

STATE OF NEW YORK  
COMMISSION ON JUDICIAL NOMINATION  
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Reports  
to Governor

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November 30, 2006

Stuart A. Summit, Counsel  
Stephen P. Younger, Assistant Counsel  
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The Honorable Eliot Spitzer  
Governor Elect of the State of New York  
120 Broadway  
New York, NY 10023

Dear Governor Elect Spitzer:

As Chair of the Commission on Judicial Nomination, I have the honor to report to you on behalf of the Commission, pursuant to Article 6, Section 2 of the Constitution, and Section 63(3) of Article 3-A of the Judiciary Law, the names of seven candidates for appointment to the office of Associate Judge of the Court of Appeals, who in the collective judgment of the Commission are "well-qualified," by their character, temperament, professional aptitude, experience, qualifications and fitness for office, to discharge the duties of that high office and are considered the best qualified of those who filed applications for consideration in accordance with the Commission's rules. The vacancy in that office will be the result of the expiration of the term of Associate Judge Albert M. Rosenblatt, as of December 31, 2006.

As in the past, the Commission took many steps to seek the largest possible number of qualified applicants for the position, including Statewide notification of the application procedure, and individual solicitation of applications.

Also as in the past, the Commission caused an investigation to be conducted of the qualifications of the large number of applicants it determined to interview. The result of each investigation was reported to the Commission and discussed before and after the interviews. The Commission sought by its investigations and interviews assurance of each candidate's integrity, sound judgment, judicial temperament and high intellectual quality and writing ability.

**STATE OF NEW YORK COMMISSION ON JUDICIAL NOMINATION**

The Honorable Eliot Spitzer  
November 30, 2006  
Page 2

The candidates thus nominated by the Commission for the office of Associate Judge, listed in alphabetical order, are:

Richard T. Andrias  
George F. Carpinello  
Steven W. Fisher  
Theodore T. Jones, Jr.  
Thomas E. Mercure  
Juanita Bing Newton  
James A. Yates

Each candidate recommended for the office of Associate Judge has been interviewed by the Commission and each has filed the financial statement required by law, being transmitted to you separately. A summary of the careers of the recommended candidates is attached.

Section 66(2) of the Judiciary Law provides that "the governor shall have access to all papers and information relating to persons recommended to him by the commission." The Commission, through its Chair, and its Counsel, Stuart A. Summit, stands ready to furnish you with any such material and to respond to your inquiries.

With warm greetings, and highest regard, always

Respectfully yours,

John F. O'Mara  
Chair

JFO/ic  
Enclosure

## **RICHARD T. ANDRIAS**

Currently serving as an Associate Justice of the Appellate Division, First Department, he was born in 1943 and admitted to the Bar in 1971. Received a B.A. degree from Bowdoin College, *cum laude*, and a J.D. degree from Columbia Law School, *cum laude*. Engaged in the private practice of law in New York City during 1970-71 and 1975-83. Became a Judge of the Criminal Court of the City of New York in 1983. Deputy Supervising Judge of that Court and Acting Supreme Court Justice in 1985. Became a Supreme Court Justice, New York County in 1988. Designated an Associate Justice of the Appellate Division in 1996. Chair, Task Force on Processing Civilian Complaints by the Criminal Court, 1988-89. Member, New York State AIDS Advisory Council's ESAP Subcommittee, 2000-2003. Adjunct Professor, Pace Law School, 1992 to date. Author and lecturer on various legal topics. Active in professional, community and educational affairs. Recommended previously in 1998, 2000 and 2006 by this Commission to the Governor for appointment to the office of Associate Judge of the Court of Appeals.

## **GEORGE F. CARPINELLO**

Currently a partner of the law firm of Boies, Schiller & Flexner LLP in Albany, New York, he was born in 1950 and admitted to the Bar in 1976. Received a B.A. degree from Princeton University, *magna cum laude*, and a J.D. degree from Yale Law School. Engaged in the private practice of law in Washington, D.C. during 1977-79 and in Albany, New York from 1979 to date. Chair, New York State Advisory Committee on Civil Practice, 1985 to date. Director, Government Law Center, Albany Law School, 1990-92. Professor, Albany Law School, 1984-92. Member, Chief Judge's Commission on the Appointment of Fiduciaries in New York Courts, 2000-02. President, Legal Aid Society of Northeastern New York, 1986-88. Author and lecturer for professional organizations on ethics and New York practice. Active in professional, community and educational affairs.

