

**Nomination of Wendy Vitter to the
United States District Court for the Eastern District of Louisiana
Questions for the Record
April 18, 2018**

QUESTIONS FROM SENATOR FEINSTEIN

1. The initial Senate Judiciary Questionnaire (“Questionnaire”) you provided the Committee omitted dozens of responsive speeches and public statements. The supplemental response you provided contained several videos and 193 pages of materials. Among those new items was a video of a 2013 panel you moderated, entitled “Abortion Hurts Women’s Health,” at the annual conference of Louisiana Right to Life in New Orleans. One of the panelists, Dr. Angela Lanfranchi, claimed that contraceptive pills cause cancer and various other harmful effects on women.

At your hearing, Senators asked about the actions you urged participants to take directly after Dr. Lanfranchi’s remarks. You testified to Senator Hirono: “[A]t the end, when I was giving action items, what I was trying to encourage the participants who had heard this to do was to speak to their own medical provider, because I thought a doctor, your own doctor would be the best person to provide information to you and provide you their opinion on this.”

Here is the relevant portion of the transcript from the video you provided the Committee:

Dr. Lanfranchi (50:46-52:06): “We have wonderful stuff on our website. No, listen, I’ve been doing this for 15 years, you know, and I’ve been thinking about it for that long. And I have brochures about ‘The Pill Kills,’ I have one that says ‘The Four Ways the Pill Can Kill You,’ it’s a 20-minute YouTube video—if you Google my name and ‘The Pill Kills,’ you’ll get a YouTube video, and it’s also on our website. The thing about contraceptives causing cancer? There’s one that says, ‘If It’s Not OK for Him to Take Steroids, Why Is It OK for Her?’ And all of our brochures have all of the medical references on the back of them. And you can download that information for free in PDF files, or you can order some from us, but you can really get a lot of information from that website. So yes, I’ve done that; the oncologists at the Steeplechase Cancer Center in New Jersey and the oncologist in my building uses our risk-and-prevention booklet, and it’s in there; so if you go to that website, you can get all of that kind of stuff, and it’s already done.”

Ms. Wendy Vitter (52:06-52:31): “And so, the next step: Go to Dr. Angela’s website, Breast Cancer Prevention Institute, download it, and at your next physical, you walk into your pro-life doctor and say, ‘Have you thought about putting these facts or this brochure in your waiting room?’ *[Audience Applause]* Each one of you can be the pro-life advocate to take that next step. That’s what you do with it.”

a. What is a “pro-life doctor”?

By “pro-life doctor,” I meant a medical doctor who shared the audience members’ moral views on and strong concerns with abortion.

b. Is contraception medically equivalent to abortion?

I do not believe I have the scientific or medical background to offer a medical opinion. As a lay person, I see many differences between contraception and abortion. Also, the U.S. Supreme Court clearly treats abortion and contraception differently, and if I am fortunate to be confirmed as a federal judge, I will faithfully apply these precedents of the Supreme Court.

c. Are you aware of studies showing that women who use contraception have a lower risk of death than other women?

I am not aware of the details of any such studies.

d. Are you aware of studies demonstrating abortion is safer than childbirth?

I am not aware of the details of any such studies.

e. Why did you tell the audience to ask their doctors to put either Dr. Lanfranchi’s “facts” or her brochure in their waiting rooms?

I was invited to moderate this panel by Louisiana Right To Life, whose pro-life views I generally share on religious grounds. I did not choose the panelists or have any significant knowledge of the details of their presentations beforehand. My role as moderator was to foster conversation. When I moderated the panel, I did not know Dr. Lanfranchi, and I was not familiar with her views or her brochure. I had not, and I still have not, studied the details of her brochure. I only learned of some of her specific views at my hearing before the U.S. Senate Judiciary Committee, since they were not raised in any way during the panel discussion. For example, the Senate Judiciary Committee hearing was the first time I had heard any argument for a link between birth control pills and rates of assault or murder.

At the panel discussion, I did not state and I did not intend to suggest in my role as moderator that I had the medical background to evaluate, much less validate, in any way any of the assertions Dr. Lanfranchi put forward. Perhaps even more obviously, I did not state and I did not intend to suggest that I had the medical background to evaluate, much less validate, in any way any of the assertions Dr. Lanfranchi did not discuss in any way during the panel discussion. I offered my honest reaction to some of the latter category of claims when I was asked about them at the hearing.

Because the audience included many pro-life advocates who wanted to further

their advocacy, I suggested as an action item that they bring the brochure to their medical doctors for consideration. I think it is significant and appropriate that this action item specifically involved medical doctors who would have much more scientific background on the subject than me. In the same vein, I think it is significant that I specifically asked the other medical doctor on the panel if he had ever heard of some of the assertions actually discussed at the panel event so that he could offer a medical opinion that I did not have the background or expertise to offer.

- f. Given your testimony that “a doctor, your own doctor would be the best person to provide information,” why did you tell the audience to request that doctors put Dr. Lanfranchi’s “facts” or her brochure in waiting rooms where other patients are present?**

Please see my response to Question 1(e) above.

You also testified to Senator Hirono that, with regards to Dr. Lanfranchi’s remarks, “I had never heard those views before” the panel.

- g. If the views were new to you and if “a doctor, your own doctor would be the best person to provide information,” did you consider cautioning members of the audience not to download and request their doctors display Dr. Lanfranchi’s information?**

Please see my response to Question 1(e) above.

- h. Were you concerned at any point that in urging the audience “to take that next step” to request that the brochure or its “facts” be displayed, that your action could lead to patients being given information you had never analyzed? Or that might be harmful to patients’ health?**

Please see my response to Question 1(e) above.

2. At the same 2013 panel you moderated entitled “Abortion Hurts Women’s Health,” you suggested that members of the audience ask their doctors to sign a petition—to be made publicly available—identifying the doctors as “Louisiana Doctor[s] for Life” (54:24- 54:47). You stated, “That’s the kind of list we need to get out to everybody” (54:47- 54:50).

- a. What is a “Louisiana Doctor for Life”? What qualifications would a physician need to attain that title?**

My comments and term regarding “Louisiana Doctors for Life” was a suggested action item for pro-life advocates in the audience, similar to the “Louisiana Lawyers for Life” that I referenced. Please see my response to Question 1(a) for my definition of a pro-life doctor. I did not suggest more specific uses of any such

list. I'm not aware of any such list being created and did not suggest the creation of any other lists.

b. Why is a list of physicians identified as “Louisiana Doctor[s] for Life” a list that “we need to get out to everybody”?

Please see my response to Question 2(a) above.

c. What did you believe “everybody” should do with the list?

Please see my response to Question 2(a) above.

d. Are you aware of any list of “Louisiana Doctor[s] for Life” that was created? If so, please indicate your involvement, if any, with its creation.

Please see my response to Question 2(a) above.

e. Have you ever suggested publishing a list of doctors who provide comprehensive reproductive health services, including contraception? Or abortion?

No.

3. At the same 2013 panel you moderated, entitled “Abortion Hurts Women’s Health,” you said:

“Last year, Texas led the nation in some very pro-life, restrictive laws, led by a very strong governor, and just last week, the one about the admitting privileges was struck down by the Court of Appeals, so [they’re] taking it to the Supreme Court. But they are making great strides in making it very difficult to get abortions in Texas. And we’re gonna be right there, because our lobbying efforts in Louisiana are always right up front; the pro-life forces are there. We’re the ones who have mandated ultrasounds before anybody can have an abortion, which has made a huge difference, when a person sees that life in their body.”
(49:05-49:50)

As you noted, Texas was “making it very difficult to get abortions in Texas,” and in fact, the U.S. Supreme Court recognized that the admitting privileges law you referenced unconstitutionally burdened women’s right to choose and struck down the law in *Whole Woman v. Hellerstedt*. The Court’s opinion notes:

We have found nothing in Texas’ record evidence that...the new law advanced Texas’ legitimate interest in protecting women's health.

We add that, when directly asked at oral argument whether Texas knew of a

single instance in which the new requirement would have helped even one woman obtain better treatment, Texas admitted that there was no evidence in the record of such a case. (136 S. Ct. 2292, 2311–12 (2016).)

- a. At the time of your comments on Texas’ admitting privileges requirement, were you aware of any evidence indicating that the requirement resulted in better outcomes for women’s health? If so, please provide the evidence.**

I have not done research and do not possess expertise or evidence regarding medical outcomes related to admitting privilege requirements or ultrasounds.

If I am fortunate to be confirmed as a district court judge, I will set aside my personal, religious views and apply all applicable law and precedent, including all U.S. Supreme Court precedent.

- b. Believing that Texas’ unconstitutional restrictions on women’s access to health care were “great strides in making it very difficult to get abortions in Texas,” will you commit to recusing yourself from any cases involving restrictions on women’s access to reproductive health care providers? If not, under what circumstances would litigants challenging unconstitutionally burdensome restrictions on women’s access to health care believe you would be an impartial judge?**

If I am fortunate enough to be confirmed as a district court judge, I will faithfully apply the recusal standards set forth in 28 U.S.C. § 455 and Canon 3C of the Code of Conduct for United States Judges. That would certainly involve careful consideration of whether I could avoid any pre-judging of the matter and remain open-minded to the arguments of the litigants, and reasonable public perceptions regarding the same.

- c. How are ultrasounds conducted? What medical purpose do forced ultrasounds provide to women?**

Please see my response to Question 3(a) above.

- d. When you referred to “our lobbying efforts,” to whom were you referring and what was your role in these efforts?**

I believe I was referring to pro-life advocates in the audience. I have not taken any role in these efforts.

- e. What was the “huge difference” to which you were referring?**

I was referencing cases of women who had ultrasounds and thereafter decided against abortions.

4. According to press coverage that you did not initially disclose to the Committee, you spoke at a 2013 rally organized in opposition to the further site of a Planned Parenthood health center in Baton Rouge, Louisiana. You said: “Planned Parenthood says they promote women’s health. It is the saddest of ironies that they kill over 150,000 females a year.” When asked about the statement at your hearing, you acknowledged that you were referring to abortion and you did not disavow the statement.

a. Where did this statistic come from?

I based my statement on credible reports that Planned Parenthood performs over 300,000 abortions per year. If I am fortunate to be confirmed as a district court judge, I will set aside my personal, religious, or other views and apply the law, including all U.S. Supreme Court precedent.

b. As a participant in a protest against Planned Parenthood, and given your comments about one of the many health services the organization provides, will you commit to recusing yourself from any case involving Planned Parenthood? If not, please indicate under what circumstances your impartiality would not be questioned in a case involving Planned Parenthood.

If I am fortunate to be confirmed as a district court judge, I will faithfully apply existing law, including all U.S. Supreme Court precedent, and I will put aside my personal or religious views. I will also faithfully apply the recusal standards set forth in 28 U.S.C. § 455 and Canon 3C of the Code of Conduct for United States Judges. That would certainly involve careful consideration of whether I could avoid any pre-judging of the matter and remain open-minded to the arguments of the litigants, and reasonable public perceptions regarding the same.

5. According to press reports, during a 2009 campaign appearance on behalf of your husband, you said it was “a shame Louisiana will probably lose a seat in Congress because other states are ‘counting illegal immigrants’ in the national census count.” The same article further quotes you saying: “We are throwing out our Constitution, our laws and saying it’s OK.” (*Wendy Vitter Touts Voter Involvement*, OPELOUSAS DAILY WORLD (Nov. 4, 2009).)

a. Given you have opined on this issue previously, is it unconstitutional for the decennial census to count all residents of a state? If so, on what basis have you reached this conclusion?

As a judicial nominee, it would be inappropriate for me to signal how I might rule on a particular legal issue that may come before the court.

b. What is your understanding of how Louisiana conducted the decennial census in 2010? How was Louisiana’s method different from those of other states?

I have not done research and do not possess expertise regarding the 2010 census conducted by the U.S. Census Bureau. I am unaware of the U.S. Census Bureau using a different method in Louisiana than in other states and have no background to opine on this matter.

6. According to 2015 press coverage, during a campaign stop during your husband's gubernatorial race, you expressed opposition to the resettlement of Syrian refugees in Louisiana. Catholic Charities in New Orleans had helped resettle a dozen such refugees; in response you said: "It's President Barack Obama's policy. It is not Catholic Charities policy and I can guarantee it's not Wendy Vitter's policy." (*Wendy Vitter Makes Campaign Stop in Lake Charles*, KPLC 7 (Nov. 19, 2015).)

a. Please explain your reasons for opposing the resettlement of Syrian refugees in Louisiana.

I support important humanitarian work, including humanitarian work to aid refugees. My heart breaks to see any child in crisis, and I work to help children in need on a daily basis. Caring for the vulnerable is a significant value and mission of the Archdiocese of New Orleans and Catholic Charities.

The quote mentioned above came up in the very final stages of a heated and contentious political campaign of my husband. Some of my husband's political opponents were trying to assert that I disagreed with him regarding his stated position on the details of the Obama Administration's Syrian refugee resettlement program because I was General Counsel to the Archdiocese of New Orleans Catholic Church, an arm of which was a service provider to refugees in the program. In response to a reporter's question repeating this attack, I was trying to make the point that the specific policy in question as to how Syrian refugees were vetted and where they were settled was a decision by the President's Administration, not by the Archdiocese of New Orleans as a service provider and certainly not by me individually or as an employee of the Archdiocese.

b. If confirmed, will you recuse yourself from any case concerning the resettlement of any refugees? What about specific cases involving Syrian refugee resettlement?

If I am fortunate enough to be confirmed as a federal judge, I will faithfully apply the recusal standards set forth in 28 U.S.C. § 455 and Canon 3C of the Code of Conduct for United States Judges. That would certainly involve careful consideration of whether I could avoid any pre-judging of the matter and remain open-minded to the arguments of the litigants, and reasonable public perceptions regarding same.

7. How many cases have you have tried in federal district court? Of these, please indicate the number you tried as sole counsel, chief counsel, or associate counsel.

I respectfully refer you to my full response to Senator Durbin's Question 5. I worked on the federal litigation matters I described while at the Abbott & Meeks law firm as an

associate counsel. I do not have any records regarding those cases. The one case described at the outset of my answer went to trial before a jury. To my recollection, all other cases that I worked on during that period remained ongoing when I left the firm or, if they concluded during my tenure at the firm, settled. Virtually all of these cases involved extensive motion practice, discovery, and pre-trial activity, including status conferences in court.

8. You served as an Assistant District Attorney in the Orleans Parish District Attorney's Office under former District Attorney Harry Connick, Sr., including serving two years as the Chief of Trials. Connick was a named party in a 2011 case at the Supreme Court, *Connick v. Thompson*, in which it was alleged that under Connick's leadership, the District Attorney's Office had failed to adequately train its prosecutors to disclose exculpatory evidence to the defense, pursuant to *Brady v. Maryland*. The Court ruled in favor of Connick, holding that a failure-to-train theory of liability could not be predicated on one violation of *Brady*.

Justice Ginsburg's dissent, however, highlighted the pervasiveness of *Brady* violations in the office: "What happened here, the Court's opinion obscures, was no momentary oversight, no single incident of a lone officer's misconduct. Instead, the evidence demonstrated that misperception and disregard of *Brady*'s disclosure requirements were pervasive in Orleans Parish." (*Connick v. Thompson*, 563 U.S. 51, 80 (2011) (Ginsburg, J., dissenting).)

- a. **In your time with the Orleans Parish District Attorney's Office, what steps did the office take to ensure prosecutors were properly trained to comply with *Brady* requirements?**

I understood my ethical obligations and took them extremely seriously. Training included directed supervision by a more senior attorney as well as the chief or deputy chief to the division assigned, ongoing updates from the appeals division of the office of current relevant court decisions, and training within the various divisions of the office as well as training offered by outside entities such as the Louisiana District Attorneys Association.

