedent.

- b. **Is it settled law?**

All Supreme Court precedents, including *Roe v. Wade*, are settled law. If confirmed, I will apply it and all Supreme Court precedent,

4. In *Obergefell v. Hodges*, the Supreme Court held that the Constitution guarantees same-sex couples the right to marry. **Is the holding in *Obergefell* settled law?**

Obergefell v. Hodges is binding Supreme Court precedent. All Supreme Court precedents, including this one, are settled law. If confirmed, I will follow *Obergefell* and all other Supreme Court precedent.

5. In Justice Stevens’s dissent in *District of Columbia v. Heller* he wrote: “The Second Amendment was adopted to protect the right of the people of each of the several States to maintain a well-regulated militia. It was a response to concerns raised during the ratification of the Constitution that the power of Congress to disarm the state militias and create a national standing army posed an intolerable threat to the sovereignty of the several States. Neither the text of the Amendment nor the arguments advanced by its proponents evidenced the slightest interest in limiting any legislature’s authority to regulate private civilian uses of firearms.”

- a. **Do you agree with Justice Stevens? Why or why not?**

As a judicial nominee and current Administrative Patent Judge, it would be inappropriate to grade an opinion of the Supreme Court. If confirmed, I will apply *Heller* and all Supreme Court precedent.

b. Did *Heller* leave room for common-sense gun regulation?

In *Heller*, the Supreme Court recognized that the Second Amendment was “not unlimited” and its ruling would not proscribe “longstanding prohibitions on the possession of firearms,” “laws forbidding the carrying of firearms in sensitive places,” and “law imposing conditions and qualifications on the commercial sale of arms.” *District of Columbia v. Heller*, 554 U.S. 570, 626–27 (2008). Questions regarding particular gun regulations may come before the courts. Accordingly, as a judicial nominee and current Administrative Patent Judge, it would be inappropriate for me to comment beyond what the Supreme Court has said.

c. Did *Heller*, in finding an individual right to bear arms, depart from decades of Supreme Court precedent?

Heller is binding Supreme Court precedent. As a judicial nominee and current Administrative Patent Judge, it would be inappropriate for me to grade an opinion of the Supreme Court. If confirmed, I will apply *Heller* and all Supreme Court precedent.

6. In *Citizens United v. FEC*, the Supreme Court held that corporations have free speech rights under the First Amendment and that any attempt to limit corporations’ independent political expenditures is unconstitutional. This decision opened the floodgates to unprecedented sums of dark money in the political process.

a. Do you believe that corporations have First Amendment rights that are equal to individuals’ First Amendment rights?

The Supreme Court recognizes, “First Amendment protection extends to corporations.” *Citizens United v. FEC*, 558 U.S. 310, 342 (2010). If confirmed, I will apply *Citizens United* and all Supreme Court precedent.

b. Do individuals have a First Amendment interest in not having their individual speech drowned out by wealthy corporations?

As a judicial nominee and current Administrative Patent Judge, it would be inappropriate to comment on a matter, such as this one, which may come before the courts. If confirmed, I will faithfully apply all Supreme Court precedent regarding the First Amendment.

c. Do you believe corporations also have a right to freedom of religion under the First Amendment?

The Supreme Court has held that the Religious Freedom Restoration Act applies to for-profit closely held corporations. *Burwell v. Hobby Lobby Stores*, 573 U.S. 682, 719 (2014). The Court did not reach the First Amendment claims in that case. *Id.* at 736. As a judicial nominee and current Administrative Patent Judge, it would be inappropriate for me to comment on a matter, such as this one, which may come before the courts.

7. On February 22, 2018, when speaking to the Conservative Political Action Conference (CPAC), former White House Counsel Don McGahn told the audience about the Administration's interview process for judicial nominees. He said: "On the judicial piece ... one of the things we interview on is their views on administrative law. And what you're seeing is the President nominating a number of people who have some experience, if not expertise, in dealing with the government, particularly the regulatory apparatus. This is different than judicial selection in past years..."

a. Did anyone in this Administration, including at the White House or the Department of Justice, ever ask you about your views on any issue related to administrative law, including your "views on administrative law"? If so, by whom, what was asked, and what was your response?