## **STEVEN W. FISHER**

Currently serving as an Associate Justice of the Appellate Division, Second Department, he was born in 1946 and admitted to the Bar in 1973. Received a B.A. degree from Queens College and a J.D. degree *cum laude* from Brooklyn Law School. Assistant District Attorney, Kings County 1972-76. Engaged in private practice of law in New York City, 1977-79. Served as Principal Law Clerk to Presiding Justice, Appellate Division, Second Department, 1979-83. Became a Judge of the Criminal Court of the City of New York in 1983. Acting Supreme Court Justice, Kings County, 1986-89; Queens County, 1990-92. Became a Justice of the Supreme Court, Queens County in 1993 and Administrative Judge for the Eleventh Judicial District in 1998. Designated an Associate Justice of the Appellate Division in 2004. Co-Chair, Committee on Criminal Jury Instructions. Member, Capital Cases Judicial Resource Committee. Author and

lecturer for judicial and professional organizations on criminal law topics. Active in professional and community affairs. Recommended previously in 2000, 2002, 2003, and 2006 by this Commission to the Governor for appointment to the office of Associate Judge of the Court of Appeals.

**THEODORE T. JONES, JR.**

Currently serving as a Supreme Court Justice, Kings County, he was born in 1944 and admitted to the Bar in 1973. Received a B.A. degree from Hampton University and a J.D. from St. John's University School of Law. Served in the Criminal Defense Division of the Legal Aid Society, 1973-74. Confidential Law Secretary to Hon. Howard Jones, New York State Court of Claims, 1974-75. Engaged in the private practice of law in Brooklyn, New York, 1975-89. Became a Justice of the Supreme Court, Kings County in 1990. Became Administrative Judge, Civil Term, in 2006. Captain, United States Army, honorably discharged in 1975. Member, Appellate Division, Second Department, Committee on Character and Fitness to Practice Law, 1978-90. Adjunct Professor, City University of New York, 1991-98. Adjunct Professor, St. John's University School of Law 1997-2001. Active in professional and community affairs.

**THOMAS E. MERCURE**

Currently serving as an Associate Justice of the Appellate Division, Third Department, he was born in 1943 and admitted to the Bar in 1969. Received a B.A. degree *cum laude* from St. Michael College and a J.D. degree from Georgetown University Law Center. Engaged in the private practice of law in Fort Edward, New York, 1969-80. First Assistant District Attorney, Washington County, 1974-76. District Attorney of the Supreme Court, Fourth Judicial District, in 1982. Designated an Associate Justice of the Appellate Division, Third Department, in 1988. Member, Committee on Pattern Jury Instructions. Member, Advisory Committee on Judicial Ethics. Member, Federal-State Judicial Council. Active in community affairs. Recommended previously in 2006 by this Commission to the Governor for appointment to the office of Associate Judge of the Court of Appeals.

**JUANITA BING NEWTON**

Currently serving as a Judge of the Court of Claims, Deputy Chief Administrative Judge for Justice Initiatives, and Administrative Judge of the Criminal Court of the City of New York, she was born in 1950 and admitted to the Bar in 1976. Received a B.A. degree from Northwestern University and a J.D. degree from Catholic University's Columbus School of Law. Assistant District Attorney, Bronx County, 1975-84. Counsel, New York State Sentencing Guidelines Committee, 1984-85. Executive Assistant, Office of Court Administration, 1985-87. Became a Judge of the Court of Claims in 1987. Served as Administrative Judge of the Criminal Term of Supreme Court, New York County, 1995-99. Became Deputy Chief Administrative Judge in 1999. Member, New York State Commission on Judicial Conduct. Formerly Chair, Supreme Court, New York County, Anti-Bias Committee. Lecturer to judicial and professional

organizations on various topics. Active in professional, community and educational affairs. Recommended previously in 2000 by this Commission to the Governor for appointment to the office of Associate Judge of the Court of Appeals.

**JAMES A. YATES**

Currently serving as Justice of the Supreme Court, New York County, he was born in 1946 and admitted to the Bar in 1974. Received an A.B. degree *cum laude* from Princeton University in 1967 and a J.D. degree from Rutgers University School of Law in 1973. Served as a Staff Attorney in the Legal Aid Society during 1973-79. Served as Senior Counsel to the New York State Assembly Committee on Codes, 1979-86. Served as Counsel to the Majority, New York State Assembly, 1987-88. Served as Legislative Counsel to the Speaker of the New York State Assembly, 1989-92. Appointed to the Court of Claims in 1992 and served through 1997 when he became a Justice of the Supreme Court, New York County. Member, National Commission on Uniform State Laws, 1989-92. Chair, Criminal Law Committee of the Association of the Bar for the City of New York, 1995-98. Author and lecturer on diverse topics including criminal law, legislation and evidence. Active in professional, community and educational affairs. Recommended previously in 1998 and 2002 by this Commission to the Governor for appointment to the office of Associate Judge of the Court of Appeals.