- b. **What steps did you take, especially during your time as Chief of Trials, to ensure prosecutors under your supervision were properly trained and complied with *Brady* requirements?**

As noted in 8(a) above, I understood my ethical obligations and took them extremely seriously. During the time I was Deputy Chief of Trials and continuing into the time that I was Chief of Trials, we expanded the training that had been in place, including additional oversight and division-wide training sessions. I had zero tolerance for dishonesty and made that point clear to those attorneys who worked under my leadership.

- c. **Were you ever aware of, or did you witness any prosecutorial misconduct, including, but not limited to, the failure to disclose potentially exculpatory**

evidence to a defendant, as required by *Brady*? If so, did you take any steps to report or remedy the misconduct?

I again reference the responses to Questions 8(a) and (b) above. When I was Chief of Trials, I personally terminated the employment of two Assistant District Attorneys for dishonesty, though neither of those instances related to a failure to disclose *Brady* information. I had zero tolerance for dishonesty. If I had been made aware of potentially exculpatory or impeachment evidence which required disclosure under *Brady* or *Giglio*, I instructed the prosecutor to disclose it and/or disclosed it myself.

In this regard, I respectfully refer the Committee to a letter submitted to it by several criminal defense attorneys who practiced against me in many significant cases, which specifically underscores these facts. I also respectfully refer the Committee to an April 9, 2018, Times Picayune news article (available at nola.com) which discusses this matter and notes: "None of the 16 defendants [whose convictions were overturned] were convicted while Vitter was an assistant district attorney."

I am proud of the work I did as an Assistant District Attorney and especially proud of the reputation I established among the defense bar, judges, fellow prosecutors, victims, families, and witnesses as a fair and ethical Assistant District Attorney.

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

a. When, if ever, is it appropriate for lower courts to depart from Supreme Court precedent?

It is never appropriate for a lower court to depart from a U.S. Supreme Court precedent. U.S. Supreme Court decisions are binding on all lower courts. If I am fortunate enough to be confirmed as a district court judge, I will fully and faithfully apply all U.S. Supreme Court and Fifth Circuit Court of Appeals precedent.

b. Do you believe it is proper for a district court judge to question Supreme Court precedent in a concurring opinion? What about a dissent?

Under the doctrine of stare decisis, district courts are bound by U.S. Supreme Court precedent. I do not believe it is ever appropriate for a district court to depart from U.S. Supreme Court precedent. There may be instances in which precedent leads to such an absurd or unjust result in a particular case that there is merit to a district court pointing that out in order to aid review by an appellate court.

c. When, in your view, is it appropriate for a district court to overturn its own precedent?

A district court's own decision is binding as law of the case, but is not binding precedent in other cases. I believe that a judge should be very hesitant to rule contrary to a prior opinion from the same district court and such a prior opinion should be viewed as persuasive authority. It is always appropriate for a district court to overturn its own decision if it is in conflict with a binding Circuit Court of Appeal or U.S. Supreme Court decision.

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

The Supreme Court has set forth factors it will consider when asked to overturn its own precedent. *See, e.g., Planned Parenthood v. Casey*, 505 U.S. 833 (1992).

10. 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 textbook 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 “super-precedent” 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 “super-precedent”?

Adherence to the doctrine of stare decisis is essential for stability and continuity in the law. If I am fortunate to be confirmed as a district court judge, I will fully and faithfully apply all U.S. Supreme Court and U.S. Fifth Circuit precedent, including *Roe v. Wade*.

b. Is it settled law?

Please see my response to Question 10(a) above.

11. On February 22, 2018, while speaking to the Conservative Political Action Conference (CPAC), 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?**

No.

- c. What are your “views on administrative law”?**

While I appreciate the inquiry, I am not certain that I can adequately respond to such a broad question. My general understanding of administrative law is that it is guided by the Administrative Procedure Act as well as other rules and U.S. Supreme Court and U.S. Circuit Court precedent. If I am fortunate enough to be confirmed as a district court judge, I will fully follow all applicable laws and precedent.

12. 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.

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

I received the questions on the evening of April 18, 2018. After reviewing my Senate Judiciary Questionnaire and conducting additional research, I drafted answers to all the questions submitted by the Committee. I then shared my draft responses with attorneys in the Department of Justice’s Office of Legal Policy. After conferring with OLP attorneys, I revised and finalized my answers and authorized OLP to submit them to the Committee on my behalf.

Written Questions for Wendy Vitter
Submitted by Senator Patrick
Leahy April 18, 2018

1. The New Orleans *Times-Picayune* reported in 2004 that the deed to the home you and your husband purchased in 1996 contained a racially restrictive covenant that stipulated the house could only be sold to “people of the white race.” The article notes the provision was removed when you and your husband sold the home four years later.

- a. **When did you first learn that your house contained a racially restrictive covenant? Did you read the deed when you purchased your home in 1996?**

One of the greatest stains on our nation is its history of slavery, racial segregation, and racial discrimination. As the *Times-Picayune* article explains, a legacy of this racism is that, in the early 20th century, some individuals in the New Orleans area placed race-based restrictions in the deeds to their property. Such restrictions are morally abhorrent and rightly null, void, and unenforceable.

As the *Times-Picayune* article explains, because these race-based restrictions have no legal effect, they often go unnoticed by buyers and sellers. As a real estate lawyer quoted in the above article noted, “For the most part, they [modern-day buyers] probably wouldn’t know.”

I first learned that the deed for the property once had a race-based covenant in 2004, when it was the subject of a political attack during one of my husband’s campaigns. This was four years after my husband and I had sold the house.

While my husband and I would have read the mortgage agreement and terms of sale for the property, the race-based language was not included in these documents. I am certain that, if we had been aware of this language, we would have taken steps to remove it as was done when the home was sold.

- b. **Did your lawyer, real estate agent, title company representative, or anyone else involved in the purchase of your house bring the covenant to your attention?**

No, I do not recall anyone bringing the covenant to my attention. Further, I feel confident that if it had been brought to our attention, my husband and I would have immediately taken steps to have that illegal and morally abhorrent language removed.

- c. **What, if anything, did you do once learning of the racially restrictive covenant?**

We first learned that the deed for the property once had a race-based

covenant in 2004, four years after my husband and I had sold the house. Such restrictions are morally abhorrent and rightly null, void, and unenforceable. When my husband and I sold the property in 2000, the title company excluded the covenant.

Please see attached Cash Sale of Property document dated December 4, 2000, which shows the removal of the covenant when we sold the house.

d. Please submit to the Judiciary Committee a copy of the deed from your house purchased in 1996.

Please see the attached Cash Sale document (this is not called a deed in Louisiana).

e. Can you confirm that neither you nor your husband own any houses or property that contain racially restrictive covenants today?

Racially restrictive covenants are morally abhorrent and rightly null, void, and unenforceable. My husband and I have never knowingly purchased property that was encumbered with a race-based covenant.

We recently performed an extensive document search with the local Clerk of Court regarding this issue on all of the real property which we own. We discovered one race-based covenant in a transaction from 1924 relative to property we purchased in 2002. Even though, as explained above, this is rightly null, void, and unenforceable, we immediately hired an attorney to remove any vestige of the abhorrent 1924 covenant.

2. Chief Justice Roberts wrote in *King v. Burwell* that

oftentimes the ‘meaning—or ambiguity—of certain words or phrases may only become evident when placed in context.’ So when deciding whether the language is plain, we must read the words ‘in their context and with a view to their place in the overall statutory scheme.’ Our duty, after all, is ‘to construe statutes, not isolated provisions?’

a. Do you agree with the Chief Justice? Will you adhere to that rule of statutory interpretation – that is, to examine the entire statute rather than immediately reaching for a dictionary?

If I am fortunate to be confirmed as a federal judge, I will work diligently to ensure that I properly interpret statutes. I believe that when interpreting a statute, a district court judge should begin with the words of the statute, including all relevant portions of the statute, and any applicable precedent from the U.S. Supreme Court and U.S. Court of Appeals, and a judge should carefully consider the arguments made by all sides.

3. President Trump has issued several attacks on the independent judiciary. Justice Gorsuch called them “disheartening” and “demoralizing.”

a. Does that kind of rhetoric from a President – that a judge who rules against him is a “so-called judge” – erode respect for the rule of law?

I believe respect for the rule of law is crucial to America’s constitutional system of government, and if I am fortunate enough to be confirmed as a federal judge, I will work to promote respect for the judiciary by treating all individuals who come before the court equally, with respect, just as I have done as an Assistant District Attorney, associate in a law firm, and now as General Counsel for the Archdiocese of New Orleans.

I believe that our system of government works best when each branch of government shows respect for the other branches. If I am fortunate enough to be confirmed as a federal judge, I will work to show respect for the other branches of our federal government, and I hope that they would likewise show respect for the judiciary.

b. While anyone can criticize the merits of a court’s decision, do you believe that it is ever appropriate to criticize the legitimacy of a judge or court?

Please see my response to Question 3(a) above.

4. President Trump praised one of his advisers after that adviser stated during a television interview that “the powers of the president to protect our country are very substantial *and will not be questioned.*” (Emphasis added.)

a. Is there any constitutional provision or Supreme Court precedent precluding judicial review of national security decisions?

The Supreme Court has throughout history reviewed matters with national security implications, *see e.g., Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952); *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006), even in cases where the executive branch and/or Congress has argued the Court lacked jurisdiction. At the same time, the Supreme Court has, through doctrines such as the state secrets privilege, acknowledged some limits on judicial review of national security decisions. If I am fortunate enough to be confirmed as a federal judge, I will apply all of these precedents faithfully and diligently exercise my duty to provide a check on executive branch overreach and abuse.

5. **Does the First Amendment allow the use of a religious litmus test for entry into the United States? How did the drafters of the First Amendment view religious litmus tests?**

I have not had occasion to study these issues. Moreover, as a nominee for a federal district court judgeship, it would be inappropriate for me to signal how I might rule on a particular legal issue that may come before the court.

6. Many are concerned that the White House’s denouncement last year of “judicial supremacy” was an attempt to signal that the President can ignore judicial orders. And after the President’s first attempted Muslim ban, there were reports of Federal officials refusing to comply with court orders.

a.If this President, or any other executive branch official, refuses to comply with a court order, how should the courts respond?

Federal judges have tools at their disposal to compel compliance with court orders, including holding individuals in contempt. If I am fortunate enough to be confirmed as a district court judge, I will use all tools at my disposal to ensure compliance with all orders of my court.

7. In *Hamdan v. Rumsfeld*, the Supreme Court recognized that the President “may not disregard limitations the Congress has, in the proper exercise of its own war powers, placed on his powers.”

a.Do you agree that the Constitution provides Congress with its own war powers and Congress may exercise these powers to restrict the President – even in a time of war?

I have not had occasion to study these issues. Moreover, as a nominee for a federal district court judgeship, it would be inappropriate for me to signal how I might rule on a particular legal issue that may come before the court.

Justice O’Connor famously wrote in her majority opinion in *Hamdi v. Rumsfeld* that: “We have long since made clear that a state of war is not a blank check for the President when it comes to the rights of the Nation’s citizens.”

b. In a time of war, do you believe that the President has a “Commander-in-Chief” override to authorize violations of laws passed by Congress or to immunize violators from prosecution? Is there any circumstance in which the President could ignore a statute passed by Congress and authorize torture or warrantless surveillance?

I have not had occasion to study these issues. Moreover, as a nominee for a federal district court judgeship, it would be inappropriate for me to signal how I might rule on a particular legal issue that may come before the court.

8. In a 2011 interview, Justice Scalia argued that the Equal Protection Clause does not extend to women.

a.Do you agree with that view? Does the Constitution permit discrimination against women?

Numerous U.S. Supreme Court precedents have held that the Fourteenth Amendment’s Equal Protection Clause extends to discrimination based on

sex. *See, e.g., Craig v. Boren*, 429 U.S. 190 (1976); *United States v. Virginia*, 518 U.S. 515 (1996). If I am fortunate enough to be confirmed as a district judge, I will faithfully apply all such precedents.

9. Do you agree with Justice Scalia’s characterization of the Voting Rights Act as a “perpetuation of racial entitlement?”

America’s history of slavery, racial segregation, and racial discrimination represents an abhorrent stain on our history. The Voting Rights Act of 1965 has played a vital role in helping secure the franchise for racial minorities across America, and particularly in the South. If I am fortunate enough to be confirmed as a federal judge I will diligently enforce the Voting Rights Act and the Fifteenth Amendment in cases brought before me as well as all controlling court precedent.

10. What does the Constitution say about what a President must do if he or she wishes to receive a foreign emolument?

Article II, section 1 of the U.S. Constitution states:

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Article I, section 9 of the U.S. Constitution states:

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince or foreign State.

11. In *Shelby County v. Holder*, a narrow majority of the Supreme Court struck down a key provision of the Voting Rights Act. Soon after, several states rushed to exploit that decision by enacting laws making it harder for minorities to vote. The need for this law was revealed through 20 hearings, over 90 witnesses, and more than 15,000 pages of testimony in the House and Senate Judiciary Committees. We found that barriers to voting persist in our country. And yet, a divided Supreme Court disregarded Congress’s findings in reaching its decision. As Justice Ginsburg’s dissent in *Shelby County* noted, the record supporting the 2006 reauthorization was “extraordinary” and the Court erred “egregiously by overriding Congress’ decision.”

a. When is it appropriate for the Supreme Court to substitute its own factual findings for those made by Congress or the lower courts?

The U.S. Supreme Court has explained that generally, an appellate court should affirm a district court’s findings of fact unless they are “clearly erroneous.” *See, e.g., Anderson v. City of Bessemer*, 470 U.S. 564 (1985).

12. How would you describe Congress’s authority to enact laws to counteract racial discrimination under the Thirteenth, Fourteenth, and Fifteenth Amendments, which some scholars have described as our Nation’s “Second Founding”?

The U.S. Constitution explicitly grants Congress the power to enforce the Thirteenth, Fourteenth, and Fifteenth Amendments to the U.S. Constitution.

“Congress shall have power to enforce this article by appropriate legislation.” U.S. Constitution, amend. XIII § 2.

“The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.” U.S. Constitution, amend. XIV § 5.

“The Congress shall have power to enforce this article by appropriate legislation.” U.S. Constitution, amend. XV § 2.

The U.S. Supreme Court has held that the Fourteenth Amendment empowers Congress to ban conduct that does not itself violate the Fourteenth Amendment, such as literacy tests. See *Katzenbach v. Morgan*, 384 U.S. 641 (1966). The Court has also held that any such legislation must be “appropriate.” *City of Boerne v. Flores*, 521 U.S. 507 (1997).

If I am fortunate enough to be confirmed as a federal judge, I will diligently enforce the Thirteenth, Fourteenth, and Fifteenth Amendments, as interpreted by the U.S. Supreme Court and Fifth Circuit Court of Appeals.

13. Justice Kennedy spoke for the Supreme Court in *Lawrence v. Texas* when he wrote: “liberty presumes an autonomy of self that includes freedom of thought, belief, expression, and certain intimate conduct,” and that “in our tradition, the State is not omnipresent in the home.”

a. Do you believe the Constitution protects personal autonomy as a fundamental right?

The U.S. Supreme Court has held that particular activity related to personal autonomy such as sexual relations between two consenting adults is protected. If I am fortunate enough to be confirmed as a district court judge, I will be bound by all such precedent of the U.S. Supreme Court. With regard to aspects of personal autonomy beyond such precedent, as a nominee for a federal district court judgeship, it would be inappropriate for me to signal how I might rule on a particular legal issue that may come before the court.

