

# CENTER for JUDICIAL ACCOUNTABILITY, INC.

P.O. Box 69, Gedney Station  
White Plains, New York 10605-0069

Tel. (914) 421-1200  
Fax (914) 428-4994

E-Mail: [judgewatch@aol.com](mailto:judgewatch@aol.com)  
Web site: [www.judgewatch.org](http://www.judgewatch.org)

*Elena Ruth Sassower, Coordinator*

BY FAX: 212-428-2155 (8 pages)

BY CERTIFIED MAIL/RRR: 7001-0320-0004-7860-0367

January 14, 2003

John Eiseman, Records Access Officer  
Office of Court Administration  
25 Beaver Street  
New York, New York 10004

RE: Document Request Pursuant to FOIL and Part 124  
of the Chief Administrator's Rules for Public  
Access to Records

Dear Mr. Eiseman:

Pursuant to the Freedom of Information Law (F.O.I.L) [Public Officers Law, Article VI] and Part 124 of the Chief Administrator's Rules for Public Access to Records, request is made to inspect and copy:

(1) all documents constituting notice from the OCA to Governor Pataki and/or his Judicial Screening Committees, of upcoming or current judicial vacancies to be filled by gubernatorial appointment, including of expiring or expired ("holdover") Court of Claims judgeships;

(2) all documents reflecting "broadly-disseminated public notice" by the OCA of judicial vacancies to be filled by gubernatorial appointment and of expiring or expired ("holdover") Court of Claims judgeships, including notice arranged pursuant to Section VII (paragraphs 1 and 2) of Governor Pataki's "Uniform Rules for N.Y.S. Judicial Screening Committees". For your convenience, a copy of Section VII, entitled "Solicitation of Candidates", is enclosed, along with the related Sections X and XI pertaining to incumbent Appellate Division and Court of Claims judges and Section XIII, "Period of Eligibility".

Please begin with ALL documents reflecting notice of the Court of Claims vacancy that would be, and thereafter was, created by Judge Leonard Silverman's retirement in December 2000 – to which Governor Pataki nominated Senate Judiciary Committee Chairman James J. Lack in December 2002.

Pursuant to F.O.I.L [Public Officers Law §89.3], your response is required within five business days of receipt of this written request.

Thank you.

Yours for a quality judiciary,

**ELENA RUTH SASSOWER, Coordinator**  
Center for Judicial Accountability, Inc. (CJA)

Enclosure (1)

CENTRAL RECORDS INFORMATION REPORT

TIME : 01/14/2003 09:39  
NAME : CJA  
FAX : 9144284994  
TEL : 9144211200

SEARCHED  
SERIALIZED  
INDEXED  
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MAY 14 2003

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**UNIFORM RULES FOR  
N.Y.S. JUDICIAL SCREENING COMMITTEES  
GOVERNOR GEORGE E. PATAKI**

**N.Y.S. JUDICIAL SCREENING COMMITTEE**  
Paul Shechtman, Esq. - Chairman  
633 Third Avenue, 38<sup>th</sup> Floor  
New York, New York 10017

(212) 681-4540

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VII.

**Solicitation of Candidates**

1. When the Chairman of a Judicial Screening Committee, or the Executive Director, has been duly notified or becomes aware that a vacancy on a court within its jurisdiction has occurred or is about to occur, its respective Chairman and the Executive Director shall arrange for broadly disseminated public notice of the existence of the vacancy, of the procedure to be followed by prospective candidates in order to be considered by the Committee, and of any date that has been set after which questionnaires may no longer be accepted. Notice of the vacancy shall be given to newspapers of general circulation, bar associations, and such other persons and organizations as the Committee or its respective Chairman and Executive Director may deem appropriate and reasonable of accomplishment to ensure that highly qualified candidates are drawn from a cross-section of the jurisdiction involved, reflecting a diversity of experience and background.

2. When a Departmental Judicial Screening Committee has been duly notified that a vacancy has occurred or is about to occur on the Appellate Division for the judicial department within its jurisdiction by virtue of the death, resignation, retirement or incapacity of any incumbent Justice, the respective Chairman and Executive Director shall arrange with the Office of Court Administration for dissemination to the current Supreme Court Justices in the respective judicial department notice of the vacancy and shall arrange for broadly disseminated public notice of the existence of the vacancy.

3. Each member of a Judicial Screening Committee and the respective counsel shall

encourage persons who may be highly qualified to become candidates for a vacancy. In seeking recommendations or encouraging prospective candidates, members of a Judicial Screening Committee and the respective counsel should make clear that no commitment of support is implied.

4. The respective Chairman and Executive Director will establish a date by which questionnaires must be filed for a particular vacancy. Prospective candidates will be notified of the deadline when they receive their applications, but not otherwise reminded of the deadline or urged to meet it.