No.

b. Since 2016, has anyone with or affiliated with the Federalist Society, the Heritage Foundation, or any other group, asked you about your views on any issue related to administrative law, including your "views on administrative law"? If so, by whom, what was asked, and what was your response?

As an Administrative Patent Judge, my daily activities since February of 2012 have centered on resolving issues of administrative law. I preside over administrative trials and appeals in panels of at least three administrative judges, requiring that I discuss issues of administrative law daily with my co-panelists and other colleagues. I have no knowledge of their membership status or affiliation with any organization identified in this question. No one identifying themselves as a member of these organizations has reached out to ask me about my views on administrative law.

c. What are your "views on administrative law"?

Administrative law is a broad subject matter. Administrative law issues are litigated frequently before the Court of Federal Claims. Further, administrative law issues are litigated frequently before the Patent Trial and Appeal Board. As a nominee to the Court of Federal Claims and a current Administrative Patent Judge of the Board, it would be inappropriate for me to provide further comment. If confirmed, I will

apply all binding Supreme Court and Federal Circuit precedent regarding this subject matter.

8. Have you had any contact with anyone at the Federalist Society about your possible nomination to any federal court? If so, please identify when, who was involved, and what was discussed.

I have little knowledge of the membership or composition of the Federalist Society, having never been a member or, to the best of my knowledge, never having attended a function sponsored by that organization. I have had numerous discussions about my nomination with friends, colleagues, and acquaintances who may be members of that organization.

9. Do you believe that human activity is contributing to or causing climate change?

I am aware of the debate surrounding the causes and impacts of climate change, which has been the subject of National Environmental Policy Act challenges since at least 1990. As a judicial nominee and current Administrative Patent Judge, it would be inappropriate to comment on a matter, such as this one, which may come before the courts.

10. Does the Equal Protection Clause of the Fourteenth Amendment place any limits on the free exercise of religion?

The Constitution guarantees both the equal protection of the laws and the right to the free exercise of religion. Both of these protections are cherished rights in this country. If confirmed, I will apply the Constitution and all applicable Supreme Court precedent.

11. Would it violate the Equal Protection Clause of the Fourteenth Amendment if a county clerk refused to provide a marriage license for an interracial couple if interracial marriage violated the clerk's sincerely held religious beliefs?

Please see my response to Question 10.

12. Could a florist refuse to provide services for an interracial wedding if interracial marriage violated the florist's sincerely held religious beliefs?

Please see my response to Question 10.

13. When is it appropriate for judges to consider legislative history in construing a statute?

The Supreme Court has stated, if the language of a statute is clear and unambiguous, it must be applied according to its terms, without reference to legislative history. It is permissible, however, for a judge to consider reliable sources outside the statutory text where such text is ambiguous. *Exxon Mobil Corp. v. Allapattah Services, Inc.*, 545 U.S. 546, 568 (2005).

14. At any point during the process that led to your nomination, did you have any

discussions with anyone — including, but not limited to, individuals at the White House, at the Justice Department, or any outside groups — about loyalty to President Trump? If so, please elaborate.

No.

15. Please describe with particularity the process by which you answered these questions.

After receiving these questions, I drafted answers to each question. In formulating my responses, I researched some matters, including searching Westlaw and consulting the responses of other nominees. I then gave my responses to attorneys at the Department of Justice Office of Legal Policy, who provided some feedback. I incorporated any edits I deemed appropriate. The answers to these questions are my own.

**Questions for the Record for Grace Karaffa Obermann
From Senator Mazie K. Hirono**

1. As part of my responsibility as a member of the Senate Judiciary Committee and to ensure the fitness of nominees, I am asking nominees to answer the following two questions:

a. Since you became a legal adult, have you ever made unwanted requests for sexual favors, or committed any verbal or physical harassment or assault of a sexual nature?