14. In the confirmation hearing for Justice Gorsuch earlier this year, there was extensive discussion of the extent to which judges and Justices are bound to follow previous court decisions by the doctrine of stare decisis.

a. In your opinion, how strongly should judges bind themselves to the doctrine of stare decisis? Does the commitment to stare decisis vary

depending on the court? Does the commitment vary depending on whether the question is one of statutory or constitutional interpretation?

If I am fortunate enough to be confirmed, I will be bound by precedent from the U.S. Supreme Court and the Fifth Circuit Court of Appeals.

The commitment to following precedent is stronger for federal district courts and federal courts of appeals, which are bound by precedent, than for the U.S. Supreme Court, which may overrule its prior precedents.

For a federal district court or U.S. Court of Appeals, the duty to follow precedent does not vary based on whether the issue is one of statutory interpretation or one of constitutional law.

- 15.** Generally, federal judges have great discretion when possible conflicts of interest are raised to make their own decisions whether or not to sit on a case, so it is important that judicial nominees have a well-thought out view of when recusal is appropriate. Former Chief Justice Rehnquist made clear on many occasions that he understood that the standard for recusal was not subjective, but rather objective. It was whether there might be any appearance of impropriety.

a. How do you interpret the recusal standard for federal judges, and in what types of cases do you plan to recuse yourself? I'm interested in specific examples, not just a statement that you'll follow applicable law.

If I am fortunate enough to be confirmed as a federal judge, I will faithfully apply the recusal standards set forth in 28 U.S.C. § 455 and Canon 3C of the Code of Conduct for United States Judges.

For example, if a case were to arise that involved litigation I personally participated in as a lawyer, I would recuse myself. Also, if a case arose in which my husband or children were parties, I would recuse myself. And I would recuse myself from all other cases where recusal is appropriate under 28 U.S.C. § 455 and Canon 3C of the Code of Conduct for United States Judges.

- 16.** It is important for me to try to determine for any judicial nominee whether he or she has a sufficient understanding the role of the courts and their responsibility to protect the constitutional rights of individuals, especially the less powerful and especially where the political system has not. The Supreme Court defined the special role for the courts in stepping in where the political process fails to police itself in the famous footnote 4 in *United States v. Carolene Products*. In that footnote, the Supreme Court made clear that “legislation which restricts those political processes which can ordinarily be expected to bring about repeal of undesirable legislation, is to be subjected to more exacting judicial scrutiny under the general prohibitions of the Fourteenth Amendment than are most other types of legislation.”

a. Can you discuss the importance of the courts' responsibility under the *Carolene Products* footnote to intervene to ensure that all citizens have fair and effective representation and the consequences that would result if it failed to do so?

As a nominee for a federal district court judgeship, it would be inappropriate for me to signal how I might rule on a particular legal issue that may come before the court.

I can, however, assure you that if I am fortunate enough to be confirmed as a federal judge, every individual will receive fair treatment and equal access to justice in my courtroom. I agree that there are individuals, such as *pro se* litigants, for whom a court has the duty to take extra steps to ensure equal access to justice, and I would be diligent in ensuring such equal access.

- 17.** Congress and the courts must act as a check on abuses of power. In cases like Iran-Contra, warrantless spying on American citizens, or politically motivated hiring and firing at the Justice Department during the Bush administration, Congressional oversight serves as a check on the Executive. It can also serve as a self-check on abuses of Congressional power. When Congress looks into ethical violations or corruption, including inquiring into the Trump administration's conflicts of interest, we make sure that we exercise our own power properly.

a. Do you agree that Congressional oversight is an important means for creating accountability in all branches of government?

The Constitution has vested Congress with considerable powers, and those powers entail appropriate oversight of all three branches of the federal government.

- 18. What is your understanding of the scope of Congressional power under Article I of the Constitution, in particular the Commerce Clause, and under Section 5 of the Fourteenth Amendment?**

The U.S. Constitution grants Congress the power to "regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes." U.S. Constitution, Article I, § 8, cl. 3. The U.S. Constitution explicitly grants Congress the power to enforce the Fourteenth Amendment to the U.S. Constitution, stating: "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article." U.S. Constitution, amend. XIV § 5.

The U.S. Supreme Court has explained that Congress has broad authority under the Commerce Clause, stating:

Cases . . . have identified three general categories of regulation in which Congress is authorized to engage under its commerce power. First, Congress can regulate the channels of interstate commerce. Second, Congress has authority to regulate and protect the instrumentalities of interstate commerce, and persons or things in interstate commerce. Third, Congress has the power to regulate activities that substantially affect interstate commerce.

Gonzales v. Raich, 545 U.S. 1 (2005).

The U.S. Supreme Court has held that the Fourteenth Amendment empowers Congress to ban conduct that does not itself violate the Fourteenth Amendment, such as literacy tests. *See Katzenbach v. Morgan*, 384 U.S. 641 (1966). The Court has also held that any such legislation must be “appropriate.” *City of Boerne v. Flores*, 521 U.S. 507 (1997).

If I am fortunate enough to be confirmed as a district court judge, I will faithfully apply precedent from the U.S. Supreme Court and Fifth Circuit Court of Appeals concerning the Commerce Clause and Fourteenth Amendment.

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10 04 23 02

FILED BY: GULE SOUTH TITLE CORPORATION

2750 LAKE MEADOWS DRIVE, SUITE 202
METAIRIE, LOUISIANA 70002
RE: 1190

CASH SALE OF PROPERTY

BY:

Wendy Baldwin Vitter
David B. Vitter

UNITED STATES OF AMERICA
PARISH OF JEFFERSON
STATE OF LOUISIANA

TO:

Jackson Townsend, II
Nancy Germond Townsend

BE IT KNOWN, That on this 4th day of December,
of the year Two Thousand (2000)

12:56:22 PM JEFF PAR 637006 003
12/06/2000-62302

BEFORE ME, the undersigned Notary Public, duly authorized, in and for the aforesaid Parish (or County) and State, therein residing, and in the presence of the witnesses hereinafter named and undersigned:

PERSONALLY CAME AND APPEARED:

WENDY BALDWIN, WIFE OF/AND DAVID B. VITTER, both of the full age of majority and residents of the Parish of JEFFERSON, State of LOUISIANA, declared unto me, Notary, under oath that they have been married but once and then to each other and are presently living and residing together. MAILING ADDRESS: 202 East Livingston Place, Metairie, Louisiana 70005.

hereinafter referred to as "Vendor" who declared that he does by these presents grant, bargain, sell, convey, transfer, assign, setover, abandon and deliver with all legal warranties and with full substitution and subrogation in and to all the rights and actions of warranty which he has or may have against all preceding owners and vendors, unto:

NANCY GERMOND, WIFE OF/AND AND JACKSON TOWNSEND, II, both of the full age of majority and residents of the Parish of JEFFERSON, State of LOUISIANA, declared unto me, Notary, under oath that the said Nancy Germond, has been married twice; first to Cary R. Lindsey, from whom she was divorced by Judgment of the 24th Judicial District Court, Parish of Jefferson, State of Louisiana, Proceedings No. 191-108 on September 28, 1976, and second to Jackson Townsend, II, with whom she is presently living and residing; and the said Jackson Townsend, II, has been married but once and then to Nancy Germond, with whom he is presently living and residing. MAILING ADDRESS: 2520 Metairie Road, Metairie, Louisiana 70005.

hereinafter referred to as "Purchaser" here present, accepting and purchasing for themselves, their heirs and assigns and acknowledging due delivery and possession thereof, all and singular, the following described property, to-wit:

4

10 06 25 04

DESCRIPTION OF PROPERTY

A CERTAIN LOT AND A CERTAIN PORTION OF GROUND, together with all the buildings and improvements thereon, and all the rights, ways, privileges, servitudes, advantages and appurtenances thereunto belonging or in anywise appertaining, situated in the Parish of Jefferson, State of Louisiana, in that part thereof known as **ELVIS COURT**.

Said Lot is designated by the Lot 18 and measures 45' feet front on Metairie Road, by a depth of 126 feet, 8 inches on the line separating it from Lot 17 and a depth on the opposite side line of 140 feet and a width in the rear of 48 feet.

And the said Portion of Ground adjoins Lot 18 and measures 35 feet front on Metairie Road, a width in the rear of 37 feet, 4 inches, more or less, by a depth on the side line separating it from Lot 18 of 126 feet, 8 inches and a depth on the opposite side line of 116 feet, 3 inches, 4 lines, and is composed of the greater part of Lot 17.

That said Lots 17 and 18 being shown on a blue print of a sketch made by Eustis Bros., C. E., dated February 1926, annexed to an act passed before F. J. Drevfous, Notary Public, dated March 21, 1928. As will appear from the survey of Gilbert, Kelly & Couturie, Inc., Surveying and Engineering, dated August 22, 1996, trees located September 9, 1996, the said property has the same location, designation, and measurements as hereinabove set forth and the said parcels of ground are shown as Lot 18 and part of Lot 17.

THE PARTIES HERETO TAKE COGNIZANCE OF THE FOLLOWING WITHOUT THE INTENT OF CREATING, REIMPOSING OR EXTENDING SAME:

The restrictive covenants in COB/CIN/ENTRY 225, folio 563, NOTE: This exception omits any covenant, condition or restriction based on race, color, religion, sex, handicap, family status or national origin as provided in 42 U.S.C. 3604, unless and only to the extent that the covenant (a) is not in violation of state or federal law, (b) is exempt under 42 U.S.C. 3607, or (c) relates to a handicap, but does not discriminate against handicapped persons.

Fence misalignments, building set back lines, servitudes, easements, encroachments and/or discrepancies in dimensions as shown on Survey by Gilbert, Kelly & Couturie, Inc., dated 8/22/96 and annexed to an act registered in COB/CIN/ENTRY 2949, folio 94, Jefferson Parish, Louisiana.

All parties hereto acknowledge that a current survey has not been produced in connection with this transaction and relieve and release Gulf South Title Corporation, its officers, directors, shareholders, agents and employees and the undersigned Notary Public Escrow Agent from any and all responsibility for fence misalignments easements, encroachments, rights of parties in possession and other matters which might be revealed on a current survey.

SEE "AS IS" ADDENDUM ANNEXED HERETO AND MADE A PART HEREOF AS "EXHIBIT "A".

10 06 23 02

ANNEXED TO AND MADE A PART OF A CASH SALE BY AND BETWEEN WENDY BALDWIN, WIFE OF/
AND DAVID B. VITTER AND NANCY GERMOND, WIFE OF/AND JACKSON TOWNSEND, II
BY ACT PASSED BEFORE JEANNE B. STEPHENS, NOTARY PUBLIC, DATED DECEMBER 4, 2000.

EXHIBIT "A"



AS IS CLAUSE
Waiver of Warranty & Redhibition Rights Addendum

RE: 2520 Metairie Rd.
Metairie, La. 70005

AGREEMENT TO PURCHASE Dated: October 23, 2000

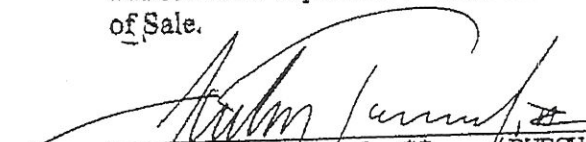
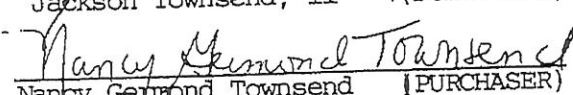
The undersigned agree that the terms stated in this addendum do not affect any right either the Purchaser or Seller may have under any inspection clauses that may be a part of the above referenced agreement.



Providing that Purchaser(s) inspections, as per the Property Condition Clause on the Agreement to Purchase, are satisfactory to Purchaser(s), Purchaser(s) agree that **THE FOLLOWING STATEMENT WILL BE MADE A PART OF THE ACT OF SALE AND SHALL NOT GO INTO EFFECT UNTIL THE ACT OF SALE.**

"Buyer(s) or (his/her) representatives have fully examined and inspected the entire building(s) which comprise the premises prior to the execution of this agreement, and that Buyer(s) know and (is/are) satisfied with the physical condition of the premises in all respects, including but not limited to, any visible or hidden termite infestation and resultant damage therefrom, and that same is acceptable to Buyer(s) "AS IS" and that Buyer(s) are not relying upon any representation, statements or warranties that have at any time been made by Seller(s), or its agents, as to the physical condition or state of repair of the premises in any respect, and that the purchase price takes into consideration the condition of the premises."

"Seller(s) and Purchaser(s) hereby acknowledge and recognize that this sale is in an "AS IS" condition, and accordingly, Purchaser(s) do hereby relieve and release Seller(s) and all previous owners thereof from any and all claims for any vices or defects in said property, whether obvious or latent, known or unknown, easily discoverable or hidden, and particularly for any claim or cause of action for redhibition pursuant to Louisiana Civil Code Articles 2520, et seq., or for diminution of purchase price pursuant to Louisiana Civil Code Articles 2541, et seq., or for fitness for Purchaser's ordinary use pursuant to Civil Code Article 2524, et seq..."

Purchaser(s) acknowledge that the foregoing waivers have been called to their attention and read and explained to them and that they are a material and integral consideration for this Act of Sale.


Jackson Townsend, II (PURCHASER)

Nancy Germond Townsend (PURCHASER)


David B. Vitter (SELLER)

Wendy Baldwin (SELLER)

To have and to hold the above described property unto the said purchaser, themselves, their heirs and assigns forever.

This sale is made and accepted for and in consideration of the price and sum of [REDACTED] **DOLLARS** cash, which the said purchaser has well and truly paid in ready and current money to the vendor who hereby acknowledges the receipt thereof and grants full acquittance and discharge therefor.

All taxes up to and including the taxes due and exigible in 2000 are paid.

MORTGAGE AND CONVEYANCE RECORDS: By reference to the Mortgage index of **Jefferson** Parish, Louisiana, in the name of Seller, it does not appear that the Property is subject to any encumbrances whatsoever.

By reference to the Conveyance Index of **Jefferson** Parish, Louisiana, in the name of Seller, it does not appear that the Property has been alienated by Seller; or that it is subject to any encumbrance whatever, **EXCEPT** the following, which the vendor agrees to cause to be canceled of record forthwith:

MOB 3770/505; MOB 3770/506; MOB 3770/508 & MOB 3782/720.

Vendor represents and warrants: (1) that no other sale or grant of interest in said property has been, or will be made by vendor, and (2) that said property is not, and will not become subject to any lien or encumbrance by act of omission of vendor, or claim against vendor, except as otherwise noted or excepted.

The parties to this act are aware of the fact that the mortgage and conveyance certificates are open, being not yet redated or signed, and relieve and release me, Notary, from all responsibility and liability in connection therewith.

Whenever used herein, the singular number shall include the plural, and the masculine gender shall include all genders.

THUS DONE AND PASSED, in my office in the aforesaid parish or county and state on the day, month or year herein first above written, in the presence of the undersigned competent witnesses, who hereunto sign their names with the said appearers and me, Notary, after reading of the whole.

