

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

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July 20, 2006

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The Honorable George Pataki
Executive Chamber
State Capitol
Albany, New York 12224

Dear Governor Pataki:

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 is the result of the expiration of the term of Associate Judge George Bundy Smith, as of September 23, 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.

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

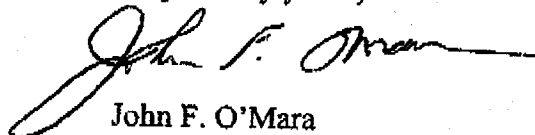
Richard T. Andrias
James M. Catterson
Steven W. Fisher
Thomas E. Mercure
Eugene F. Pigott, Jr.
A. Gail Prudenti
George Bundy Smith

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

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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 and 2000 by this Commission to the Governor for appointment to the office of Associate Judge of the Court of Appeals.

JAMES M. CATTERSON

Currently serving as an Associate Justice of the Appellate Division, First Department, he was born in 1958 and admitted to the Bar in 1986. Received a B.A. degree from Colgate University and a J.D. degree from St. John's Law School. Served as Assistant County Attorney, Suffolk County during 1985-87. Assistant U.S. Attorney, Eastern District of New York, 1987-92. Deputy County Attorney, Suffolk County, 1992-98. Became a Justice of the Supreme Court, Suffolk County, in 1999. Designated an Associate Justice of the Appellate Division in 2004. Lecturer on legal writing and litigation topics. Adjunct Professor, Cardozo Law School, 1995 and Touro Law School, 1997-2002.

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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 and 2003 by this Commission to the Governor for appointment to the office of Associate Judge of the Court of Appeals.

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's 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, Washington County, 1977-80. County Court Judge, Washington County, 1981. Became a Justice 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.

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EUGENE F. PIGOTT, JR.

Currently serving as Presiding Justice of the Appellate Division, Fourth Department, he was born in 1946 and admitted to the Bar in 1974. Received a B.A. degree from LeMoyne College and a J.D. degree from State University of New York at Buffalo School of Law. Engaged in private practice of law in Buffalo, 1974-81 and 1986-97. County Attorney, Erie County, 1982-86. Became a Justice of the Supreme Court, Eight Judicial District in 1997. Designated an Associate Justice, Fourth Department in 1998 and became Presiding Justice in 2000. Legal Aid Society, Erie County (Director, 1982-86; President, 1986-88). Active in professional, community and educational affairs. Lecturer on topics including appellate practice and civil litigation. Recommended previously in 2002 and 2003 by this Commission to the Governor for appointment to the office of Associate Judge of the Court of Appeals.

A. GAIL PRUDENTI

Currently serving as Presiding Justice of the Appellate Division, Second Department, she was born in 1953 and admitted to the Bar in 1980. Received a B.A. degree from Marymount College and a Bachelor of Law degree from the University of Aberdeen. Served as Assistant District Attorney, Suffolk County, from 1980-82. Engaged in the private practice of law in Suffolk County, 1982-1991. Became a Justice of the Supreme Court, Tenth Judicial District in 1992. Surrogate, Suffolk County, 1995-2000. Designated Associate Justice of the Appellate Division in 2001 and became Presiding Justice in 2002. Co-Chair, Chief Judge's Task Force on Delay in the Courts, 1997 to date. Member, Executive Committee, Council of Chief Judges of the National Center for State Courts, 2003 to date. Member, American Justinian Society of Jurists, 1992 to date. Past Co-Chair, Surrogate's Court Committee, Suffolk County Bar Association. Author and lecturer on various legal topics.

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GEORGE BUNDY SMITH

Currently serving as an Associate Judge of the Court of Appeals, he was born in 1937 and admitted to the Bar in 1963. Received a B.A. degree from Yale University, an M.A. degree from New York University, and an LL.B. degree from Yale Law School. Staff attorney, NAACP Legal Defense Fund, 1962-64. Law Secretary to Civil Court Judge Jawn A. Sandifer, 1964-67. Law Secretary to Supreme Court Justice Edward R. Dudley, 1967-71. Law Secretary to Presiding Justice Harold A. Stevens, Appellate Division, First Department, 1972-74. Administrator, Model Cities Administration of the City of New York, 1974-75. Judge of the Civil Court of the City of New York, 1975-80. Became a Justice of the Supreme Court, First Department in 1980. Designated an Associate Justice of the Appellate Division in 1987. Commissioner, New York State Ethics Commission for the Unified Court System, 1989-2001. Adjunct Professor, Fordham Law School, 1981 to date. Author and lecturer on legal and non-legal topics. Active in professional, community and educational matters. Appointed Associate Judge of the Court of Appeals in 1992.