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Spitzer gets list of seven nominees for state's highest court

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January 17, 2007, 11:18 PM EST

ALBANY, N.Y. -- The state Commission on Judicial Nomination on Wednesday sent Gov. Eliot Spitzer a list of seven candidates to use in picking the state's next top judge.

Chief Judge Judith Kaye's 14-year term ends in March. Spitzer will either reappoint the 68-year-old Kaye to serve until the end of 2008, when she would reach the mandatory retirement age, or choose a new chief judge to serve a 14-year term on the Court of Appeals.

The court has decided some of the biggest issues in Albany in recent years. It allowed Indian casinos to flourish, slapped the state with a multibillion dollar bill to improve New York City schools and asserted the governor's power over the Legislature in budgeting.

Kaye, Spitzer's ally on legal initiatives in his two terms as attorney general, told him last year that she wants to continue in the job. Kaye is the first woman appointed to the high court, first being nominated by Gov. Mario Cuomo in 1983.

Spitzer wouldn't comment in November when asked if he would reappoint her to the bench.

The list also includes three judges who were passed over for previous vacancies: Democrat Richard T. Andrias, a justice of the state Appellate Division in New York City; George F. Carpinello, a partner an Albany law firm; and Republican Thomas E. Mercure, a justice in the Appellate division in Albany.

Also on the list are Steven C. Krane, Jeh C. Johnson and David A. Schulz, all partners in major New York City law firms.

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Johnson, who is black, recently worked on Attorney General Andrew Cuomo's transition committee, serving as co-chair of the antitrust and investment protection committee.

Last Sunday, Spitzer nominated State Supreme Court Justice Theodore Jones Jr. to the court. In choosing Democrat Jones, who is black, as his first pick for the court, Spitzer added diversity to a seven-judge panel that became dominated by conservative Republicans under Gov. George Pataki.

Spitzer has made his views on the law and constitution clear.

In May, he strongly disagreed with the strict "constructionist" reading of the Constitution that adheres to the document's original language and makes no allowances for societal changes. That view is favored by Supreme Court Justice Antonin Scalia, one of the most conservative members of the nation's highest court, and others.

Spitzer said he would favor judges whose constitutional analysis agrees with his own, an "evolving constitution" philosophy that has guided Supreme Court decisions protecting abortion rights and ending segregation.

Spitzer, a long time prosecutor, also supports a death penalty for cop killers and terrorists.

On the Net:

Court of Appeals: <http://www.courts.state.ny.us/ctapps/>

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