No.

b. Have you ever faced discipline, or entered into a settlement related to this kind of conduct?

No.

2. Your legal career has been highly focused in the area of intellectual property law—mostly patent law. While the Court of Federal Claims is a court of specialized jurisdiction, that jurisdiction goes well beyond intellectual property cases, which make up only one part of the court’s docket. And, even the intellectual property cases require determinations far broader than the patentability determinations you have been making as an Administrative Patent Judge.

What experience can you point to in your background as evidence that you are prepared to handle the full complement of cases a judge on the Court of Federal Claims is expected to handle?

My preparedness to handle “the intellectual property cases” heard by the Court of Federal Claims, identified as requiring “determinations far broader than the patentability determinations you have been making as an Administrative Patent Judge,” is evidenced by the experience I acquired during my twelve year tenure with the Department of Justice. I litigated, as lead counsel for the United States, some of the most complex and high value intellectual property cases to come before the Court of Federal Claims. I progressed from Trial Attorney to Senior Trial Counsel to Assistant Director within the Commercial Litigation Branch of the Civil Division. The Commercial Litigation Branch handles a wide complement of the cases heard by the Court of Federal Claims. As an Assistant Director, I gained a deep working knowledge and understanding of the diverse jurisdiction of that court.

My experience demonstrates my preparedness “to handle the full complement of cases” heard by the Court of Federal Claims. I acquired extensive hands-on experience litigating cases before the Court of Federal Claims that implicated, not only complex issues of intellectual property law, but also significant issues of government contract law and Fifth Amendment Takings jurisprudence. *See, e.g., Dow Chemical Co. v. United States*, 226 F.3d 1334 (Fed. Cir. 2000), 57 Fed. Cl. 403 (2003) (successfully defending the United States against a claim that turned on contract law principles surrounding a purported rescission of a patent license agreement); *RT Computer Graphics, Inc. v. United States*, 44 Fed. Cl. 747

(Fed. Cl. 1999) (successfully defending the United States against a claim that a contractual requirement was a condition precedent to plaintiff's consent to the government's use of a copyrighted work); *Marcel H. Blais, et al., v. United States*, 31 Fed. Cl. 422 (1994) (successfully defending the United States, based on a theory of implied license, where a plaintiff asserted that the United States was contractually liable for outstanding moneys due from a bankrupt government contractor); *John C. Boyle (prose) v. United States*, 200 F.3d 1369 (Fed. Cir. 2000) (successfully defending the United States against a claim that involved a significant legal issue of first impression, involving the intersection of copyright, trademark, and Fifth Amendment takings law).

My nearly eight year tenure as an Administrative Patent Judge further demonstrates my preparedness to serve as a Judge of the Court of Federal Claims. I have already transitioned from advocate to adjudicator. I have presided as a panel member over more than 300 trial proceedings and 400 administrative appeals. I sit as judge and factfinder as an Administrative Patent Judge. If confirmed, I similarly will sit as both judge and factfinder on the Court of Federal Claims, given the absence of jury trials in that forum. As an Administrative Patent Judge, I conduct trials subject to strict statutory deadlines. Final decisions are due within one year of trial institution. I have gained exceptional experience deciding trial cases impartially, fairly, and speedily in my current role.

Further, like final judgments of the Court of Federal Claims, the final decisions that I prepare as an Administrative Patent Judge are directly appealable to the Court of Appeals for the Federal Circuit. I clerked for the Honorable Raymond C. Clevenger, III, of the Court of Appeals for the Federal Circuit. During my tenure with Judge Clevenger, I assisted in the disposition of over 100 appeals, including many appeals from the Court of Federal Claims, spanning the breadth of that tribunal's specialized jurisdiction.