5. The processes described in this Section VII are subject to the exception set forth in Section XIII.

## VIII.

### **Investigation and Consideration of Candidates Other**

### **Than Appellate Division Justices Seeking Resignation**

1. In order to receive consideration by a Judicial Screening Committee, candidates must set forth and verify all the information called for by the questionnaire furnished by the Committee and the accompanying forms by which the Committee is given access to information or records that may otherwise be confidential. All Judicial Screening Committees shall utilize questionnaires identical in form and substance to Appendix A hereto. The Committee will accept, for the purposes of the Appellate Division, any application submitted prior to the

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**Incumbent Appellate Division Justices**

1. When a Departmental Judicial Screening Committee is informed that the term of an Appellate Division Justice within its judicial department is due to expire, the Committee shall ask the incumbent Justice whether he seeks redesignation and, if he does seek redesignation, the Committee shall ask the incumbent to set forth and verify all the information called for by the questionnaire (identical in form and substance to Appendix B hereto) furnished by the Committee which specifically relates to incumbent Appellate Division Justices. The questionnaire shall be reviewed by the respective Chairman, counsel, assistant counsel, subcommittee and/or a designee of the respective Chairman. Based on this information and on other information known to him, the respective counsel, assistant counsel, subcommittee or designee of the respective Chairman shall prepare a written report about the incumbent Appellate Division Justice.
  
2. In considering incumbent Appellate Division Justices, special consideration will be given to such criteria as judicial ethics, temperament, legal ability, industriousness and performance during the Justice's preceding term as well as the Justice's knowledge of current law and procedure of his court. Counsel, assistant counsel, a subcommittee and/or a designee of the respective Chairman shall review opinions and other writings of the Justice as well as Court of Appeals decisions relating to decisions by the Justice in order to determine the Justice's legal ability, industriousness and performance. Attorneys appearing before the Justice should be contacted in order to provide information about the Justice's judicial temperament.
  
3. After interviewing the incumbent Appellate Division Justice, if the Committee

preliminarily determines that it intends to recommend against his reappointment, the Justice will be informed, and will have the opportunity to be heard by the Committee on the issues before a final recommendation is reached.

4. If the Committee finally recommends against reappointment, or if there remains a vacancy after a positive recommendation is made, or at the request of the Governor, the Committee shall solicit, investigate and consider candidates in accordance with Sections VII, VIII, IX and X of these rules.

✓ XI.

**Incumbent Court of Claims Judges**

**Incumbent Court of Claims Judges seeking reappointment**

shall complete a questionnaire (Appendix A hereto) and their process of review shall proceed as in respect of incumbent Appellate Division Justices pursuant to Section X of these rules together with all of the investigatory and consideration processes otherwise set forth in these rules.

XII.

**Report to the Governor**

Upon the conclusion of all proceedings with respect to a vacancy, the respective Chairman or Executive Director shall promptly send a written report to the Governor containing a summary of the qualifications of each candidate found "highly qualified" by the Committee and

explaining the factors considered by the Committee. No references to candidates not found "highly qualified" shall be made.

XIII.

**Period of Nominee's Eligibility**

After the Governor appoints a nominee to fill a judicial vacancy, the remaining candidates submitted by the Committee for that vacancy shall remain on the respective Committee's "highly qualified" list for 12 months, subject to further review (including possibly an interview of the candidate) to update the candidate's credentials. As new vacancies occur within such 12-month period, the respective Judicial Screening Committee may, in its discretion, dispense with a new screening process if it finds that there remain a sufficient number of "highly qualified" candidates and there is a need for prompt action by the Governor to fill a judicial vacancy in the interests of having promptly available a full complement of judges.

XIV.

**Confidentiality**

All communications within each Judicial Screening Committee, between a member of the respective Committee and a candidate, and between a member and any other person or group concerning the judicial qualifications of the candidate, including the members' voting or views as to a candidate, are privileged and will be kept entirely confidential and discussed only among

**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
 (Domestic Mail Only; No Insurance Coverage Provided)

7001 0320 0004 7860 0367

NEW YORK, NY 10004		UNIT ID: 0136
Postage	\$ 0.83	Postmark Here
Certified Fee	2.30	Clerk: KSKXQZ
Return Receipt Fee (Endorsement Required)	1.75	01/14/03
Restricted Delivery Fee (Endorsement Required)		
<b>TOTAL Postage &amp; Fees</b>	<b>\$ 4.88</b>	

Sent To: *John Eiseman - Records Office*

Street, Apt. No., or PO Box No.: *OCA 25 Beaver Street*

City, State, ZIP+4: *NY NY 10004*

PS Form 3800, January 2001 See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*John Eiseman  
Records Office  
OCA  
25 Beaver Street  
NY NY 10004*

2. Article Number  
(Transfer from service label)

**COMPLETE THIS SECTION ON DELIVERY**

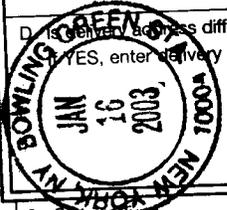
A. Signature  Agent  
 *[Signature]*  Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
 YES, enter delivery address below:  No

3. Service type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes



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