



NEWS

In Brief

Lack Receives High Support for Court Appointment

State Senator James J. Lack, R-Suffolk, yesterday appeared before the Judiciary Committee he chairs and received the panel's unanimous support for appointment to the Court of Claims. Mr. Lack, who is leaving the Senate at the end of the year, was recently nominated for the Judiciary by Governor George E. Pataki. At the confirmation hearing held on the Senate floor, lawmakers from both parties praised Mr. Lack's intelligence, diligence and understanding of the judicial and legislative branches. The full Senate confirmed the nomination in a unanimous vote following an hour of laudatory speeches. There was no mention of a highly publicized matter last year, when Mr. Lack was involved in a road rage incident for which he has apologized.

Leave Denied in Same-Sex Child Visitation Rights Case

The Court of Appeals yesterday refused to hear an appeal of a ruling that overturned the first decision in New York granting child visitation rights in a same-sex relationship. In *Matter of Janis C.*, V-1926/99, the Appellate Division, Second Department, unanimously held in May that a woman who assisted her partner in raising two children has no visitation rights. The ruling overturned Westchester County Family Court Judge Joan O. Cooney, who had held that Janis C. had become a "psychological parent" and visitation was in the children's best interests.

Milonas Named to State Board of Law Examiners

E. Leo Milonas — a longtime judge who served as chief administrative judge and is now a partner at Pillsbury Winthrop and president of the Association of the Bar of the City of New York — has been named a member of the New York State Board of Law Examiners. Mr. Milonas has been a judge on the New York City Criminal Court, a Supreme Court justice and a justice of the Appellate Division, First Department. He chaired the Committee to Examine Lawyer Conduct in Matrimonial Actions (the so-called Milonas Committee) in 1992 and 1993, and currently serves on the Commission on Judicial Nomination, the Governor's Judicial Screening Committee for the First Jud-

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Review of Jury Challenges Is Urged by Judge

BY JOHN CAHER

ALBANY — The time-honored but much-questioned peremptory challenge system came under attack from the Court of Appeals once again yesterday, when Judge George Bundy Smith joined at least six current or former members of the Court who have urged the Legislature to look anew at a process critics say perpetuates racial discrimination.

Although in the cases decided yesterday, the Court rejected on narrow preservation grounds so-called *Batson* challenges, which provide an opportunity to question whether the prosecution is exploiting peremptories to racially stack a jury, the Court condemned racial discrimination in jury selection as a "plague" to the judicial system.

Additionally, in a footnote, Judge Smith said he joins "with those members of this Court, past and present, who urge the Legislature to take a hard look at the issue of peremptory challenges."

Courts in New York and elsewhere have repeatedly grappled with the issue since the U.S. Supreme Court in *Batson v. Kentucky*, 476 US 79 (1986), condemned the practice of using peremptories to exclude potential jurors because of their race. In *Batson*, the Supreme Court endorsed an inquiry process where an advo-

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The decisions begin on page 18.

Ruling Defers To Arbitration

75 Law Letter t

Lawyers Say New

BY TAMARA LOOMIS

LAWYERS ARE up in arms posed by the Securities and they claim will force them to

According to a draft of a Law Journal, some 75 of the including about 20 New York their concern" with the SEC

The effort is being spearheaded partner William J. Williams that the letter will be submitted agency is taking public comment

The rules will implement the Oxley Act, the sweeping new was signed into law in August

Under Sarbanes-Oxley, the requiring lawyers "to report of securities law" to counsel. If the general court priately respond," lawyers dence to the company's audit of directors.

The deadline for the final The act itself gave many law it was passed. Unhappy wit members being regulated by ican Bar Association tried to lawyer disclosure provisions guidelines.

But to the bar's dismay, t on Nov. 6 stretched the dis beyond what was contemplated

The SEC itself admitted in posal incorporated "several from legal commentators an

The agency also said it w view" of who is subject to t and outside counsel, and eve instances.

"There is at least a hint th in the SEC are bound and del of a windfall opportunity to n of lawyers," said Edward H. Fle missioner and senior counsi Linklaters, one of the signato

"The SEC is taking a statuto

Morgan Sta

DECISIONS

Of Interest

FIRST DEPARTMENT

■ **FAMILY LAW:** Husband's attempted murder of wife was properly considered in awarding wife over 95 percent of marital estate. *Havell v. Islam*, App. Div. (p. 18, col. 1).

■ **REAL PROPERTY:** Court dismisses action against architect who recommend

O'Brien, Supreme Court, Suffolk (p. 28, col. 5).

■ **LANDLORD/TENANT LAW:** Tenant, who had been represented by counsel, failed to show why stipulation should be vacated. *Carrington Arms Housing Development Fund Co. v. Garvin*, City Court, Westchester (p. 29, col. 2).