3. Prior nominees before the Committee have spoken about the importance of training to help judges identify their implicit biases.

a. Do you agree that training on implicit bias is important for judges to have?

Yes.

b. Have you ever taken such training?

Yes.

c. If confirmed, do you commit to taking training on implicit bias?

If confirmed, I intend to explore all training opportunities available to Judges of the Court of Federal Claims, including training relating to the important issue of implicit bias.

**Nomination of Grace Karaffa Obermann
United States Court of Federal Claims
Questions for the Record
Submitted November 20, 2019**

QUESTIONS FROM SENATOR BOOKER

1. Do you consider yourself an originalist? If so, what do you understand originalism to mean?

Yes. Where the objective meaning of legal text is ambiguous, and no relevant precedent resolves the meaning, it may be appropriate to consider the original public meaning.

2. Do you consider yourself a textualist? If so, what do you understand textualism to mean?

Yes. When interpreting a legal provision, the primary focus is the objective and contextual meaning of the words as they appear in the provision under consideration.

3. Legislative history refers to the record Congress produces during the process of passing a bill into law, such as detailed reports by congressional committees about a pending bill or statements by key congressional leaders while a law was being drafted. The basic idea is that by consulting these documents, a judge can get a clearer view about Congress's intent. Most federal judges are willing to consider legislative history in analyzing a statute, and the Supreme Court continues to cite legislative history.

- a. If you are confirmed to serve on the federal bench, would you be willing to consult and cite legislative history?

The Supreme Court has stated, if the language of a statute is clear and unambiguous, it must be applied according to its terms, without reference to legislative history. It is permissible, however, for a judge to consider reliable sources outside the statutory text where such text is ambiguous. *Exxon Mobil Corp. v. Allapattah Services, Inc.*, 545 U.S. 546, 568 (2005).

- b. If you are confirmed to serve on the federal bench, your opinions would be subject to review by the Supreme Court. Most Supreme Court Justices are willing to consider legislative history. Isn't it reasonable for you, as a lower-court judge, to evaluate any relevant arguments about legislative history in a case that comes before you?

Please see my answer to subpart (a).

4. Since the Supreme Court's *Shelby County* decision in 2013, states across the country have adopted restrictive voting laws that make it harder for people to vote. From stringent voter ID laws to voter roll purges to the elimination of early voting, these laws disproportionately disenfranchise people in poor and minority communities. These laws are often passed under the guise of addressing purported widespread voter fraud. Study after study has demonstrated, however, that widespread voter fraud is a myth.¹ In fact, in-person voter fraud is so exceptionally rare that an American is more likely to be struck by lightning than to impersonate someone at the polls.²

- a. Do you believe that in-person voter fraud is a widespread problem in American elections?

I abhor discrimination against poor and minority communities in all forms. As a judicial nominee and current Administrative Patent Judge, however, it would be inappropriate for me to comment about the political issue that is the subject of this question.

- b. In your assessment, do restrictive voter ID laws suppress the vote in poor and minority communities?

Please see my answer to subpart (a).

- c. Do you agree with the statement that voter ID laws are the twenty-first-century equivalent of poll taxes?

Please see my answer to subpart (a).

¹ *Debunking the Voter Fraud Myth*, BRENNAN CTR. FOR JUSTICE (Jan. 31, 2017), <https://www.brennancenter.org/analysis/debunking-voter-fraud-myth>.

² *Id.*

5. According to a Brookings Institution study, African Americans and whites use drugs at similar rates, yet blacks are 3.6 times more likely to be arrested for selling drugs and 2.5 times more likely to be arrested for possessing drugs than their white peers.³ Notably, the same study found that whites are actually *more likely* than blacks to sell drugs.⁴ These shocking statistics are reflected in our nation's prisons and jails. Blacks are five times more likely than whites to be incarcerated in state prisons.⁵ In my home state of New Jersey, the disparity between blacks and whites in the state prison systems is greater than 10 to 1.⁶

- a. Do you believe there is implicit racial bias in our criminal justice system?

