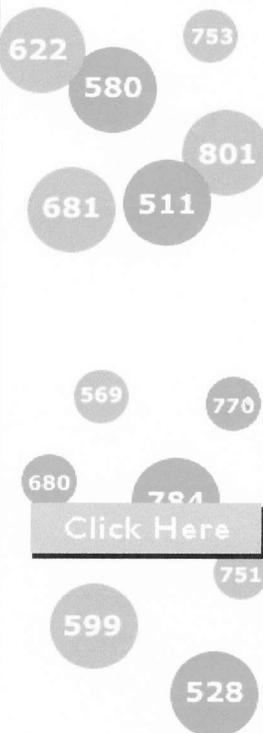


# NEW YORK POST

## THE WRONG CHIEF JUDGE

December 8, 2008 --

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Gov. Paterson may not have gotten the options he wanted from the commission charged with nominating a new chief judge for New York's Court of Appeals - but he can still appoint a jurist with a healthy respect for the limits of judicial power.

Someone, that is, *other* than Jonathan Lippman, now a presiding judge on the Appellate Division of the state Supreme Court.

Lippman, one of the seven nominees the commission submitted to Paterson last week to replace outgoing Chief Judge Judith Kaye, is in many ways her natural successor.

Indeed, as the state's chief administrative judge from 1996 to 2007, Lippman was Kaye's handpicked No. 2 for nearly her entire tenure - and neck deep in the runaway judicial activism that defined it.

And, in his case, that activism often ran to farcical extremes.

Earlier this year, for instance, Lippman voted to uphold a jury's ruling that the Port Authority was precisely "68 percent" liable for the 1993 World Trade Center bombing - with the actual terrorists only responsible for the other 32 percent.

That's insulting on its face, but it also meant real injury: It opened the PA to more than \$100 million in claims from the handful of victims who hadn't settled yet - with, as always, a sizable cut earmarked for New York's rapacious tort bar.

No doubt, Lippman's appointment would be music to the ears of Assembly Speaker Shelly Silver's trial-lawyer pals at Weitz & Luxenberg - not to mention the legions of sundry "activists" who rely on the courts to get around the democratic process in advancing their agenda.

Lippman was also tied up in Kaye's perennial agitation for "reform" of the state courts - a seemingly reasonable proposition, given the system's labyrinth of jurisdictions, but one that would nonetheless concentrate yet *more* power in

the hands of Kaye, Lippman & Co.

Kaye, for her part, controls four of the 12 votes on the Judicial Nomination Commission, so it's not hard to imagine her using her influence to secure a spot for her former deputy.

Fortunately, the final call belongs to Paterson.

It's time for him to make a change.

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12/8/2008 4:00 PM EST

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