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Graffeo joins state's top court

Albany -- Pataki's pick wins approval, but lawsuit challenges selection process

Following a "humbling" series of testimonials about her high ethics, great kindness and astute legal mind, Justice Victoria Graffeo was confirmed by the Senate to become an associate judge on the state's highest court.

But critics of the state's court system and merit appointments process objected and brought suit seeking to block the Guilderland jurist's appointment to the Court of Appeals.

Elena Ruth Sassower, coordinator of the Center for Judicial Accountability, and Robert Schulz, a frequent challenger to government, objected to the selection process that led to Gov. George Pataki's nomination of Graffeo.

Elected leaders from both major parties, fellow jurists and her boss at the Appellate Division described Graffeo as extraordinarily qualified. But Sassower and Schultz questioned whether the Oct. 4 report from the Commission on Judicial Nomination followed the spirit or intent of the state constitution.

Schulz, in a lawsuit filed in state Supreme Court Wednesday, said the commission failed to find out whether each Court of Appeals candidate possesses the qualifications and fitness for office. The commission simply declared that all seven candidates were qualified, the lawsuit claims.

Both Sassower and Schulz contend that without the full report on each candidate, the merit-selection process may be taking "a back seat to politics."

Senate Judiciary Committee Chairman James Lack said he would not allow the two critics to speak at the hearing because the session was for discussing Grafteo, not the merit-selection process that replaced the system of electing Court of Appeals judges in 1977.

Senators from the minority and majority strongly supported Pataki's choice, including Sen. Neil Breslin, D-Bethlehem, and Senate Majority Leader Joseph Bruno, R-Brunswick.

Speakers testifying at the Senate hearing included Clarence D. Rappleyea, former Assembly minority leader under whom Grafteo worked; Wayne Benjamin, deputy solicitor general to Attorney General Eliot Spitzer; Gloria Arthur, a private practice lawyer; and her former boss, presiding appeals Justice Anthony Cardona.

Grafteo, 48, is Pataki's third appointment to the Court of Appeals. The post pays \$151,200 annually.

She said listening to the ringing endorsements for her was "a humbling experience" and referred to the protest by Schulz and Sassower as a "right" that she supports.

Grafteo's experience includes private practice, chief counsel to Assembly Republicans, solicitor general under Attorney General Dennis Vacco, elected state Supreme Court justice and Pataki-appointed Appellate Division justice.

She said she never dreamed her career path -- once traveling the road to teaching -- would lead to the Court of Appeals. She said it is good to push one's self and accept challenges outside original goals.

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