My decades-long legal career has focused on civil litigation, therefore, I have not studied this issue, which pertains to our criminal justice system, sufficiently to provide an informed belief. To the extent that implicit racial bias in our criminal justice system results in higher rates of arrest or incarceration of members of one race compared to another, I find that horrific. As a judicial nominee and current Administrative Patent Judge, however, it would be inappropriate to comment further about a matter, such as this one, which may come before the courts.

- b. Do you believe people of color are disproportionately represented in our nation's jails and prisons?

Please see my answer to subpart (a).

- c. Prior to your nomination, have you ever studied the issue of implicit racial bias in our criminal justice system? Please list what books, articles, or reports you have reviewed on this topic.

My decades-long legal practice has focused on civil litigation, therefore, I have not studied the issue of implicit racial bias in our criminal justice system.

- d. According to a report by the United States Sentencing Commission, black men who commit the same crimes as white men receive federal prison sentences that are an average of 19.1 percent longer.⁷ Why do you think that is the case?

Please see my answer to subpart (a).

- e. According to an academic study, black men are 75 percent more likely than similarly situated white men to be charged with federal offenses that carry harsh mandatory minimum sentences.⁸ Why do you think that is the case?

Please see my answer to subpart (a).

- f. What role do you think federal judges, who review difficult, complex criminal cases, can play in addressing implicit racial bias in our criminal justice system?

Given that my decades-long legal practice has focused on civil litigation, I have not

studied this issue sufficiently to provide an informed belief specific to the criminal justice system. I believe that awareness through education is crucial to recognizing and addressing implicit racial bias in general.

6. According to a Pew Charitable Trusts fact sheet, in the 10 states with the largest declines in their incarceration rates, crime fell by an average of 14.4 percent.⁹ In the 10 states that saw the largest increase in their incarceration rates, crime decreased by an average of 8.1 percent.¹⁰

³ Jonathan Rothwell, *How the War on Drugs Damages Black Social Mobility*, BROOKINGS INST. (Sept. 30, 2014), <https://www.brookings.edu/blog/social-mobility-memos/2014/09/30/how-the-war-on-drugs-damages-black-social-mobility>. ⁴ *Id.*

⁵ Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons*, SENTENCING PROJECT (June 14, 2016), <http://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons>.

⁶ *Id.*

⁷ U.S. SENTENCING COMM'N, DEMOGRAPHIC DIFFERENCES IN SENTENCING: AN UPDATE TO THE 2012 *BOOKER* REPORT 2 (Nov. 2017), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20171114_Demographics.pdf.

⁸ Sonja B. Starr & M. Marit Rehavi, *Racial Disparity in Federal Criminal Sentences*, 122 J. POL. ECON. 1320, 1323 (2014).

⁹ Fact Sheet, *National Imprisonment and Crime Rates Continue To Fall*, PEW CHARITABLE TRUSTS (Dec. 29, 2016), <http://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2016/12/national-imprisonment-and-crime-rates-continue-to-fall>.

¹⁰ *Id.*

a. Do you believe there is a direct link between increases in a state's incarcerated population and decreased crime rates in that state? If you believe there is a direct link, please explain your views.

Given that my decades-long legal practice has focused on civil litigation, I have not studied this issue sufficiently to provide an informed belief on this issue. As a judicial nominee and current Administrative Patent Judge, moreover, it would be inappropriate to comment about a matter, such as this one, which may come before the courts.

b. Do you believe there is a direct link between decreases in a state's incarcerated population and decreased crime rates in that state? If you do not believe there is a direct link, please explain your views.

Please see my answer to subpart (a).

7. Do you believe it is an important goal for there to be demographic diversity in the judicial branch? If not, please explain your views.