WITNESSES:

Eddie Wilson
[Signature]

SELLERS:

[Signature]
Wendy Baldwin Vitter
[Signature]
David B. Vitter

PURCHASERS:

[Signature]
Jackson Townsend, II
[Signature]
Nancy Germond Townsend

[Signature]
JEANNE B. STEPHENS
NOTARY PUBLIC
PARISHES OF JEFFERSON, ORLEANS,
ST DENIS, PLATREMINES & TAMMANY

9657448 CB 2949 94

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3NC

CASH SALE

UNITED STATES OF AMERICA

BY: ABIGAIL GEORGE, WIFE OF
PHILIP PIZZO AND FRANK J.
GEORGE

STATE OF LOUISIANA

PARISH OF JEFFERSON

TO: WENDY BALDWIN, WIFE
OF/AND DAVID B. VITTER

96 - 5 7 4 4 8

71.50

CLM

456359 012

PAR

JEFF

01:41:45

10/17/1996-57448

BE IT KNOWN, that on the 15th day of October, 1996;

BEFORE ME, Kenneth J. Berke, a Notary Public, duly commissioned and qualified in and for the State of Louisiana, and in the presence of the witnesses hereinafter named and undersigned;

PERSONALLY CAME AND APPEARED:

ABIGAIL GEORGE, wife of Philip PIZZO (Social Security No. [REDACTED]), of the full age of majority, domiciled in Ventura, declared under oath to me, Notary, that she has been married but once, and then to Philip Pizzo, with whom she is presently living and residing at 1191 Trueno Avenue, Carmarillo, CA 93010

and

FRANK J. GEORGE (Social Security No. [REDACTED]) of the full age of majority, domiciled in the Parish of Jefferson, who declared under oath to me, Notary that he has been married but once and then to Brenda Lee Augustine, from whom he was divorced in 1991 in proceedings before the 24th Judicial District Court for the Parish of Jefferson, that he has not since remarried, and that his mailing address is 4717 Haring Court, Metairie, LA 70006

(hereafter "Vendors") who declared that Vendors do by these presents grant, bargain, sell, convey, transfer, assign, abandon, set over, and deliver with all legal warranties and with full substitution and subrogation in and to all the rights and actions of warranty which Vendors have or may have against all preceding owners and vendors, unto:

WENDY BALDWIN (Social Security No. [REDACTED]), wife of/and DAVID B. VITTER (Social Security No. [REDACTED]) both of the full age of majority, domiciled in Jefferson Parish, Louisiana, the said Wendy Baldwin, wife of David B. Vitter appearing herein by and through her agent and attorney in fact, David B. Vitter, under authority of Power of Attorney, a duplicate original of which is hereto attached, each of whom declared under oath to me, Notary, that they have been married but once, and then to each other, and that they are presently living and residing together at 813-B Wilshire Boulevard, Metairie, LA 70005

(hereafter collectively "Purchasers"), in equal ownership to each, here present accepting and purchasing for Purchasers, Purchasers' heirs and assigns, and acknowledging due delivery and possession thereof, the following described property, to-wit:

A CERTAIN LOT AND A CERTAIN PORTION OF GROUND, together with all the buildings and improvements thereon, and all the rights, ways, privileges, servitudes, appurtenances and advantages thereunto belonging or in anywise appertaining, situated in the PARISH OF JEFFERSON, STATE OF LOUISIANA, in that part thereof known as ELVIS COURT.

Said Lot is designated by the No. 18 and measures 45 feet front on Metairie Road, by a depth of 126 feet, 8 inches on the line separating it from Lot 17 and a depth on the opposite side line of 140 feet and a width in the rear of 48 feet.

And the said Portion of Ground adjoins Lot 18 and measures 35 feet front on Metairie Road, a width in the rear of 37 feet, 4 inches, more or less, by a depth on the side line separating it from Lot 18 of 126 feet, 8 inches and a depth on the opposite side line of 116 feet, 3 inches, 4 lines, and is composed

of the greater part of Lot 17.

96 - 57448

The said Lots 17 and 18 being shown on a blue print of a sketch made by Eustis Bros., C. E., dated February, 1926, annexed to an act passed before F. J. Dreyfous, N. P., dated March 21, 1928. As will appear from the survey of Gilbert, Kelly & Couturié, Inc. Surveying and Engineering, dated August 22, 1996, trees located September 9, 1996, the said property has the same location, designation, and measurements as hereinabove set forth and the said parcels of ground are shown as Lot 18 and part of Lot 17.

Being the same property acquired by Abigail George Pizzo, et al., by judgment of possession rendered in proceedings before the 24th Judicial District Court for the Parish of Jefferson number 328-893, and registered in the records of the Parish of Jefferson in Conveyance Office Book 1487, folio 81.

(hereafter "Property") To have and to hold the said described Property unto the said Purchasers, Purchasers' heirs and assigns forever.

This sale is made and accepted for and in consideration of the price and sum of [REDACTED] Cash, which the Purchasers have well and truly paid, in ready and current money to the Vendors who hereby acknowledge the receipt thereof and grant full acquittance and discharge therefor.

The sale is made and accepted subject to:

- a. Taxes for the year 1996, and all subsequent years not yet due and payable,
- b. Those certain restrictions contained in act before Frederick C. Querens, Notary Public, dated May 16, 1946, registered in the records of the Parish of Jefferson in Conveyance Office Book 225, folio 563 and described in the suit entitled "Irving Alcus vs. Elvis Realty Co., Inc. No. 10,000 of the 24th Judicial District Court for the Parish of Jefferson filed May 11, 1933.
- c. Differences between actual and title measurements.
- d. Fence encroachment at rear of property shown on survey of Gilbert, Kelly & Couturié, Inc., Surveying and Engineering, dated August 22, 1996, trees located September 9, 1996.
- e. Wall encroachment onto Metairie Road right of way shown on survey of Gilbert, Kelly & Couturié, Inc., Surveying and Engineering, dated August 22, 1996, trees located September 9, 1996.

The parties declare that they do not hereby intend, by the execution of these presents, to interrupt, or suspend, the running of any prescription of preemption which has run or may run in connection with the foregoing, nor do the parties intend to revive, establish or initiate any one or more of the foregoing which not now or hereafter be binding upon the Property and/or the parties hereto.

According to the certificates issued by the Clerk of Court and Ex-Officio Recorder of Mortgages and Register of Conveyances for the Parish of Jefferson, the Property hereinabove described has not been alienated or encumbered by Vendors whatsoever.

According to the research issued by the Sheriff and Ex-Officio Tax Collector for the Parish of Jefferson, all taxes due and exigible in the year 1995 have been paid.

In this instrument wherever the context so requires, the masculine gender includes the feminine, or neuter, and the singular includes the plural.

THUS DONE AND PASSED, in duplicate originals, in my office at Metairie, Louisiana, on the day, month, and year first hereinabove written, in the presence of the undersigned competent wit-

96 - 57448

nesses, who hereunto signed their names with the said appearers and me, Notary, after due reading of the whole.

WITNESSES:

[Redacted]
Ed White
[Redacted]

ABIGAIL GEORGE PIZZO

By: *[Redacted]*
Frank J. George, M. D., Agent and
Attorney in Fact

[Redacted]
FRANK J. GEORGE, M. D.

WENDY BALDWIN VITTER

By: *[Redacted]*
David B. Vitter, Agent and Attorney in
Fact

[Redacted]
DAVID B. VITTER

[Redacted]

Kenneth J. Berke, Notary Public

Registered in Conveyance Office Book _____, folio _____.

A TRUE COPY

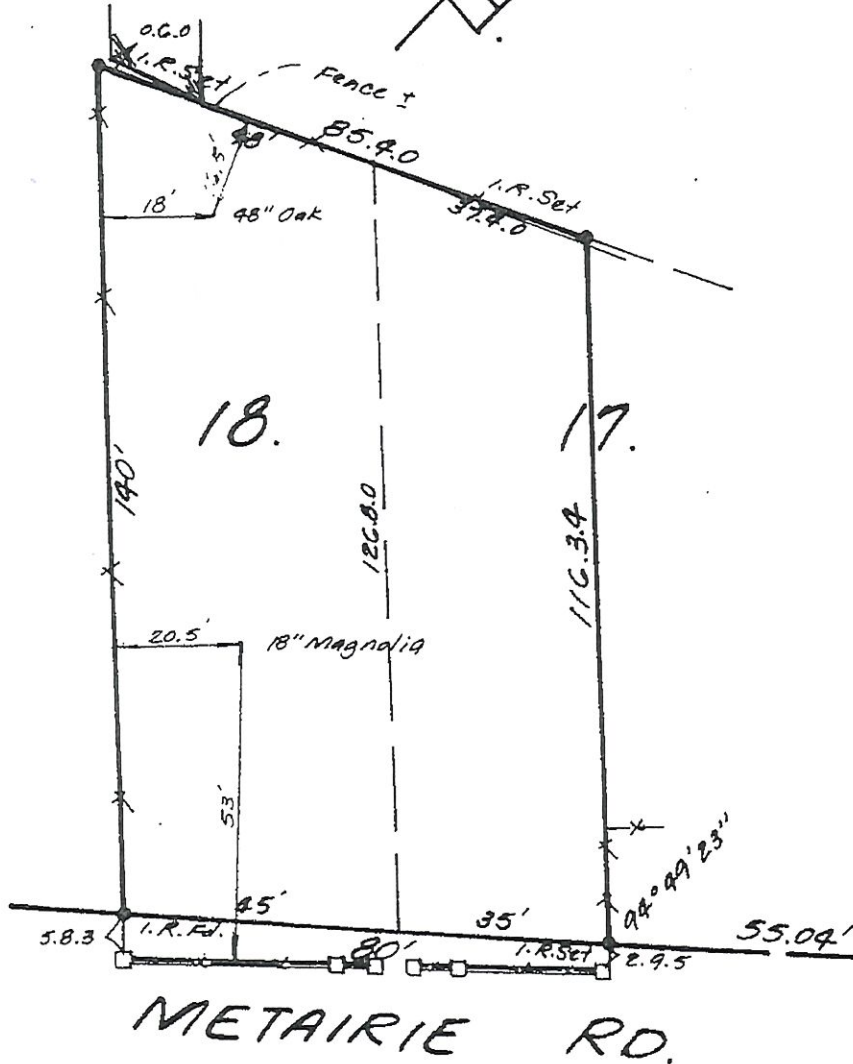
NOTARY PUBLIC

ELVIS COURT
JEFFERSON PARISH, LA.

96-57448

BEVERLY DR. SIDE

South Boundary of Sub. Side



THE SERVITUDES AND RESTRICTIONS SHOWN ON THIS SURVEY ARE LIMITED TO THOSE SET FORTH IN DESCRIPTION FURNISHED US AND THERE IS NO REPRESENTATION THAT ALL APPLICABLE SERVITUDES AND RESTRICTIONS ARE SHOWN HEREON. THE SURVEYOR HAS MADE NO TITLE SEARCH OR PUBLIC RECORD SEARCH IN COMPILING THE DATA FOR THIS SURVEY. September 9, 1996 Trees located. E.V.T.

THE FEDERAL INSURANCE ADMINISTRATION FLOOD HAZARD BOUNDARY MAP INDICATES THAT THE ABOVE DESCRIBED PROPERTY IS LOCATED IN FIA ZONE

Date: August 22, 1996

Scale: 1" = 30'

Surveyed in accordance with the Louisiana "Minimum Standards for property boundary surveys" for a class "C" survey.
Made at the request of Wendy Baldwin, wife of David B. Vitter, Hibernia National Bank, First American Title Insurance Co., Berke & Ingolia, A.P.L.C., Kenneth J. Berke & Leslie S. Bolner

Gilbert Kelly & Couturie, Inc. Surveying & Engineering

2121 N. Causeway Blvd., Metairie LA 70001
905245 9605481

Everett V. Treigle, Jr.

Senator Dick Durbin
Written Questions for Wendy Vitter
April 18, 2018

For questions with subparts, please answer each subpart separately.

Questions for Wendy Vitter

1. A November 4, 2009 article in the Opelousas, Louisiana *Daily World* discussed a campaign speech you gave at a Rotary Club for your husband's campaign. The article said the following:

She did say it is a shame Louisiana will probably lose a seat in Congress because other states are "counting illegal immigrants" in the national census count. "We are throwing out our Constitution, our laws and saying it's OK," Vitter said.

- a. **Which provisions of the Constitution are "throw[n] out" by counting all persons residing in the United States in the census?**

In that campaign speech, I expressed concern that Louisiana was expected to lose one of its seats in the U.S. House of Representatives under a new census. I expressed my personal, political view that it would be unfair if the presence of illegal immigrants helped some states boost their representation at the expense of other states, including Louisiana.

As a nominee for a federal district court judgeship, it would be inappropriate for me to signal how I might rule on a particular legal issue that may come before the court. However, I can assure you that if I am fortunate to be confirmed as a district court judge, I will put aside my personal, political views and fairly apply the law.

- b. **Which laws are "throw[n] out" by counting all persons residing in the United States in the census?**

Please see my response to Question 1(a) above.

- c. **Do you stand by your statement today?**

Yes.

2. In November 2015 a news story ran in several Louisiana outlets, including the KPLC channel, entitled "Wendy Vitter makes campaign stop in Lake Charles." This story came out two days before the election for governor in which your husband was running. The story said:

A new issue in the campaign are the Syrian refugees. Sen. David Vitter wants to block them from coming to Louisiana. Catholic Charities in New Orleans has helped bring about a dozen refugees to the state, and Wendy Vitter is an attorney for the Archdiocese of New Orleans.

The story then included a quote from you in which you said:

Catholic Charities obviously is a Catholic mission service that serves ministry to people in need but not even Catholic Charities, they don't make the policy. They are administering a policy of the Obama administration. It's President Barack Obama's policy. It is not Catholic Charities policy and I can guarantee it's not Wendy Vitter's policy.

However, the Archdiocese of New Orleans issued a lengthy statement that was printed in the *New Orleans Times-Picayune* defending its role in refugee resettlement. The statement said in part:

Catholic Charities Immigration and Refugee Services has a long history of resettling families fleeing violence in their home countries....Today we face new challenges as we answer the Gospel call to welcome the stranger and care for the vulnerable. Thousands of families – women, men and children – are fleeing violence in the Middle East. Catholic Charities is a grantee agency that receives refugees from many parts of the world, including the Middle East, and we have recently resettled two families from the area. In light of recent events, we take this opportunity to not only reiterate our commitment to the Gospel but also our commitment to the safety of our own families and communities. It is important for the community to know that anyone resettled through our program is referred from the U.S. State Department after extensive security checks and background screenings. This is not a fast process but one that can take months and even years to complete.

a. **Why in your campaign speech did you represent what Catholic Charities' policy was regarding refugee resettlement?**

I support important humanitarian work, including humanitarian work to aid refugees. My heart breaks to see any child in crisis, and I work to help children in need on a daily basis. Caring for the vulnerable is a significant value and mission of the Archdiocese of New Orleans and Catholic Charities.

The quote mentioned above came up in the very final stages of a heated and contentious political campaign of my husband. Some of my husband's political opponents were trying to assert that I disagreed with him regarding his stated position on the details of the Obama Administration's Syrian refugee resettlement program because I was General Counsel to the Archdiocese of New Orleans Catholic Church, an arm of which was a service provider to refugees in the program. In response to a reporter's question repeating this attack, I was trying to make the point that the specific policy in question as to how

Syrian refugees were vetted and where they were settled was a decision by the President's Administration, not by the Archdiocese of New Orleans as a service provider and certainly not by me individually or as an employee of the Archdiocese.

- b. **Do you believe you stated Catholic Charities' policy on refugee resettlement accurately?**

Please see my response to Question 2(a) above.

- c. **Why did you "guarantee" that the policy of refugee resettlement was not "Wendy Vitter's policy"?**

Please see my response to Question 2(a) above.

3. In November 2013 you moderated a panel at the Louisiana Right to Life conference. The panel was entitled "Abortion Hurts Women's Health." One panelist at the event, Dr. Angela Lanfranchi, discussed her organization's brochures about how the "pill kills" –that is, how she alleges that birth control pills kill women - and about how contraceptives allegedly cause cancer.

