

State of New York
Commission on Judicial Nomination
1133 Avenue of the Americas
New York, New York 10036-6710
(212) 336-2685
FAX (212) 336-2222
spyounger@pbwt.com

John F. O'Mara, Chair
Frederick K. Brewington
Edward F. Cox
Ruth Friendly
Janet M. Kassar
Elena H. Kiam
Gerald B. Lefcourt
Alan Mansfield
E. Leo Milonas
Margaret S. Morton
Richard P. Nathan
David M. Schwartz

Stephen P. Younger, Counsel
John J. Halloran, Jr., Deputy Counsel
Norman W. Kee, Assistant Counsel
Stuart A. Summit, Senior Counsel

December 2, 2008

Contact: Stephen P. Younger, Counsel
Phone: (212) 336-2685
email: spyounger@pbwt.com

FOR IMMEDIATE RELEASE

New York State Commission on Judicial Nomination Chair John O'Mara states the following:

In 1977, the voters of the State of New York approved the amendments to our State Constitution that created the Commission on Judicial Nomination. As a result of the amendments and enabling provisions adopted by the legislature, the Commission was charged with the task of promoting merit selection of Judges to the New York Court of Appeals.

Pursuant to the Constitution and the Judiciary Law provisions which implement it, the Commission recommends to the governor a slate of candidates for each vacancy on the Court. The Commission is made up of 12 commissioners – of whom four each are chosen by the Governor and the Chief Judge of the State of New York, with one each being selected by the Speaker of the Assembly, Temporary President of the Senate, Minority Leader of the Senate and Minority Leader of the Assembly.

In its nomination process, the Commission engages in outreach to encourage the maximum amount of applicants possible. After interviews and an extensive review of applicants' records, the Commission determines "by their character, temperament, professional aptitude and experience," which applicants "are well qualified to hold such judicial office." In turn, "[t]he

governor shall appoint, with the advice and consent of the senate, from among those recommended by the judicial nominating commission."

The Commission has consistently worked to encourage qualified candidates from New York State's legal community to apply for vacancies on the New York Court of Appeals. To fill past vacancies, the Commission has nominated to the Governor a wide variety of lawyers and judges from a diverse array of backgrounds, including private practitioners, public interest attorneys, law professors, government officials, and sitting Federal and State judges.

The Commission's most recent nomination was no exception. The Commission, through the press and extensive outreach by individual Commissioners and Commission staff, sought applications from as wide a pool of candidates as possible. The Commission's most recent slate of nominations includes two sitting Associate Judges of the Court of Appeals, two Appellate Division justices, two former United States Supreme Court law clerks, and the former director of the Legal Aid Society of Northeastern New York.

Governor Patterson has noted that the Commission's most recent list does not contain any women candidates. However, the Commission has recommended numerous women for nomination to the Court, including recommending the outgoing Chief Judge, Chief Judge Judith S. Kaye, for nomination three times, once as Associate Judge and twice as Chief Judge. Since 2002, female judges who were nominated by the Commission have comprised the majority of the judges on the New York Court of Appeals.

Of course, no process for selecting judges is perfect, and that includes the Commission's process. We welcome the opportunity to work with the Governor to analyze the process by which the Commission selects candidates. However, it is imperative that the Commission maintain its independence in order to ensure that the merit selection process works properly toward our common goal of ensuring that nominees to the New York Court of Appeals continue to be talented and intelligent individuals that reflect the best of New York's esteemed legal community.