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Court of Appeals Nominees Grilled By Bar Groups

BY JOHN CAHER

ALBANY — Candidates for the Court of Appeals will be making the bar association rounds in New York City Thursday when three statewide organizations interview contenders for appointment to the state's highest court.

The New York State Bar Association, the Women's Bar Association of the State of New York and the New York State Trial Lawyers Association are separately querying candidates in the city. A subcommittee of the City Bar is also conducting interviews this week. Following the interviews, those groups will submit to Governor Pataki their evaluations of the seven candidates.

"We are looking for judges who have shown independence, objectivity, a willingness to uphold the traditions of an independent judiciary and an independent civil justice system and protection of litigants' rights to a fair trial and a fair lawsuit," said David B. Golomb, president of the Trial Lawyers Association.

Governor Pataki, following the practice of his predecessor, Mario M. Cuomo, is not personally interviewing the candidates. However, his counsel's office is reviewing the nominees and plans to present its findings to the Governor before the end of the week.

The Governor was presented with

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the list of candidates found qualified by the Commission on Judicial Nomination on Oct. 4. Under the law, the Governor must choose from the list, must wait 15 days before selecting a candidate and must make a decision within 30 days. That means he may select a new judge as early as Thursday and is required make a decision by Nov. 3. Then, the nominee is subject to State Senate confirmation.

Some of the bar evaluations may not be completed before Thursday, so the Governor could technically name a new jurist without input from major bar groups. However, the Governor usually announces his selection toward the end of the 30-day period rather than the beginning and is likely to have the bar evaluations in hand well before he reveals his choice.

Under consideration are Appellate Division Justices Victoria A. Graffeo, a Republican in the Appellate Division, Third Department; Richard T. Andrias, a Democrat serving in the First Department; Presiding Justice Susan Phillips Read, a Republican on the Court of Claims; Democrat Juanita Bing Newton, the Deputy Chief

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Candidates Grilled

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Administrative judge; Administrative Justices Stephen G. Crane, a Democrat in Manhattan, and Steven W. Fisher, a Democrat from Queens; and former State Bar Association President James C. Moore, a Republican and a partner at Harter, Secrest & Emery in Rochester.

The State Bar Association has subcommittees that are reviewing the candidates, and a 16-member panel that is interviewing those on the list. The group will then rate the candidates as well-qualified, qualified or not qualified.

A similar process is under way at the City Bar, which will release its ratings on Wednesday, according to President Evan A. Davis, of Cleary, Gottlieb, Steen & Hamilton. Mr. Davis said the candidates will all be interviewed by subcommittees before the executive committee makes final determinations.

"We look at the quality of their work, character, temperament, experience, aptitude," Mr. Davis said.

Term of Service

Court of Appeals judges serve a 14-year term, but are required to retire at the end of the year in which they reach the age of 70. They are paid \$151,000 annually.

The open seat was recently vacated by Judge Joseph W. Bellacosa, who retired in September to become dean of St. John's University School of Law.

In his two previous Court of Appeals selections, Governor Pataki has promoted Republicans from the Appellate Divisions. He appointed Richard C. Wesley of the Fourth Department in 1996 and Albert M. Rosenblatt of the Second Department in 1998.

Capitol denizens speculate that Justice Graffeo and Judge Read are the leading contenders. Both are women with close ties to Governor Pataki. Both have solid Republican connections and both live in the Capital Region, as did Judge Bellacosa before his retirement. Punditry aside, neither the Governor nor anyone close to the selection process has commented on the candidates.

The Senate, which is out of session, has no plan to return before the end of the year. However, the Governor's nominee could serve in an interim basis until confirmation.

The next Court of Appeals vacancy, barring an early retirement or death, will occur at the end of 2002, when Judge Howard A. Levine reaches mandatory retirement age.