While you were moderating the panel, you urged the audience to "Go to Dr. Angela's website, Breast Cancer Prevention Institute, download it, and at your next physical, you walk into your pro-life doctor and say, 'Have you thought about putting these facts or this brochure in your waiting room?'"

- a. **Why did you advise the audience to ask doctors "about putting these facts or this brochure in your waiting room"?**

I was invited to moderate this panel by Louisiana Right To Life, whose pro-life views I generally share on religious grounds. I did not choose the panelists or have any significant knowledge of the details of their presentations beforehand. My role as moderator was to foster conversation. When I moderated the panel, I did not know Dr. Lanfranchi, and I was not familiar with her views or her brochure. I had not, and I still have not, studied the details of her brochure. I only learned of some of her specific views at my hearing before the U.S. Senate Judiciary Committee, since they were not raised in any way during the panel discussion. For example, the Senate Judiciary Committee hearing was the first time I had heard any argument for a link between birth control pills and rates of assault or murder.

At the panel discussion, I did not state and I did not intend to suggest in my role as moderator that I had the medical background to evaluate, much less validate, in any way any of the assertions Dr. Lanfranchi put forward. Perhaps even more obviously, I did not state and I did not intend to suggest that I had the medical background to evaluate, much less validate, in any way any of the assertions Dr. Lanfranchi did not discuss in any way during the panel discussion. I offered my honest reaction to some of the latter category of claims when I was asked about them at the hearing.

Because the audience included many pro-life advocates who wanted to further their advocacy, I suggested as an action item that they bring the brochure to their medical doctors for consideration. I think it is significant and appropriate that this action item specifically involved medical doctors who would have much more scientific background on the subject than me. In the same vein, I think it is significant that I specifically asked the other medical doctor on the panel if he had ever heard of some of the assertions actually discussed at the panel event so that he could offer a medical opinion that I did not have the background or expertise to offer.

b. If you are confirmed as a judge, would you consider Dr. Lanfranchi's brochures to be admissible as scientific evidence?

As a nominee for a federal district court judgeship, it would be inappropriate for me to signal how I might rule on a particular legal issue that may come before the court. However, I can assure you that if I am fortunate to be confirmed as a federal judge, I will put aside my personal and religious views and fairly apply the law.

4. At this November 2013 panel, you praised the state of Texas for passing laws to limit women's reproductive rights. You said:

Last year Texas led the nation in some very pro-life, restrictive laws led by a very strong governor. And just last week the one about the admitting privileges was struck down by the court of appeals. They're taking it to the Supreme Court, but they are making great strides in making it very difficult to get abortions in Texas. And we're gonna be right there, because our lobbying efforts in the Louisiana legislature are always, you know, right up front.

a. What did you mean by this comment?

I was expressing my personal, religious, pro-life views at an advocacy event and expressing support for laws consistent with those views. If I am fortunate enough to be confirmed as a district court judge, I will be duty-bound to set aside my personal, religious views and apply all law and precedent, including all U.S. Supreme Court precedent.

b. To whom were you referring when you spoke about "our lobbying efforts in the Louisiana legislature"?

I was referring to the efforts of pro-life citizens advocating for pro-life policies.

5. You say in your questionnaire that 10 percent of your practice has been in federal court, but you did not list any federal cases among your most significant cases. What would you say was the most significant case you handled in federal court and why?

The most significant case I have handled in federal court is one that involved claims made by numerous parties because of material spilled from a commercial truck traveling through Louisiana. The matter was in federal court because of the diversity of the parties. It involved two weeks of a bellwether jury trial which was interrupted by a settlement.

I represented one of the defendants along with Richard Simses, a partner at the Abbott and Meeks law firm with whom I worked closely at the time. Both he and Larry Abbott, another partner at the same firm, have written the committee regarding my legal experience, including in civil matters and in federal court.

All of my work at this firm during this phase of my legal career was civil litigation, the great majority of it in federal court. Therefore, I was involved in all aspects of federal litigation, particularly in the areas of maritime law and mass torts.

Subsequently, as General Counsel of Archdiocese of New Orleans Catholic Church and related entities with over 7,200 employees, I am routinely involved in numerous issues involving federal law and federal courts. This has included federal employment law, federal labor law, federal anti-discrimination law/matters before the EEOC, immigration, First Amendment free speech and establishment issues, federal tax issues, and administrative law matters. I have advised on the Fair Labor Standards Act, complying with ADA laws, Title VII and Title IX issues, the Family Medical Leave Act, corporate compliance, and providing a harassment-free workplace.

Finally, I know that my experience in state court, particularly as a prosecutor, would help prepare me for the bench. I have tried over 100 significant jury trials.

6.

a. **Is waterboarding torture?**

I have not had occasion to study these issues. Moreover, as a nominee for a federal district court judgeship, it would be inappropriate for me to signal how I might rule on a particular legal issue that may come before the court. If I am fortunate to be confirmed as a district court judge, I will faithfully apply any applicable law passed by Congress, *e.g.*, 18 U.S.C. § 2340, as well as all binding precedent.

b. **Is waterboarding cruel, inhuman and degrading treatment?**

Please see my response to Question 6(a) above.

c. **Is waterboarding illegal under U.S. law?**

Please see my response to Question 6(a) above.

7. **Was President Trump factually accurate in his claim that 3 to 5 million people voted illegally in the 2016 election?**

I am not aware of the basis for this claim, and I do not have the expertise to evaluate it.

8. **Do you think the American people are well served when judicial nominees decline to answer simple factual questions?**

I would hope and expect that judicial nominees answer questions as accurately and truthfully as possible, just as I have done in my answers and testimony.

9. During the confirmation process of Justice Gorsuch, special interests contributed millions of dollars in undisclosed dark money to a front organization called the Judicial Crisis Network that ran a comprehensive campaign in support of the nomination. It is likely that many of these secret contributors have an interest in cases before the Supreme Court. I fear this flood of dark money undermines faith in the impartiality of our judiciary.

The Judicial Crisis Network has also spent money on advertisements supporting a number President Trump's nominees.

a. **Do you have any concerns about outside groups or special interests making undisclosed donations to front organizations like the Judicial Crisis Network in support of your nomination? Note that I am not asking whether you have solicited any such donations, I am asking whether you would find such donations to be problematic.**

I can assure you as a judicial nominee who has been pilloried by outside advocacy groups, including with the absurd suggestion that I favor racial segregation, that I have a personal opinion on this issue. However, as a nominee to the federal judiciary, it is my duty to uphold the Canons of Judicial Conduct and not to advocate for changes to existing law or to criticize political acts by various parties. In light of that duty, it would be inappropriate for me to comment on this further.

b. **If you learn of any such donations, will you commit to call for the undisclosed donors to make their donations public so that if you are confirmed you can have full information when you make decisions about recusal in cases that these donors may have an interest in?**

Please see my response to Question 9(a) above.

c. **Will you condemn any attempt to make undisclosed donations to the Judicial Crisis Network on behalf of your nomination?**

Please see my response to Question 9(a) above.

10.

a. **Can a president pardon himself?**

I have not had occasion to study this issue. Moreover, as a nominee for a federal district court judgeship, it would be inappropriate for me to signal how I might rule on a particular legal issue that may come before the court.

b. What answer does an originalist view of the Constitution provide to this question?

Please see my response to Question 10(a) above.

11. In your view, is there any role for empathy when a judge is considering a case?

Yes, there are instances when a judge understanding a litigant's situation and limitations should come into play. For example, judges should be aware of the challenges facing *pro se* litigants and take steps to ensure they receive full justice. Also, individuals with disabilities may need special accommodations. And the law provides methods for ensuring children who are victims of abuse are able to testify without fear. Having said that, a judge's duty and responsibility is to apply the law to the facts of the case, and not let personal feelings enter into her decision or work to achieve a pre-determined outcome in favor of a party. If I am fortunate enough to be confirmed as a district court judge, I will uphold that responsibility.

12. The Foreign Emoluments Clause in Article I, Section 9, Clause 8, of the Constitution provides that:

...no Person holding any Office of Profit or Trust under [the United States], shall, without the Consent of the Congress, accept of any present, Emolument, Office, or title, of any kind whatever, from any King, Prince, or foreign State.

a. What is your understanding of what the Founding Fathers intended this clause to mean? To the extent you may be unfamiliar with this provision of the Constitution, please familiarize yourself with it before answering.

I have not had the occasion to study this clause in depth. As a nominee for a federal district court judgeship, it would be inappropriate for me to signal how I might rule on a particular legal issue that may come before the court. If I am fortunate enough to be confirmed as a district court judge, my duty will be to apply existing law, including any Supreme Court or Fifth Circuit precedent regarding this clause.

b. Do you believe that this original public meaning of the Foreign Emoluments Clause should be adhered to by courts in interpreting and applying the Clause today?

Please see my response to Question 12(a) above.

**Nomination of Wendy Vitter to the
United States District Court
For the Eastern District of Louisiana
Questions for the Record
Submitted April 18, 2018**

QUESTIONS FROM SENATOR WHITEHOUSE

1. During his confirmation hearing, Chief Justice Roberts likened the judicial role to that of a baseball umpire, saying “[m]y job is to call balls and strikes and not to pitch or bat.”

- a. Do you agree with Justice Roberts’ metaphor? Why or why not?

I agree with Chief Justice Roberts’ metaphor in the sense that a judge should be an impartial umpire and not an advocate for any party in the case.

- b. What role, if any, should the practical consequences of a particular ruling play in a judge’s rendering of a decision?

Certainly, there are instances in which a judge needs an understanding of the real world circumstances from which a case arises and the practical impact of a ruling. For example, in order to ensure equal access to justice for *pro se* litigants, a judge needs to understand the limitations of the litigant and the effects of certain court rules and procedures. Also, in cases requesting preliminary injunctions, the law requires a judge to consider real world consequences, such as whether denial of the injunction will result in “irreparable harm.”

However, a judge’s fundamental duty is to fairly and impartially apply the law to the facts of the case, and a judge should never work to achieve a certain pre-determined outcome in favor of one party over another.

2. During Justice Sotomayor’s confirmation proceedings, President Obama expressed his view that a judge benefits from having a sense of empathy, for instance “to recognize what it’s like to be a young teenage mom, the empathy to understand what it’s like to be poor or African-American or gay or disabled or old.”

- a. What role, if any, should empathy play in a judge’s decision-making process?

There are instances when a judge understanding a litigant’s situation and limitations should come into play. For example, judges should be aware of the challenges facing *pro se* litigants and take steps to ensure they receive full justice. Also, individuals with disabilities may need special accommodations. And the law provides methods for ensuring children who are victims of abuse are able to testify without fear. Having said that, a judge’s duty and responsibility is to apply the law to the facts of the case, and not let personal feelings enter into her decision or work to achieve a pre-determined outcome in favor of a party. If I am fortunate to be confirmed as a district court judge, I will uphold that responsibility.

- b. What role, if any, should a judge's personal life experience play in his or her decision-making process?

Judges are duty bound to decide cases brought to them based on the facts and the law, and not to impose their own personal views or preferences. If I am fortunate to be confirmed, I will faithfully uphold this duty.

3. In your view, is it ever appropriate for a judge to ignore, disregard, refuse to implement, or issue an order that is contrary to an order from a superior court?

No.

4. What assurance can you provide this Committee and the American people that you would, as a federal judge, equally uphold the interests of the "little guy," specifically litigants who do not have the same kind of resources to spend on their legal representation as large corporations?

I am absolutely committed to equal access to justice, including seeing that litigants with limited resources are not prejudiced by that circumstance. The Federal Rules of Civil Procedure have recently been amended to require proportionality in discovery in a further attempt to achieve this goal. I further understand the responsibility to see that *pro se* litigants are afforded an opportunity to have their matters impartially decided and would take all necessary and appropriate steps to see that this is ensured.

I have dedicated much of my career to serving those in need. At the district attorney's office, I worked to obtain justice for many vulnerable persons, such as abused children, sexual assault victims, and the elderly. I treated all victims, regardless of resources, with compassion and respect. In addition, caring for those in need and the vulnerable is a significant value and daily ministry of my current employer, the Archdiocese of New Orleans.

- a. In civil litigation, well-resourced parties commonly employ "paper blizzard" tactics to overwhelm their adversaries or force settlements through burdensome discovery demands, pretrial motions, and the like. Do you believe these tactics are acceptable? Or are they problematic? If they are problematic, what can and should a judge do to prevent them?

Attempts by a party to impose unreasonable discovery demands, pre-trial motions, and the like with the aim of prejudicing or overwhelming an adversary with more limited resources should be curbed by a judge through active case management. The Federal Rules of Civil Procedure have recently been amended to require proportionality in discovery in an attempt to address this issue and further promote cooperation during the discovery process by the parties. A judge's active case management can certainly monitor and address this issue, and if I am fortunate to be confirmed as a district court judge, I will make strong efforts to do so.

Senate Judiciary Committee
“Nominations”
Questions for the Record
April 11, 2018
Senator Amy Klobuchar

Questions for Wendy Vitter, Nominee to be District Judge for the Eastern District of Louisiana
During your hearing, I asked whether you recognized *Roe v. Wade* as binding precedent and you responded that you did.

- Do you believe that the Constitution encompasses a right to privacy? If so, do you believe that the right to privacy protects against efforts to interfere with access to contraception?

The U.S. Supreme Court has ruled numerous times that the Constitution encompasses a right to privacy, which includes a right to contraception. *E.g., Griswold v. Connecticut*, 381 U.S. 479 (1965). If I am fortunate to be confirmed as a district court judge, I will fully apply this and all other U.S. Supreme Court precedents.

I also said that I would follow up on a question that you were asked as to whether you stand by a statement that you reportedly made in 2013 that Planned Parenthood “kill[s] over 150,000 females a year.”

- Do you believe that the claim that Planned Parenthood kills 150,000 females each year is factually accurate?

I based my statement on credible reports that Planned Parenthood performs over 300,000 abortions per year. If I am fortunate to be confirmed as a district court judge, I will set aside my personal, religious, or other views and apply the law, including all U.S. Supreme Court precedent.

**Nomination of Wendy Vitter, to be United States District Judge for
the Eastern District of Louisiana
Questions for the Record
Submitted April 18,
2018**

QUESTIONS FROM SENATOR COONS

1. With respect to substantive due process, what factors do you look to when a case requires you to determine whether a right is fundamental and protected under the Fourteenth Amendment?
 - a. Would you consider whether the right is expressly enumerated in the Constitution?

Yes.
 - b. Would you consider whether the right is deeply rooted in this nation's history and tradition? If so, what types of sources would you consult to determine whether a right is deeply rooted in this nation's history and tradition?

Yes. The Supreme Court has stated that in substantive due processes cases, the Constitution "protects those fundamental rights and liberties which are, objectively, deeply rooted in this Nation's history and tradition." *Washington v. Glucksberg*, 521 U.S. 702 (1997). If I am fortunate to be confirmed as a district court judge, I will faithfully apply this precedent and all other binding precedents of the Fifth Circuit Court of Appeals and U.S. Supreme Court. I will look to the sources cited by the U.S. Supreme Court and Fifth Circuit as relevant in determining whether a right is "objectively, deeply rooted in the Nation's history and tradition."

- c. Would you consider whether the right has previously been recognized by Supreme Court or circuit precedent? What about the precedent of a court of appeals outside your circuit?

If a right has been recognized by the U.S. Supreme Court or Fifth Circuit Court of Appeals, I would be bound to follow that precedent and recognize the right. If I was confronted with a case of first impression with no precedent from the U.S. Supreme Court or Fifth Circuit, I would look to a variety of sources, including the views of other courts.

- d. Would you consider whether a similar right has previously been recognized by Supreme Court or circuit precedent? What about whether a similar right had been recognized by Supreme Court or circuit precedent?

