

CUOMO GETS NAMES FOR TOP COURT JOB  
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## CUOMO GETS NAMES FOR TOP COURT JOB

He Criticizes Lack of Diversity  
in List of 7 for Chief Judge

By DAVID MARGOLICK

The state's Commission on Judicial Nomination yesterday gave Governor Cuomo a list of seven candidates for chief judge of New York. The panel also forwarded to him the names of 11 candidates to fill a second imminent vacancy on the Court of Appeals, the state's highest tribunal.

The two positions will become vacant Dec. 31, when Chief Judge Lawrence H. Cooke and Associate Judge Hugh R. Jones must step down. Earlier this year, both turned 70, the mandatory retirement age.

Yesterday, Governor Cuomo, in the past a frequent critic of the judicial selection process, expressed some dissatisfaction with the lack of diversity of the commission's selections, but said all those on the lists were "competent to excellent candidates."

"One has to be surprised, with all the Italian-American talent there is, with all the women's talent there is, with all the black and Hispanic talent there is," that only one minority-group member made the list, he said. The minority-group candidate, for an associate judgeship, is a black, Judge Fritz W.

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EXHIBIT A-8

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Alexander 2d of the Appellate Court, First Department.

Italian-Americans are not generally recognized by government as members of an official minority group. However, there is a longstanding tradition of having at least one Italian-American on the court, though there are none there now. The Italian-American community in New York has been campaigning to have one of its own appointed to the Court of Appeals.

Only one black has ever served on the court, in an interim capacity.

Mendes Hershman, the commission's chairman, defended the panel's selections for the two openings.

"The commission's criteria are quality of intellect and expression, not gender, national origin or religion," he said. "This is a very good diverse group, with diverse backgrounds in the law. The Governor has a great choice here."

## \$84,263 and \$80,822 a Year

The Governor must fill the posts, which pay \$84,263 and \$80,822 annually, between Jan. 1 and Jan. 15, 1985. His nominees must be confirmed by the State Senate before beginning their 14-year terms.

The Court of Appeals has long been considered one of the nation's leading appellate tribunals. The Chief Judge not only leads the seven-member panel in all of its adjudicative functions, but administers the entire judicial system in New York State.

The contenders for chief judge include two Federal district judges, Abraham D. Sofaer of New York and Neal P. McCurn of Syracuse. Also on the list are Associate Judge Soia Wachtler of the Court of Appeals; Milton Mollen, presiding justice of the Appellate Division, Second Department, in Brooklyn; Judges Joseph P. Sullivan and E. Leo Milimas of the Appellate Division, First Department, in Manhattan, and Surrogate Bertram R. Gelfand of the Bronx.

Traditionally, the chief judge's position has been filled from within the court. But with two other applicants from the Court of Appeals, Judges Bernard S. Meyer and Matthew J. Jansen, not making the list, Judge Wachtler is the only candidate eligible for such a promotion.

Both Judge Meyer and Judge Jansen will turn 70 in the next two years.

## Party Not a Factor, Cuomo Says

In making his selection, the Governor said he would not be bound by that tradition or by the party affiliation of a candidate.

Judge Wachtler, 54, and a member of the court since 1973, is a Republican. But in Mr. Cuomo's first appointment to the court, where he once worked as a law clerk, the Democratic Governor named a Republican, Richard D. Simons. In his second appointment, he fulfilled a campaign promise and appointed the court's first woman, Judith S. Kaye.

The most relevant considerations, the Governor said, would be "knowledge of the Court and proven ability at collegiality." In addition, he stressed the importance of administrative experience.

"We need to manage the court system better, in my opinion," he said. "I view the advent of a new chief judge as the first meaningful opportunity to review the manner in which the system is being run."

"Would I prefer to select the names myself?" he said. "Absolutely. Why? Because I'm accountable, and you can kick me out of office if you don't like my choices. But we'll work hard and I'll make my best effort. I can't think of an appointment that's more important than this one."

Four of the candidates for chief judge — Judges Sofaer, Sullivan and McCurn, along with Surrogate Gelfand — are also contenders for Judge Jones's seat. Seven others selected by the Commission on Judicial Nomination are eligible only for the Associate Judge's vacancy.

## 5 From Appellate Division

They include five judges of the Appellate Division. Besides Judge Alexander, they are: Richard A. Brown and Leon D. Lazer of the Second Department; Howard A. Levine of the Third Department, and Stewart F. Hancock Jr., of the Fourth Department. Also included were Federal Judge Joseph M. McLaughlin of Brooklyn and William E. Hogan, a professor at New York University Law School.

The names of two Italian-Americans interviewed by the panel do not appear on the list: Judge Vito J. Titone of the Appellate Division, Second Department, and Joseph W. Bellacosa, former clerk of the Court of Appeals.

Most of those selected by the commission have appeared on lists for previous vacancies. Among them are Judge Sofaer, who is presiding over the libel action brought by former Israeli Defense Minister Ariel Sharon against Time Inc., and Judge McLaughlin, the former dean of Fordham Law School.

Since 1978, when the direct election of judges was abandoned, only candidates recommended by the 12-member commission could be considered for the court. The list it submitted to Governor Cuomo yesterday, placed on a bus at the Port Authority and sent to Albany, was the culmination of an eight-month process.

Besides Mr. Hershman, a member of the Manhattan law firm of Roseman, Colin, Freund, Lewis & Cohen, these are the other members of the Commission on Judicial Nomination:

- Arnold I. Bilgen, lawyer, Booth, Linton & Linton, Buffalo.
- Paul J. Curran, lawyer, Kaye, Scholer, Fierman, Hayes & Handler, Manhattan.
- Charles J. Desmond, retired Chief Judge, New York Court of Appeals, Buffalo.
- Nefaché F. Dykman, former president, League of Women Voters of New York, Rochester.
- John L. Ellenbogen, lawyer, Ellenbogen & Goldstein, Manhattan.
- John Gruber, lawyer, Mudge, Rose, Guthrie & Alexander, Manhattan.
- William J. Hoomeier, insurance agent, Monticello.
- John Kaye, lawyer, Brooklyn.
- Terre Mellich, political consultant, New York.
- Melvin Weiss, president, Manhattan Savings Bank and former Governor of New York, Westchester County.
- Dr. Lawrence Sumner Wright, dentist, Rochester.



The New York Times/Assume DeChillo  
Mendel Hershman, left, chairman of the state's Commission on Judicial Nomination, and Stuart A. Summit, the panel's counsel.