I recognize the value of demographic diversity. Whether judicial vacancies should be filled based on the goal of achieving demographic diversity in the judicial branch, however, is a political decision committed to the President and the Senate. As a judicial nominee and current Administrative Patent Judge, it would be inappropriate for me to comment about the political matter that is the subject of this question.

8. Would you honor the request of a plaintiff, defendant, or witness in a case before you who is transgender to be referred to in accordance with that person's gender identity?

Yes.

9. Do you believe that *Brown v. Board of Education*¹¹ was correctly decided? If you cannot give a direct answer, please explain why and provide at least one supportive citation.

Yes.

10. Do you believe that *Plessy v. Ferguson*¹² was correctly decided? If you cannot give a direct answer, please explain why and provide at least one supportive citation.

No.

11. Has any official from the White House or the Department of Justice, or anyone else involved in your nomination or confirmation process, instructed or suggested that you not opine on whether any past Supreme Court decisions were correctly decided?

Department of Justice officials provided advice, during my preparation for the Senate Judiciary Committee hearing, about the potential effect of responses to such questions. My answers to such questions, however, are entirely my own.

12. As a candidate in 2016, President Trump said that U.S. District Judge Gonzalo Curiel, who was born in Indiana to parents who had immigrated from Mexico, had “an absolute conflict” in presiding over civil fraud lawsuits against Trump University because he was “of Mexican heritage.”¹³ Do you agree with President Trump’s view that a judge’s race or ethnicity can be a basis for recusal or disqualification?

Judges should consider whether recusal or disqualification is appropriate in a particular matter, including through reference to the factors set forth in 28 U.S.C. § 455. If confirmed, I would evaluate recusal and disqualification through consultation to relevant statutes and guidance.

13. President Trump has stated on Twitter: “We cannot allow all of these people to invade our Country. When somebody comes in, we must immediately, with no Judges or Court Cases, bring them back from where they came.”¹⁴ Do you believe that immigrants, regardless of status, are entitled to due process and fair adjudication of their claims?

If confirmed and called upon to address this issue in a case before me, I would follow all applicable precedent, including Supreme Court precedent that “the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

¹¹ 347 U.S. 483 (1954).

¹² 163 U.S. 537 (1896).

¹³ Brent Kendall, *Trump Says Judge’s Mexican Heritage Presents ‘Absolute Conflict,’* WALL ST. J. (June 3, 2016), <https://www.wsj.com/articles/donald-trump-keeps-up-attacks-on-judge-gonzalo-curiel-1464911442>.

¹⁴ Donald J. Trump (@realDonaldTrump), TWITTER (June 24, 2018, 8:02 A.M.), <https://twitter.com/realDonaldTrump/status/1010900865602019329>.

Questions for the Record from Senator Kamala D. Harris
Submitted November 20, 2019
For the Nomination of

Grace Karaffa Obermann, to the U.S. Court of Federal Claims

1. Judges are one of the cornerstones of our justice system. If confirmed, you will be in a position to decide whether individuals receive fairness, justice, and due process.

a. **Does a judge have a role in ensuring that our justice system is a fair and equitable one?**

Yes.

b. **Do you believe there are racial disparities in our criminal justice system? If so, please provide specific examples. If not, please explain why not.**

My decades-long legal career has focused on civil litigation, therefore, I have not studied this issue, which pertains to our criminal justice system, sufficiently to provide an informed belief. To the extent that racial disparities in our criminal justice system result in higher rates of arrest or incarceration of members of one race compared to another, I find that horrific. As a judicial nominee and current Administrative Patent Judge, however, it would be inappropriate to comment further about a matter, such as this one, which may come before the courts.

2. If confirmed as a federal judge, you will be in a position to hire staff and law clerks.

a. **Do you believe it is important to have a diverse staff and law clerks?**

Yes.

b. **Would you commit to executing a plan to ensure that qualified minorities and women are given serious consideration for positions of power and/or supervisory positions?**

If confirmed, I will give serious and fair consideration to all qualified candidates, including minorities and women.