If I was confronted with a case of first impression with no binding precedent from the U.S. Supreme Court or the Fifth Circuit Court of Appeals, I would look to a variety of sources, including whether a similar right had been recognized by the U.S. Supreme Court or the Fifth Circuit.

- e. Would you consider whether the right is central to “the right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life”? See *Planned Parenthood v. Casey*, 505 U.S. 833, 581 (1992); *Lawrence v. Texas*, 539 U.S. 558, 574 (2003) (quoting *Casey*).

If I am fortunate to be confirmed as a district court judge, I will faithfully apply all U.S. Supreme Court precedent, including *Casey* and *Lawrence*, which cited this test.

- f. What other factors would you consider?

I would consider all other factors considered by the U.S. Supreme Court and the Fifth Circuit Court of Appeals and be bound by all such precedent.

2. Does the Fourteenth Amendment’s promise of “equal protection” guarantee equality across race and gender, or does it only require racial equality?

- a. If you conclude that it does require gender equality under the law, how do you respond to the argument that the Fourteenth Amendment was passed to address certain forms of racial inequality during Reconstruction, and thus was not intended to create a new protection against gender discrimination?

Numerous U.S. Supreme Court precedents have held that the Fourteenth Amendment’s Equal Protection Clause extends to discrimination based on sex. See, e.g., *Craig v. Boren*, 429 U.S. 190 (1976); *United States v. Virginia*, 518 U.S. 515 (1996). If I am fortunate enough to be confirmed as a district court judge, I will faithfully apply all such precedents.

- b. If you conclude that the Fourteenth Amendment has always required equal treatment of men and women, as some originalists contend, why was it not until 1996, in *United States v. Virginia*, 518 U.S. 515 (1996), that states were required to provide the same educational opportunities to men and women?

I cannot speak to why the U.S. Supreme Court did not consider or decide this issue before 1996. If I am fortunate enough to be confirmed as a district court judge, I will faithfully apply *United States v. Virginia*, 518 U.S. 515 (1996) and all other precedents of the U.S. Supreme Court.

- c. Does the Fourteenth Amendment require that states treat gay and lesbian couples the same as heterosexual couples? Why or why not?

The U.S. Supreme Court has ruled that gay and lesbian couples enjoy many important protections in the same manner as heterosexual couples, most recently with regard to marriage. If I am fortunate to be confirmed as a district court judge, I will apply all U. S. Supreme Court and Fifth Circuit precedent in this regard.

- d. Does the Fourteenth Amendment require that states treat transgender people the same as those who are not transgender? Why or why not?

As a nominee for a federal district court judgeship, it would be inappropriate for me to signal how I might rule on a particular legal issue that may come before the court. If I am fortunate to be confirmed as a district court judge, I will apply all applicable U. S. Supreme Court and Fifth Circuit precedent.

3. The Supreme Court has decided several key cases addressing the scope of the right to privacy under the Constitution.
 - a. Do you agree that there is a constitutional right to privacy that protects a woman's right to use contraceptives?

The U.S. Supreme Court has ruled numerous times that the Constitution encompasses a right to privacy, which includes a right to contraception. *E.g.*, *Griswold v. Connecticut*, 381 U.S. 479 (1965). If I am fortunate to be confirmed as a district court judge, I will fully apply this and all other U.S. Supreme Court precedents.

- b. Do you agree that there is a constitutional right to privacy that protects a woman's right to obtain an abortion?

The U.S. Supreme Court has repeatedly held that the constitution includes protection for a woman's right to abortion. *E.g.*, *Whole Women's Health v. Hellerstedt*, 579 U.S. ___ (2016); *Planned Parenthood v. Casey*, 505 U.S. 833 (1992). If I am fortunate to be confirmed as a district court judge, I will fully apply these and all other U.S. Supreme Court precedents concerning abortion.

- c. Do you agree that there is a constitutional right to privacy that protects intimate relations between two consenting adults, regardless of their sexes or genders?

The U.S. Supreme Court has held that conduct that involves "two adults who, with full and mutual consent from each other, engaged in sexual practices" is protected under the Constitution's Due Process Clause. *Lawrence v. Texas*, 539 U.S. 558 (2003). If I am fortunate to be confirmed as a district court judge, I will fully apply this and all other U.S. Supreme Court precedents.

- d. If you do not agree with any of the above, please explain whether these rights are protected or not and which constitutional rights or provisions encompass them.

Please see my response to Question 3(a) above.

4. In *United States v. Virginia*, 518 U.S. 515, 536 (1996), the Court explained that in 1839, when the Virginia Military Institute was established, "Higher education at the time was considered dangerous for women," a view widely rejected today. In *Obergefell v. Hodges*, 135 S. Ct. 2584, 2600-01 (2015), the Court reasoned, "As all parties agree, many same-sex couples provide loving and nurturing homes to their children, whether biological or adopted. And hundreds of thousands of children are presently being raised by such couples. . . . Excluding same-sex couples from marriage thus conflicts with a central premise of the right to marry. Without the recognition, stability, and predictability marriage offers, their children

suffer the stigma of knowing their families are somehow lesser.” This conclusion rejects arguments made by campaigns to prohibit same-sex marriage based on the purported negative impact of such marriages on children.

- a. When is it appropriate to consider evidence that sheds light on our changing understanding of society?

If a U.S. Supreme Court precedent, or Congress in a statute, has instructed a district court to consider evidence that sheds light on our changing understanding of society, then a court certainly should consider the factor. Otherwise, district court judges are not well equipped to consider the factor, which is best left to the democratic branches of government, Congress and the Executive.

- b. What is the role of sociology, scientific evidence, and data in judicial analysis?

District courts may admit scientific and other expert evidence offered by a party. The Federal Rules of Evidence, the Federal Rules of Civil and Criminal Procedure, and precedents from the U.S. Supreme Court and Fifth Circuit Court of Appeals provide guidance to courts on the admissibility of such evidence. If I am fortunate to be confirmed as a federal judge, I will faithfully apply all such rules and binding precedent.

5. In his opinion for the unanimous Court in *Brown v. Board of Education*, 347 U.S. 483 (1954), Chief Justice Warren wrote that although the “circumstances surrounding the adoption of the Fourteenth Amendment in 1868 . . . cast some light” on the amendment’s original meaning, “it is not enough to resolve the problem with which we are faced. At best, they are inconclusive We must consider public education in the light of its full development and its present place in American life throughout the Nation. Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws.” 347 U.S. at 489, 490-93.

- a. Do you consider *Brown* to be consistent with originalism even though the Court in *Brown* explicitly rejected the notion that the original meaning of the Fourteenth Amendment was dispositive or even conclusively supportive?

I have not had occasion to study this particular issue. If I am fortunate to be confirmed as a district court judge, my duty will be to fully and properly apply all binding precedent, including that of *Brown v. Board of Education*.

- b. How do you respond to the criticism of originalism that terms like “‘the freedom of speech,’ ‘equal protection,’ and ‘due process of law’ are not precise or self-defining”? Robert Post & Reva Siegel, *Democratic Constitutionalism*, National Constitution Center, <https://constitutioncenter.org/interactive-constitution/white-pages/democratic-constitutionalism> (last visited April 17, 2018).

Please see my response to Question 5(a) above.

6. In 2010, a nominee to the Ninth Circuit Court of Appeals, Goodwin Liu, omitted roughly 135 items from his original questionnaire to the Committee. In a letter to then-Chairman Leahy, several Republican Senators on the Committee wrote, “At best, this nominee’s extraordinary disregard for the Committee’s constitutional role demonstrates incompetence; at worst, it creates the impression that he knowingly attempted to hide his most controversial work from the Committee.” Liu was not confirmed. Similarly, you omitted 102 items from your questionnaire (totaling 193 pages of materials).
 - a. Please explain in detail the process you used to identify materials responsive to the Senate Judiciary Committee Questionnaire.

As I made clear in the cover letter to my Supplemental Responses to the Committee Questionnaire, as well as in testimony at my hearing, any omissions whatsoever from my original responses were completely inadvertent and unintentional. I think they stem from the fact that I have lead an extremely public life, including by appearing on behalf of my husband through seven political campaigns and numerous public events in between over 25 years. My intent was and has always been to be as responsive as possible and to provide this Committee with a full, clear, and accurate picture of my work and personal life.

There was certainly no attempt to hide or downplay my personal views, as evidenced by my listing in my original responses receiving Louisiana Right To Life’s Proudly Pro-Life Award and chairing a Priests For Life event, and including numerous press clippings which referenced my faith and other personal, religious, or political views.

In preparing my responses to the questionnaire, I personally executed and caused to be executed by others extensive computer searches for news articles, etc. that would contain responsive material. I also combed through my personal files very carefully. I think it is noteworthy to point out that this led to my properly noting dozens of public appearances for which there was no public record, the only record being a minor written notation in my personal calendar.

It is also worth noting that some of my supplemental responses repeat events listed in my original responses just in order to add an additional press report found; make minor modifications to the original responses (like the specifics of my volunteer service at my children’s school); explain why an item brought up by the Committee is not in fact responsive; and offer material that is not responsive but which I submitted to the Committee in case you would find it helpful.

I appreciate the Committee’s help in identifying responsive material given the daunting universe involved. I believe my supplemental responses cured the earlier omissions in a way that provided the Committee time to consider all of the material. My intent was and has always been to be as responsive as possible and to provide this Committee with a full, clear, and accurate picture of my work and personal life.

I certainly value very highly my strong reputation for complete honesty and integrity as well as professionalism and legal competence. I urge you to review the full record regarding this, including letters to the Committee from those who have known me and practiced with

and against me over a thirty-year span. I believe this full record clearly establishes my honesty, integrity, and competence, which will allow me to serve ably as a federal district court judge should I be fortunate to be confirmed.

b. Why did you fail to include the omitted items?

Please see my response to Question 6(a) above.

c. Federal judges receive lifetime appointments, and diligence and a rigorous commitment to accuracy are necessary attributes for these positions. If your omissions were simply an oversight, then do you agree with me that they do not reflect the diligence and rigorous commitment to accuracy required for service on the federal bench?

Please see my response to Question 6(a) above.

7. In 2013, you moderated a panel entitled “Abortion Hurts Women’s Health.” A video of this panel is available at https://www.youtube.com/watch?v=Q6zJzIRr_EA. One panelist, Dr. Angela Lanfranchi, offered attendees a brochure linking birth control pills to higher rates of cancer, violent death, suicide, lethal infections, blood clotting, and adultery. You stated, “So, the next step: Go to Dr. Angela’s website, ‘Breast Cancer Prevention Institute,’ download [the brochure], and at your next physical, you walk into your pro-life doctor and say, ‘Have you thought about putting these facts or this brochure in your waiting room?’ Each one of you can be the pro-life advocate to take the next step. That’s what you do with it.” You concluded, “You know when you leave a conference like this you always feel empowered, and like I’m going to go make a difference and we should all have certain action items, and I think bringing the brochure to any doctor’s office is a great action item.”

a. Do you believe each claim in Dr. Lanfranchi’s brochure? If not, which specific assertions do you not agree with?

I was invited to moderate this panel by Louisiana Right To Life, whose pro-life views I generally share on religious grounds. I did not choose the panelists or have any significant knowledge of the details of their presentations beforehand. My role as moderator was to foster conversation. When I moderated the panel, I did not know Dr. Lanfranchi, and I was not familiar with her views or her brochure. I had not, and I still have not, studied the details of her brochure. I only learned of some of her specific views at my hearing before the U.S. Senate Judiciary Committee, since they were not raised in any way during the panel discussion. For example, the Senate Judiciary Committee hearing was the first time I had heard any argument for a link between birth control pills and rates of assault or murder.

At the panel discussion, I did not state and I did not intend to suggest in my role as moderator that I had the medical background to evaluate, much less validate, in any way any of the assertions Dr. Lanfranchi put forward. Perhaps even more obviously, I did not state and I did not intend to suggest that I had the medical background to evaluate, much less validate, in any way any of the assertions Dr. Lanfranchi did not discuss in any way during the panel discussion. I offered my honest reaction to some of the latter category of claims when I was asked about them at the hearing.

Because the audience included many pro-life advocates who wanted to further their advocacy, I suggested as an action item that they bring the brochure to their medical doctors for consideration. I think it is significant and appropriate that this action item specifically involved medical doctors who would have much more scientific background on the subject than me. In the same vein, I think it is significant that I specifically asked the other medical doctor on the panel if he had ever heard of some of the assertions actually discussed at the panel event so that he could offer a medical opinion that I did not have the background or expertise to offer.

- b. Why did you believe it was important to encourage attendees to “take the next step” and “make a difference” by asking their doctors to put “these facts or this brochure in [their] waiting room[s]”?

Please see my response to Question 7(a) above.

- c. During your confirmation hearing, you agreed with Senator Hirono that certain of Dr. Lanfranchi’s claims, for example, that birth control makes people more likely to be assaulted and murdered, “clearly do[] not make sense.” When did you conclude that these claims did not make sense?

As I explained in my response to Question 7(a) above, the first I heard of this assertion was during my hearing before the Senate Judiciary Committee. When I heard the theory, it did not make sense to me. This theory was not brought up in any way during the panel discussion.

- d. Did you believe that these claims in the brochure did not make sense when you told attendees to print copies of the brochure and take them to their doctors?

Please see my response to Question 7(a) above.

- e. If you previously believed these claims in the brochure, what changed your mind to come to the conclusion that these claims do not make sense?

Please see my response to Question 7(a) above.

- f. Can you provide an example of a closely held view that you previously had but that subsequently changed based on examining new evidence?

I have certainly held views that changed based on examining new evidence. For example, while I was an assistant district attorney, a defense attorney provided scientific evidence that cast doubt on whether his client had been correctly charged. I immediately took that new evidence to supervisors to evaluate and recommended the charge be dismissed, which it was.

8. At your hearing, Senator Blumenthal twice asked you whether you stood by your 2013 statement made at a protest opposing construction of a Planned Parenthood facility that Planned Parenthood centers “kill over 150,000 females a year.” You responded that you are

pro-life but would set aside your views if confirmed. His question, however, was not about whether you would set aside your personal views and apply the law but rather your belief in the statement itself.

a. Do you believe that Planned Parenthood kills over 150,000 females a year?

I based my statement on credible reports that Planned Parenthood performs over 300,000 abortions per year. If I am fortunate to be confirmed as a district court judge, I will set aside my personal, religious, or other views and apply the law, including all U.S. Supreme Court precedent.

b. Planned Parenthood frequently litigates in federal courts. Should you be confirmed, will you recuse yourself from any matter involving Planned Parenthood?

If I am fortunate enough to be confirmed as a federal judge, I will faithfully apply the recusal standards set forth in 28 U.S.C. § 455 and Canon 3C of the Code of Conduct for United States Judges.

9. At your nomination hearing, Senator Blumenthal asked you, “Do you believe that *Brown v. Board of Education* was correctly decided?” You refused to answer this question.

a. *Brown v. Board of Education*, 347 U.S. 483 (1954), is foundational to Fourteenth Amendment jurisprudence. It was decided unanimously more than 60 years ago. Do you believe that racial segregation in schools is constitutional?

No, I do not believe that racial segregation in schools is constitutional. The Supreme Court, in *Brown v. Board of Education*, made it clear that racial segregation in schools is unconstitutional.

I strongly and proudly support racial equality and equal opportunity. And I abhor racism. I am proud to serve as General Counsel to the Archdiocese of New Orleans Catholic Church, an entity which lives these values by working to break down racial barriers through its ministries, including providing a good education to young students of all races and backgrounds and a myriad of services to those in need, regardless of race. As a parent, I have raised four children to look at what is in a person’s heart, as I do, not the color of her skin.

