

## Center for Judicial Accountability, Inc. (CJA)

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**From:** Center for Judicial Accountability, Inc. (CJA) [elena@judgewidth.org]  
**Sent:** Wednesday, November 25, 2009 12:27 PM  
**To:** 'lancmanR@assembly.state.ny.us'  
**Cc:** 'spotts@senate.state.ny.us'; 'sampson@senate.state.ny.us'; 'maziarz@senate.state.ny.us'  
**Subject:** Re-Introduction of A-3866-A & Other Needed Legislation: Commission on Judicial Nomination  
**Attachments:** nycla-comment-9-09.pdf  
 ATT: Jane Carey, Deputy Chief of Staff  
       to Assembly Judiciary Committee Member Rory Lancman

Thank you for taking the time this morning to allow me to review with you the status of CJA's advocacy to secure re-introduction -- & passage of -- Assemblyman Lancman's important bill -- A-3866-A pertaining to the Commission on Judicial Nomination and "merit selection" to the NY Court of Appeals.

Key to this is securing FINDINGS with respect to CJA's law-specific, evidence-based September 21, 2009 comment to the Commission on Judicial Nomination's proposed revised rules. Such FINDINGS are a necessary part of the Senate Judiciary Committee's to-be-issued report on the nominating process to the New York Court of Appeals -- as to which the overburdened, understaffed Senate Judiciary Committee (i.e. counsel Tim Spotts) should be assisted by the bar association/"good-government" recipients of our September 21, 2009 comment, which have huge legal, constitutional, and legislative-history resources, as well as investigative capacities to determine evidentiary issues.

Calling upon bar association/"good government" recipients of our September 21, 2009 comment to assist the Senate Judiciary Committee with FINDINGS thereto is especially appropriate as their opposition to Assemblyman Lancman's bill A-3866-A was NOT grounded on any presentation comparing the Constitution & Judiciary Law or discussion of legislative history, etc., but on rhetoric, as to which -- additionally -- they furnished no evidentiary support.

Just as Assemblyman Lancman took the lead in sponsoring A-3866, he could -- and should -- take the lead in calling upon the bar associations/"good government" recipients of our comment for response thereto.

As you suggested, we will wait until January when the Legislature is back in session for our meeting with Assemblyman Lancman (& other legislators) concerning re-introduction of A-3866-A, etc.

Meantime, here is my e-mail sent earlier today to the Governor's office, prefatory to a meeting with the Governor's counsel, Peter Kiernan, about what is necessary to "improving the selection process".

Thank you -- & Happy Thanksgiving.

Elena Sassower, Director  
 Center for Judicial Accountability, Inc. (CJA)  
 631-377-3583

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**From:** Center for Judicial Accountability, Inc. (CJA) [mailto:elena@judgewidth.org]  
**Sent:** Wednesday, November 25, 2009 10:58 AM  
**To:** 'kelli.park@chamber.state.ny.us'  
**Subject:** Commission on Judicial Nomination: Info

TO: Kelli Park, Office of Governor David Paterson

As discussed earlier this morning, our non-partisan, non-profit citizens' organization, Center for Judicial Accountability, Inc. (CJA) has been working with the Senate Judiciary Committee & Assemblyman

12/4/2009

Lancman to secure needed statutory change with respect to the Commission on Judicial Nomination and the "merit selection" process to the New York Court of Appeals.

In furtherance thereof, we seek information pertaining to the following – which appeared in the "Background" section to the (attached) New York County Lawyers' Association's September 2009 comment to the Commission on Judicial Nomination's proposed revised rules:

"The Governor's Counsel, Peter Kiernan, met with representatives of the Commission and a variety of bar associations (including NYCLA), as well as other groups interested in the justice system, to seek suggestions about improving the selection process."

When was this meeting or meetings? Who were the participants? What were their "suggestions about improving the selection process"?

Will look forward to discussing this with Mr. Kiernan or other knowledgeable counsel in the Governor's office after the Thanksgiving holiday -- & to scheduling a meeting with Mr. Kiernan at which we may make a responsive, evidence-based presentation with respect to same.

Meanwhile, Happy Thanksgiving to all.

Elena Sassower, Director  
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Comments of the Task Force on Judicial Selection  
of the New York County Lawyers' Association  
on the  
Proposed Rules of the New York State Commission on Judicial Nomination

These Comments were approved by the Board of Directors of the New York County Lawyers' Association at its regular meeting on September 14, 2009.

These Comments have been prepared by the Task Force on Judicial Selection ("Task Force") of the New York County Lawyers' Association ("NYCLA") in response to the issuance by the New York State Commission on Judicial Nomination ("Commission") of a set of Proposed Rules for the Commission ("Proposed Commission Rules").

BACKGROUND

Following the submission to Governor David Paterson by the Commission on Judicial Nomination of the names of seven candidates to fill the vacancy created by the retirement of Hon. Judith S. Kaye, the Governor voiced his disappointment that no woman and only one person of color were on the list forwarded to him and called for a review of the process. The Governor's Counsel, Peter Kiernan, met with representatives of the Commission and a variety of bar associations (including NYCLA), as well as other groups interested in the justice system, to seek suggestions about improving the selection process. The Legislature also held hearings regarding the process.

The Commission, under the leadership of the Hon. Judith S. Kaye, who had been appointed to the Commission following her retirement as Chief Judge, undertook an examination of the Commission Rules and in the summer issued the Proposed Commission Rules for comment.

EXECUTIVE SUMMARY

At the request of Ann Lesk, President of NYCLA, the Task Force reviewed the Proposed Commission Rules, as well as the constitutional, statutory and regulatory schemes that provide the framework for the Commission (Article 6, Section 2 of the New York State Constitution; Article 3-A of the Judiciary Law; and 22 NYCRR Part 7100). The Task Force does not recommend any alteration of the Constitutional provisions establishing the Commission or of the statutory scheme implementing the Constitutional provisions.