

Cleveland lawyer Peter Kirsanow to testify Thursday at hearing for Supreme Court nominee Sonia Sotomayor

Posted by [kkroll](#) July 15, 2009 14:01PM



Cleveland lawyer Peter Kirsanow has read 97 civil rights cases, front-to-back, in which Supreme Court nominee Sonia Sotomayor participated during 10 years as an appeals court judge

But that doesn't mean he's completely nailed down her judicial doctrine.

Look for Kirsanow to avoid terms such as "liberal" or "activist" when he testifies Thursday during the fourth day of a hearing on the nomination of Sotomayor to be an associate justice of the U.S. Supreme Court.

Witnesses at the Senate Judiciary Committee hearing usually give a five-minute statement and then field any questions from senators. Kirsanow, testifying for the Republican minority, is focusing on civil rights-related cases decided by Sotomayor.

The closest Kirsanow will come to characterizing her civil rights opinions is to say they are "expansive."

"My conclusion is that her approach is not susceptible to being branded with labels," said Kirsanow, who has the distinction of testifying in three consecutive Senate hearings on Supreme Court nominees.

He prepared for hearings for Justice Samuel Alito and Chief Justice John Roberts by digesting hundreds of pages of their civil rights rulings, too.

"I think both Alito and Roberts are judicially modest," said Kirsanow, who is serving a second term as an appointee of President Bush on the U.S. Commission on Civil Rights.

"By that I mean they don't go far beyond the narrow issues of the case. That's not to say she is judicially immodest. But I think she is more likely to look at a case expansively."

Kirsanow is prepared to testify about a Sotomayor opinion in a case involving imprisoned felons who claimed they were illegally denied the right to vote, and another case that examined whether a policing incident in Oneonta, N.Y., discriminated against blacks.

But he's focused most on the U.S. Supreme Court's contentious ruling three weeks ago that agreed with reverse discrimination claims by firefighters in New Haven, Conn.

The decision reversed a ruling that Sotomayor helped author while on the U.S. Court of Appeals for the Second Circuit, in New York. The Second Circuit upheld the city of New Haven's decision to invalidate results of a test to determine promotions because no black firefighters scored well enough to be considered for captain or lieutenant vacancies.

The city said it feared violating the Civil Rights Act and triggering a lawsuit claiming the test was skewed toward whites.

"If her position had prevailed in (the firefighters' case) it could lead to quotas," Kirsanow said.

Witnesses appearing on the panel with Kirsanow include Frank Ricci, the lead plaintiff in the firefighter case, and Ben Vargas, the lone Hispanic joining Ricci in his lawsuit.

Among witnesses scheduled by Democrats are Manhattan District Attorney Robert Morgenthau, Sotomayor's first boss after law school, and New York City Mayor Michael Bloomberg, also a Sotomayor supporter.