I think it is important for me to say this in light of our country’s troubled history on this topic and my affirmative duty, if I am fortunate to be confirmed as a district court judge, to ensure equal access to justice to litigants of all backgrounds and races.

In my hearing, I did not suggest any criticism or lack of enthusiasm for the *Brown v. Board of Education* decision. Rather, I declined to offer any opinion on *any* U.S. Supreme Court binding precedent because, if I am fortunate to be confirmed, I will have to apply all such precedent fairly and equally. I think it would be inappropriate for me to suggest in any way that I agree with the reasoning of some binding precedent more than other binding cases. As then-Solicitor General Kagan said during her confirmation hearing, it is not appropriate for me to give “thumbs up” or “thumbs down” to Supreme Court

precedent. As I testified, I would be bound by and follow *all* U.S. Supreme Court precedent.

Notwithstanding this, during my hearing I explicitly criticized the *Plessy v. Ferguson* decision justifying state-sponsored segregation and oppression under the “separate but equal” doctrine, which *Brown v. Board of Education* overruled. I also expressed agreement with Justice Harlan’s dissent in *Plessy*, which urged a similar conclusion as the eventual *Brown v. Board of Education* ruling, and I testified that “that was the right decision.” And I identified segregation as morally wrong in response to a question from Senator Kennedy.

- b. Do you think that the constitutionality of segregated schools is an issue that could come before you? If not, then why did you decline to answer Senator Blumenthal’s question?

Please see my response to Question 9(a) above.

10. In *Whole Woman’s Health v. Hellerstadt*, 136 S. Ct. 2292 (2016), the Supreme Court found that a Texas law requiring that abortion facilities meet standards for ambulatory surgery centers and abortion providers have admitting privileges at nearby hospitals was an undue burden on a woman’s right to seek an abortion. While moderating the “Abortion Hurts Women” panel, however, you praised the Texas law, stating that the legislature was “making great strides in making it very difficult to get abortion in Texas.”

- a. Please summarize your understanding of *Hellerstadt*, including the rationale for the Court’s holding that the Texas law you previously praised created an undue burden on the constitutional right to abortion.

My understanding of the *Hellerstadt* decision is as laid out in the majority opinion: Certain provisions of Texas law, which required doctors performing abortions to have admitting privileges at a nearby hospital and which imposed certain standards on abortion clinic facilities, violate the Constitution.

If I am fortunate to be confirmed as a district court judge, I will apply the rules regarding recusal to any case before me, including cases involving these issues. That would certainly involve careful consideration of whether I could avoid any pre-judging of the matter and remain open-minded to the arguments of the litigants, and reasonable public perceptions regarding same.

- b. On that same panel, in reference to your lobbying efforts in Louisiana, you said, “We’re the ones who have mandated ultrasounds before anybody can have an abortion, which has made a huge difference, when a person sees that life in their body.” Should you be confirmed, and the constitutionality of such a law comes before you, will you recuse yourself?

If I am fortunate enough to be confirmed as a federal judge, I will faithfully apply the recusal standards set forth in 28 U.S.C. § 455 and Canon 3C of the Code of Conduct for United States Judges.

11. According to a 2009 article in the *Opelousas Daily World*, when speaking before the Opelousas Noon Rotary Club, you asserted that Louisiana would probably lose a seat in Congress because other states are “counting illegal immigrants” in the national census count, stating, “We are throwing out our Constitution, our laws and saying it’s OK.” However, the Constitution requires a decennial census to determine the “actual Enumeration” of the “whole number of persons” in the United States, which includes both citizens and undocumented immigrants. *See* U.S. Census Bureau Frequently Asked Questions, <https://www.census.gov/population/apportionment/about/faq.html> (last visited April 17, 2018).

- a. Do you stand by your 2009 comment that counting undocumented immigrants in the census is unconstitutional?

In that campaign speech, I expressed concern that Louisiana was expected to lose one of its seats in the U.S. House of Representatives under a new census. I expressed my personal, political view that it would be unfair if the presence of illegal immigrants helped some states boost their representation at the expense of other states, including Louisiana.

As a nominee for a federal district court judgeship, it would be inappropriate for me to signal how I might rule on a particular legal issue that may come before the court. However, I can assure you that if I am fortunate to be confirmed as a federal judge, I will put aside my personal, political views and fairly apply the law.

- b. Will you recuse yourself from any case challenging the inclusion of a citizenship question in the 2020 census?

If I am fortunate enough to be confirmed as a federal judge, I will faithfully apply the recusal standards set forth in 28 U.S.C. § 455 and Canon 3C of the Code of Conduct for United States Judges.

12. In 2011, a civil rights lawsuit filed against District Attorney Harry Connick Sr. of the Orleans Parish District Attorney’s Office, stemming from the *Brady* violations of his prosecutors, went all the way up to the Supreme Court. *See Connick v. Thompson*, 563 U.S. 51 (2011). One of the prosecutors confessed on his deathbed “that he had ‘intentionally suppressed blood evidence in the armed robbery trial of John Thompson that in some way exculpated the defendant.’” *Id.* at 109 n.1. In 2015, *The New York Times* wrote that Mr. Connick “misunderstood the Brady rule so profoundly that he was once indicted himself for suppressing evidence, and he never disciplined a prosecutor for violating the Brady rule.”

- a. Were you aware of the prior *Brady* violations that occurred under Mr. Connick's leadership of the Orleans Parish District Attorney's Office when you suggested that he run for public office? If not, would you have supported him had you known of the office's *Brady* violations?

I believe the quote to which you are referring was offered in good humor at Mr. Connick's retirement party at the age of 77. I was aware of allegations of *Brady* violations and have always taken my legal and ethical obligations extremely seriously, including under *Brady*.

I took my ethical obligations as a prosecutor extremely seriously, including the obligation to produce exculpatory, *Brady* material to the defense, and my obligation as a supervisor to educate others regarding this obligation and to try to ensure that it was met by others. I am proud of the work I did as an Assistant District Attorney and especially proud of the reputation I established among the defense bar, judges, fellow prosecutors, victims, families, and witnesses as a fair and ethical Assistant District Attorney.

In this regard, I refer the Committee to a letter submitted to it by several criminal defense attorneys who practiced against me in many significant cases, which specifically underscores these facts. I also refer the committee to an April 9, 2018, Times Picayune news article which discusses this matter and notes: "None of the 16 defendants [. . .] were convicted while Vitter was an assistant district attorney."

- b. During your time at the Orleans Parish District Attorney's Office, did you receive any training on the scope of a prosecutor's *Brady* obligations?

Yes, I received training regarding a prosecutor's legal and ethical obligations under *Brady* during the time I worked at the Orleans Parish District Attorney's Office.

- c. Were you ever accused of or have you ever committed any *Brady* violations?

No. As I indicated in my response to Question 12 (a) above, I took my legal and ethical obligations extremely seriously and complied with *Brady* and any other obligations as required. I had zero tolerance for dishonesty and personally terminated Assistant District Attorneys who I learned were dishonest.

- d. Did you play any role in the decision not to turn over blood evidence to Defendant Booker Diggins prior to his conviction in 1988? If so, please describe your role.

No. I did not prosecute the *Diggins* case and had no role in the case. As noted in my original Senate Judiciary Committee responses, it was incorrectly reported in a local newspaper that I had prosecuted that case. The newspaper subsequently printed a correction reflecting that I had not prosecuted that case.

- e. Did you have any knowledge of the existence of blood evidence in the Booker Diggins case prior to Diggins' conviction?

No. Please see my response to Question 12 (d) above.

Questions for the Record
For Wendy Vitter, Nominee to the Eastern District of Louisiana Senator
Mazie K. Hirono

1. At your hearing I asked you about a panel you moderated in 2013 entitled “Abortion Hurts Women’s Health,” hosted by Louisiana Right to Life. This was one of the public appearances you omitted from your response to the Committee’s questionnaire.

At that panel you urged the audience to distribute the materials of one of the other speakers, Dr. Angela Lanfranchi, an anti-abortion doctor. These materials made the widely debunked claim that abortions cause breast cancer and also the claimed that birth control pills make women “choose partners who share a similar genetic profile causing them to lose interest in sex and become more likely to be the victim of violent assault and murder.” In fact, Dr. Lanfranchi had reiterated those claims to the audience right before you urged them to download and distribute her brochure.

When I asked you whether you believed those outrageous claims, you sought to minimize your role. You claimed that you were just trying to facilitate a panel discussion, that you merely wanted to urge people to have discussions with their doctors about the facts because you had “no background,” that you are “not a medical professional” and that you “had never heard those opinions before.”

When I pointed out that you actually called the claims in the brochure, “facts,” you answered: “I did say 'facts,' and then I stopped myself and said 'brochure.’” But, according to the video which you initially failed to disclose, here is what you told the audience at the conference:

“Go to Dr. Angela's website, Breast Cancer Prevention Institute, download it, and at your next physical, you walk into your pro-life doctor and say, ‘Have you thought about putting these facts or this brochure in your waiting room?’ Each one of you can be the pro-life advocate to take that next step. That's what you do with it.”

It appears from the video that you did call the claims in this brochure facts and that you were not, in fact, merely urging a conversation for the audience with their doctors but seeking to have them distribute the brochures via doctors’ waiting rooms. I would like to give you the opportunity now to review the video and correct or clarify your testimony.

I was invited to moderate this panel by Louisiana Right To Life, whose pro-life views I generally share on religious grounds. I did not choose the panelists or have any significant knowledge of the details of their presentations beforehand. My role as moderator was to foster conversation. When I moderated the panel, I did not know Dr. Lanfranchi, and I was not familiar with her views or her brochure. I had not, and I still have not, studied the details of her brochure. I only learned of some of her specific views at my hearing before the U.S. Senate Judiciary Committee, since they were not raised in any way during the panel discussion. For example, the Senate Judiciary Committee hearing was the first time I had heard any argument for a link between birth control pills and rates of assault or murder.

At the panel discussion, I did not state and I did not intend to suggest in my role as moderator that I had the medical background to evaluate, much less validate, in any way any of the assertions Dr. Lanfranchi put forward. Perhaps even more obviously, I did not state and I did not intend to suggest that I had the medical background to evaluate, much less validate, in any way any of the assertions Dr. Lanfranchi did not discuss in any way during the panel discussion. I offered my honest reaction to some of the latter category of claims when I was asked about them at the hearing.

Because the audience included many pro-life advocates who wanted to further their advocacy, I suggested as an action item that they bring the brochure to their medical doctors for consideration. I think it is significant and appropriate that this action item specifically involved medical doctors who would have much more scientific background on the subject than me. In the same vein, I think it is significant that I specifically asked the other medical doctor on the panel if he had ever heard of some of the assertions actually discussed at the panel event so that he could offer a medical opinion that I did not have the background or expertise to offer.

2. I asked you at the hearing whether you believed Dr. Lanfranchi's claims at the time you urged the audience to distribute her brochure. Your initial answer was that you had "no background," that you are "not a medical professional" and that you "had never heard those opinions before." Yet, when I asked you whether it even makes sense to you that people who use birth control pills would be more likely to be assaulted or murdered, you conceded that it did not make sense. A district court judge needs to weigh facts, credit evidence, and apply the law to those facts. They need to exhibit judgment, not to mention common sense. **What does your endorsement of these obvious falsehoods at the conference, and your urging of the audience to distribute materials containing such obvious falsehoods, say about your ability to make those kinds of judgments regarding facts and evidence?**

Please see my response to Question 1 above.

3. It is clear that as you stated in the hearing you are proudly pro-life and that you have publicly been a strong advocate against abortion. In fact, you sought to explain away your omission of a public appearance at which you accused Planned Parenthood of killing 150,000 females a year by pointing out that the your positions were so well known. Yet, you have said these strongly held views will have no impact on your decisions as a judge where your role is just to "apply the law." **However, if taking this job means you that you have to not only set aside views so strong that you equate abortion to the murder of tens of thousands, but that you are required to make decisions that are, in fact, directly at odds with them, and at odds with the agenda you have pursued of rolling back constitutional protections for abortion, why do you want to take it?**

I do not consider any duties of a district court judge, including setting aside her personal religious views in order to properly and fairly apply the law and binding precedent, to be immoral in any way. I would be honored to be confirmed as a district court judge as a way of furthering my commitment to service. I would respectfully refer you to my opening statement at the committee hearing in this regard.

4. **If confirmed, will you recuse in cases involving the application of the precedent from *Planned Parenthood v. Casey*? At minimum, would you recuse yourself from any case in which Planned Parenthood is a party? If not, why not, since you have**

publicly stated your belief they kill over 150,000 females a year and you made this statement at a rally targeting the construction of a Planned Parenthood clinic? How could any reasonable litigant believe you would be able to set aside these beliefs and preside fairly over the case?

If I am fortunate enough to be confirmed as a federal judge, I will faithfully apply the recusal standards set forth in 28 U.S.C. § 455 and Canon 3C of the Code of Conduct for United States Judges, including cases involving these issues. That would certainly involve careful consideration of whether I could avoid any pre-judging of the matter and remain open-minded to the arguments of the litigants, and reasonable public perceptions regarding same.

5. Nearly all of your trial court experience came over two decades ago when you worked in the Orleans Parish D.A.'s office under district attorney Harry Connick Sr., ultimately serving for three years as "Chief of Trials." During this time, Mr. Connick and that office were notorious for "blatant and repeated" failures to disclose evidence to the defense in violation of *Brady v. Maryland*.

In fact, three separate United States Supreme Court cases have gone into detail regarding the office's persistent Brady violations. Based on their opinions as well as numerous press accounts, there is reason to believe that prosecutors in your office were not only negligent, but *purposefully* withheld evidence. According to the Washington Post, of the 36 or more convictions that were overturned for prosecutorial misconduct during Mr. Connick's tenure, nine involved death row inmates, four of whom were later *exonerated*. Again, these are four innocent defendants your office sought to put to death, and nearly did due to prosecutorial misconduct.

Can you explain and defend the egregious and repeated failure of the D.A.'s office during your time as a leader there to follow the *Brady* rule and other constitutional protections for right to a fair trial?

In general, I cannot explain and defend the actions of others, and I would never attempt to defend prosecutorial misconduct. I can assure you that I took my ethical obligations as a prosecutor extremely seriously, including the obligation to produce exculpatory, *Brady* material to the defense and my obligation as a supervisor to educate others regarding this obligation and to try to ensure that it was met by others. I am proud of the work I did as an Assistant District Attorney and especially proud of the reputation I established among the defense bar, judges, fellow prosecutors, victims, families, and witnesses as a fair and ethical Assistant District Attorney.

In this regard, I would refer the Committee to a letter submitted to it by several criminal defense attorneys who practiced against me in many significant cases which specifically underscores these facts. I would also refer the committee to an April 9, 2018, *Times Picayune* news article which discusses this matter and notes: "None of the 16 defendants [whose convictions were overturned] were convicted while Vitter was an assistant district attorney."

My work as an Assistant District Attorney, just as my work as an attorney in a law firm, and my work as General Counsel for the Archdiocese of New Orleans, reflects my commitment to treating everyone—victims, defendants, attorneys, judges, educators, priests—with the utmost respect.

6. In 1990, during your time as either Deputy Chief of Trials or Chief of Trials of the Orleans Parish D.A.'s office, the New Orleans Times-Picayune newspaper criticized your office for disproportionate sentencing on account of race. The Times-Picayune compared a prosecution you handled personally, in which you sought the death penalty against a black defendant named Mark Sturdivant, to a similar case the D.A. prosecuted against a white defendant, Charles Clarke. He was charged only with manslaughter. According to The Times-Picayune, "judges presiding over the cases have raised questions about how the district attorney's office determined that the cases deserved different charges."

a. Can you explain the dramatically different charges that were brought against white and black defendants?

Deciding what charges are appropriate in a given case is extremely fact-specific. In the Orleans Parish District Attorney's Office, this important responsibility was handled by a screening division, separate and apart from the trial division. Therefore, as a trial prosecutor and as head of the felony trial division, I did not make those decisions.

Certainly, if I saw inappropriate charges being filed, or if there was new evidence brought to light after the screening division had instituted charges, I would bring the matter up with my superiors and/or the chief of the screening division. I did this on several occasions, and many times this led to the reduction of the original charges or the dismissal of all charges.

The news article to which you refer talks about two cases only. I do not know all of the specific facts of those cases to comment on the appropriateness of the charges brought. However, I do believe that some of the specifics, including the fact that the victim in one of the cases was a two-year old child, may distinguish those two cases from each other.

b. What, if anything, did you do as Chief of Trials to make sure there were no disparities?

Please see my response to Question 6(a) above.

7. During your time as general counsel to the Archdiocese of New Orleans, Catholic Charities, citing a "Gospel call to welcome the stranger and care for the vulnerable," helped resettle Syrian refugees in the state of Louisiana. Despite your role as their general counsel, you responded in a different way and made clear your opposition to this humanitarian work at a campaign event for your husband in 2015. You said:

"Catholic Charities ...are administering a policy of the Obama administration. It's President Barack Obama's policy. It is not Catholic Charities' policy and I can guarantee it's not Wendy Vitter's policy."

a. Why did you oppose this humanitarian work to resettle refugees?

I support important humanitarian work, including humanitarian work to aid refugees. My heart breaks to see any child in crisis, and I work to help children in need on a daily basis. Caring for the vulnerable is a significant value and mission

of the Archdiocese of New Orleans and Catholic Charities.

The quote mentioned above came up in the very final stages of a heated and contentious political campaign of my husband. Some of my husband's political opponents were trying to assert that I disagreed with him regarding his stated position on the details of the Obama Administration's Syrian refugee resettlement program because I was General Counsel to the Archdiocese of New Orleans Catholic Church, an arm of which was a service provider to refugees in the program. In response to a reporter's question repeating this attack, I was trying to make the point that the specific policy in question as to how Syrian refugees were vetted and where they were located was a decision by the President's Administration, not by the Archdiocese of New Orleans as a service provider and certainly not by me individually or as an employee of the Archdiocese.

- b. Why did you feel it was appropriate to criticize the position of the Archdiocese at a time when you were serving as its General Counsel, and did you ever take steps to reconcile your public statement with their stated position, or make clear that you were speaking in your personal capacity and not as their General Counsel?**

Please see my response to Question 7(a) above.

**Nomination of Wendy Vitter to the
United States District Court for the Eastern District of Louisiana
Questions for the Record
Submitted April 18, 2018**

QUESTIONS FROM SENATOR BOOKER

1. According to a Brookings Institute 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.¹ Notably, the same study found that whites are actually *more likely* to sell drugs than blacks.² 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.³ In my home state of New Jersey, the disparity between blacks and whites in the state prison systems is greater than 10 to 1.⁴

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

Sadly, racial bias still exists in America and remains a significant challenge for our country in many settings. If I am fortunate enough to be confirmed as a district court judge, I will treat all persons the same regardless of race and take strong affirmative actions to try to ensure that everyone in my court does the same.

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

Yes. I am aware that there is scholarly literature concluding that there are racial disparities in our criminal justice system. I am not an expert, nor have I studied the issue well enough to offer my own conclusions on the issue or its causes.

- 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.

While I have not studied the issue in depth, I am certainly aware of it. If I am fortunate enough to be confirmed, I will remain committed to treating all persons the same regardless of race. I am eager to hear what training is available for district court staff and am open to suggesting additional training on the topic.

¹ JONATHAN ROTHWELL, HOW THE WAR ON DRUGS DAMAGES BLACK SOCIAL MOBILITY, BROOKINGS INSTITUTE (Sept. 30, 2014), available at <https://www.brookings.edu/blog/social-mobility-memos/2014/09/30/how-the-war-on-drugs-damages-black-social-mobility/>.

² *Id.*

³ ASHLEY NELLIS, PH.D., THE COLOR OF JUSTICE: RACIAL AND ETHNIC DISPARITY IN STATE PRISONS, THE SENTENCING PROJECT 14 (June 14, 2016), available at <http://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>.

⁴ *Id.* at 8.

2. According to a Pew Charitable Trusts fact sheet, in the 10 states with the largest declines in their incarceration rates, crime fell an average of 14.4 percent.⁵ In the 10 states that saw the largest increase in their incarceration rates, crime decreased by an 8.1 percent average.⁶

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

I have not studied scholarly material on this issue in any depth. I am generally aware that there are many, varied factors that affect fluctuations in crime rates.

b. Do you believe there is a direct link between decreases of 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 response to Question 2(a) above.

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

Yes.

⁵ THE PEW CHARITABLE TRUSTS, NATIONAL IMPRISONMENT AND CRIME RATES CONTINUE TO FALL 1 (Dec. 2016), available at http://www.pewtrusts.org/~media/assets/2016/12/national_imprisonment_and_crime_rates_continue_to_fall_web.pdf.

⁶ *Id.*

**Questions for the Record from Senator Kamala D. Harris
Submitted April 18, 2018
For the Nomination of:**

Wendy Vitter, United States District Judge for the Eastern District of Louisiana

1. On Nov. 2, 2013, you moderated a panel titled “Abortion Hurts Women’s Health.”

a. Do you believe abortion hurts women’s health?

I do not have the medical expertise to render an opinion on this issue.

b. If yes, what evidence can you offer to support the claim that abortion hurts women’s health?

Please see my response to Question 1(a) above.

c. If no, why did you agree to moderate the panel?

I was invited to moderate this panel by Louisiana Right To Life, whose pro-life views I generally share on religious grounds. I did not choose the panelists or have any significant knowledge of the details of their presentations beforehand. My role as moderator was to foster conversation. When I moderated the panel, I did not know Dr. Lanfranchi, and I was not familiar with her views or her brochure. I had not, and I still have not, studied the details of her brochure. I only learned of some of her specific views at my hearing before the U.S. Senate Judiciary Committee, since they were not raised in any way during the panel discussion. For example, the Senate Judiciary Committee hearing was the first time I had heard any argument for a link between birth control pills and rates of assault or murder.

At the panel discussion, I did not state and I did not intend to suggest in my role as moderator that I had the medical background to evaluate, much less validate, in any way any of the assertions Dr. Lanfranchi put forward. Perhaps even more obviously, I did not state and I did not intend to suggest that I had the medical background to evaluate, much less validate, in any way any of the assertions Dr. Lanfranchi did not discuss in any way during the panel discussion. I offered my honest reaction to some of the latter category of claims when I was asked about them at the hearing.

Because the audience included many pro-life advocates who wanted to further their advocacy, I suggested as an action item that they bring the brochure to their medical doctors for consideration. I think it is significant and appropriate that this action item specifically involved medical doctors who would have much more scientific background on the subject than me. In the same vein, I think it is significant that I specifically asked the other medical doctor on the panel if he had

ever heard of some of the assertions actually discussed at the panel event so that he could offer a medical opinion that I did not have the background or expertise to offer.

2. You testified before the Judiciary Committee that during the panel you moderated titled “Abortion Hurts Women’s Health,” you encouraged women to bring the brochure “The Pill Kills” to their doctors in order to have their doctors evaluate the brochure’s claims. Yet the record of the panel available on YouTube shows you stated the following about the brochure: “And so the next step, go to Dr. Angela’s website, Breast Cancer Prevention Institute, download it and at your next physical you walk into your pro-life doctor and say, ‘Have you thought about putting these facts or this brochure in your waiting room?’ Each one of you can be the pro-life advocate to take that next step. That’s what you do with it.” You drew the direct connection between asking a doctor to place this pamphlet in her waiting room, and being a pro-life advocate.

- a. **Do you stand by your testimony to the committee under oath that you were merely encouraging participants to take the brochure to their own doctor so that the doctor could advise them about the brochure?**

Yes, I stand by my testimony as well as all of my written responses.

- b. **Please explain the discrepancy between your testimony that you merely suggested participants “have a discussion with their doctor” to “advise them” about these claims, and the recorded video at the panel where you state that encouraging doctors to place the brochures in their waiting rooms is the “next step” to “be the pro-life advocate”?**

Please see my response to Question 1(c) above.

3. During the panel “Abortion Hurts Women’s Health,” you invited panelists to discuss the “connection between cancer and post-abortive women,” prompting Dr. Angela Lanfranchi to again raise the widely-refuted claim that abortions cause an increased risk of breast cancer. In February, 2003, the National Cancer Institute (NCI) convened a workshop of over 100 of the world’s leading experts who study pregnancy and breast cancer risk. They concluded that having an abortion or miscarriage does not increase a woman’s subsequent risk of developing breast cancer.

- a. **Why were you willing to promote the widely-refuted claim that there is a connection between cancer and women who have terminated a pregnancy?**

With all due respect, I disagree with the characterization contained in this question. Please see my response to Question 1(c) above.

- b. **As a judge, you would be called upon to evaluate scientific evidence, especially when it is offered as a justification for a law. If you supported**

widely-refuted evidence in the past, what reason is there to believe you will not support widely-refuted evidence as a judge?

Please see my response to Question 1(c) above. If I am fortunate to be confirmed as a federal judge, I will fairly apply the Federal Rules of Evidence and all binding precedent and rules concerning the admissibility of scientific evidence.

c. If you are confirmed as a judge, what standards would you use to evaluate scientific evidence presented to you?

I would apply the standards set forth in the Federal Rules of Evidence, Federal Rules of Civil and Criminal Procedure, and binding precedent from the U.S. Supreme Court and Fifth Circuit Court of Appeals.

d. Would those standards support your suggestion that there is a connection between “cancer and post-abortive women”?

With all due respect, I disagree with the characterization in this question. Please see my response to Question 1(c) above.

4. In *Whole Women’s Health v. Hellerstedt*, the State of Texas argued that women’s access to abortion needed to be restricted for their own health and safety.

The state also argued that 5.4 million Texas women were not unduly burdened by having access to only 8 clinics in the state and those in New Mexico. As Justice Ginsburg noted, if the concerns behind shutting down Texas clinics really were “legitimate health and safety considerations,” those standards should have similarly applied to Texas women in New Mexico facilities.

While moderating your panel “Abortion Hurts Women’s Health” in November, 2013, you praised laws like those that were the subject of *Whole Women’s Health* as “some very pro-life, restrictive laws.”

a. As a judge, how would you evaluate what is an objectively “legitimate health and safety consideration” and what is a pretext, especially when fundamental rights are at stake?

If I am fortunate to be confirmed as a district court judge, I will faithfully apply all precedent of the U.S. Supreme Court and Fifth Circuit Court of Appeals, including *Whole Women’s Health v. Hellerstedt*.

5. District court judges have great discretion when it comes to sentencing defendants. It is important that we understand your views on sentencing, with the appreciation that each case would be evaluated on its specific facts and circumstances.

a. What is the process you would follow before you sentenced a defendant?

I would look to the statute under which the defendant was convicted to see if it sets forth any rules regarding sentencing. I would then look to the U.S. Sentencing Guidelines, and I would carefully consider the facts of the case and any factors included in 18 U.S.C. § 3553. I would then follow the procedure set out in that statute before imposing any sentence.

b. As a new judge, how do you plan to determine what constitutes a fair and proportional sentence?

Deciding on an appropriate sentence, and then imposing that sentence on an individual, is one of the most difficult responsibilities of a trial judge. If I am fortunate to be confirmed as a district court judge, I will begin by reviewing the Sentencing Guidelines. I will then look to the Presentence Investigation Report and seek input and information from counsel as well as any input or statement from the victim.

c. When is it appropriate to depart from the Sentencing Guidelines?

The U.S. Sentencing Commission has set forth the process for any departure or variance from the sentencing guidelines. If I am fortunate to be confirmed as a district court judge, I will follow the U.S. Sentencing Guidelines process and any law or precedent regarding an appropriate sentence, including any departure or variance.

d. Judge Danny Reeves of the Eastern District of Kentucky – who also serves on the U.S. Sentencing Commission – has stated that he believes mandatory minimum sentences are more likely to deter certain types of crime than discretionary or indeterminate sentencing.¹

i. Do you agree with Judge Reeves?

I have not had the occasion to study this issue. However, I have watched hundreds of defendants receive sentences in criminal cases. I believe the trial judge, having heard the testimony of witnesses and the facts of the specific case, is best-suited to determine an appropriate sentence that is sufficient, but not greater than necessary.

ii. Do you believe that mandatory minimum sentences have provided for a more equitable criminal justice system?

I have not had the occasion to study this issue and do not believe I have the expertise to offer an opinion on this issue. I would respectfully suggest that this is a policy question best addressed by Congress.

¹ <https://www.judiciary.senate.gov/imo/media/doc/Reeves%20Responses%20to%20QFRs1.pdf>

iii. Please identify instances where you thought a mandatory minimum sentence was unjustly applied to a defendant.

During my career, I have seen hundreds of defendants receive sentences in criminal cases. These sentences ranged from probation to the death sentence and included sentences which were the result of mandatory minimum sentences. While I have not been in a position to sentence an individual, I have heard a sentencing judge complain about a sentence based on an individual's prior convictions which 'forced' the trial judge to impose a minimum sentence. That case involved a defendant's previous non-violent felony theft convictions, and the judge complained that she did not have any discretion in the mandatory minimum sentence imposed. I cannot offer an opinion as to whether this was unjustly applied as I was not the prosecutor on the case and did not have all of the facts of the case before me.

iv. Former-Judge John Gleeson has previously criticized mandatory minimums in various opinions he has authored, and has taken proactive efforts to remedy unjust sentences that result from mandatory minimums.² If confirmed, and you are required to impose an unjust and disproportionate sentence, would you commit to taking proactive efforts to address the injustice, including:

1. Describing the injustice in your opinions?

If I were confronted with such a situation, I would take any steps available under the law and consistent with the Code of Judicial Conduct and any other ethical obligations to address the situation.

2. Reaching out to the U.S. Attorney and other federal prosecutors to discuss their charging policies?

Please see my response to Question 5(d)(iv)(1) above.

3. Reaching out to the U.S. Attorney and other federal prosecutors to discuss considerations of clemency?

Please see my response to Question 5(d)(iv)(1) above.

e. 28 U.S.C. Section 994(j) directs that alternatives to incarceration are "generally appropriate for first offenders not convicted of a violent or otherwise serious offense." If confirmed as a judge, would you commit to

² See, e.g., "Citing Fairness, U.S. Judge Acts to Undo a Sentence He Was Forced to Impose," NY Times, July 28, 2014, <https://www.nytimes.com/2014/07/29/nyregion/brooklyn-judge-acts-to-undo-long-sentence-for-francois-holloway-he-had-to-impose.html>

taking into account alternatives to incarceration?

Yes.

6. 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.

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

Yes. For many people, the judge is often the most visible symbol of America's justice system. Judges can promote respect for the system by treating every litigant the same, with respect. I am proud of the reputation I have established in my career among judges, fellow attorneys, victims, and witnesses as being fair. Judges should also work to ensure equal access to justice, particularly for *pro se* litigants who may face special challenges in obtaining justice.

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

I am aware that there is scholarly literature concluding that there are racial disparities in our criminal justice system. I am not an expert, nor have I studied the issue well enough to offer an informed opinion with specific examples.

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

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

Yes.

i. 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?

Yes.