

John Caher: Welcome to AMICI, news and insight from the New York judiciary and Unified Court System. Today we turn the program over to Susan Arbetter, the Albany-based state capitol correspondent and news and public affairs director for WCNY Syracuse Public Television. Susan hosts and produces the Capitol Press Room, a news and analysis program aired daily from the New York State Capitol. On December 8, 2015, Susan conducted an exit interview of sorts with Chief Judge Jonathan Lippman, and she graciously allowed us to present it as an AMICI podcast.

Susan Arbetter: Jonathan Lippman, the chief judge of the New York State Court of Appeals will be stepping down from the state's highest court at the end of the month, and there is no doubt about the importance of his legacy. During his tenure, he consistently, and successfully, fought for the rights of the poor as well as something even more basic, fundamental fairness. His rulings in cases like Hurrell-Harring, about the systemic inadequacy of legal representation, in Weaver, about individual rights in search and seizure cases, and his passion for Civil Gideon, the rights of the poor to have adequate representation in civil cases, have resonated around the state, and to be clear have made New York a better place to live. Chief Judge Lippman, it's a pleasure to welcome you back.

Judge Lippman: Oh, thank you, Susan. It's my delight.

Susan Arbetter: I was going to ask you about the judiciary budget and got a little verklempt, but let's talk about the budget briefly.

Judge Lippman: Sure.

Susan Arbetter: You did ask for an increase of 2.4% of the current year funds. What would the money go for?

Judge Lippman: It's about 2.4% increase, as you say, and the increase basically relates to personnel increases, being able to make sure when people leave we are able to hire new personnel— very important in critical positions. Civil legal services, we have another \$15 million proposed increase, which I think is so critical to help to close the justice gap in our state, and would really raise our funding for civil legal services up to \$100 million, which makes such a dramatic difference to the most vulnerable people in our society. And finally, judicial salaries. As you know, the salary commission is meeting right now, and we are anticipating certainly some increase, although we don't know the exact level of money that's in there.

Susan Arbetter: You oversaw the state's court system as the Chief Administrative Judge from 1996 to 2007, and then from '07 to now, you were Chief Judge, so if anybody is qualified to say what the state court needs, it's you. If you could and if there was money, where would you make a substantial investment in the state's Unified Court System?

Judge Lippman: Look, first of all, you know I have this passion for equal justice. I believe it's our constitutional mission. This is why we're here. It doesn't matter if we keep the courthouse doors open if we don't have equal justice inside.

I'd say there are two main areas. One, we need to continue to increase, massively, funding for civil legal services. Even with all the assistance we've been able to provide, and we're very proud of that, they still turn away more people than they can accept. Second, if we can continue to help those who really threaten to fall off a cliff if they can't obtain legal representation, if we continue to help them, then, of course, we need the personnel and the courts too.

We haven't totally recovered from the big cut that we had in our budget about five years ago, maybe six years ago, and we need additional personnel to serve the public better. Those are the two areas, and I think they go hand in hand. You keep the doors of the courtrooms open because you have the personnel that makes sure we can serve everybody, and what happens inside those courtrooms is equal justice, and we provide the funding to make sure that the playing field is level.

Susan Arbetter: Just so I understand exactly what you're saying, there is a direct connection between an adequately funded court system and justice.

Chief Judge Lippman: There is no question that there's an independent court system that, first and foremost, above everything else, assures that everybody gets their day in court. You cannot do it without sufficient funding, and you can't be independent, and you can't make our system of government work which depends on a strong, vibrant court system where everyone's rights are protected.

Susan Arbetter: You've three more weeks to be chief judge, and you've made it very clear that you wouldn't retire unless you had to because of the mandate of retirement age. What goes through your mind?

Chief Judge Lippman: Well, I think it's time. I do think that the retirement age is antiquated and set in 1846 when life expectancy was 40. But that being said, it's time, it's time for a change. I am very high on the governor's designee as the new chief judge.

Susan Arbetter: Janet DiFiore.

Chief Judge Lippman: Janet DiFiore is someone I know extremely well from my days in Westchester. You remember I was elected to the Supreme Court at the 9th Judicial District way back when. I think she'll make a great chief judge. What's going through my mind is that I've left it all out on the floor. I've done everything that I can do to promote equal justice. I'm proud of what we've done. I believe that this state now has a public policy that says that people in need are entitled to legal assistance, and that covers both the civil and criminal side. I think we're leaving a strong court system. It's time for change, time for me to move on to the next

phase of my life. Again, I have great confidence that we will have a really spectacular successor who I know very well and have the highest regard for.

Susan Arbetter: It sounds, from what I understand, the state Senate has to approve or reject Janet DiFiore by the end of this month, but it doesn't look like they're going to be coming back for any special session to do that. Does that put the Court at risk in any way? Is that a problem?

Chief Judge Lippman: It does. Clearly, the court is sitting in the first two weeks of January. What it means is that we're only going to have five judges, and you need four to get a decision, to have a binding decision, and that's very hard to do. It means that some cases that are heard can't be decided if we can't get four votes. Yes, it's very important that the Senate come back as absolutely early as they can because it is vital to the public that these cases that we hear in the high court, which are critical to each and every citizen, that they will be heard properly by a full court, closer to a full court as we can, so yes, it is critical. I would urge to Senate at the earliest possible time to come back and to do its due diligence and deliberation and vote on the confirmation of who I think is really an exceptionally qualified candidate.

Susan Arbetter: When you look back at your career on the highest court, do you have any highlights that you always come back that make you feel that it was worthwhile?

Chief Judge Lippman: I say this with great sincerity and warmth, and the strongest of feelings for the high court. Every day that I've been on the high court has been a highlight. It is the shining star of my professional career, and I can't think of the day that I didn't say I am so fortunate to be the Chief Judge of, in my view, the greatest high court in the country. Each day I go out there and sit in that middle seat in that just lustrous place on Eagle Street has been a high point for me, and I say that with total sincerity.

Susan Arbetter: It's definitely a beautiful building that you get to go to work in every day. What is next for you?

Chief Judge Lippman: Well, as I said to you before, I'm going to go into the real world and exactly what that will be I'll announce after I finish. I think each day I should be dedicated to this quest for justice, this passion for justice that we all have. I'm going to leave that to the new year, but certainly you will hear from me, and I will be out there speaking about the issues that I care about, maybe from a little different platform, but I'll be doing it, you can be sure.

Susan Arbetter: We have a couple more minutes.

Chief Judge Lippman: Sure.

Susan Arbetter: I wanted to ask you about one ruling in particular, and that was right in the cross hairs of politics when you all decided that Richard Ravitch would be the lieutenant governor.

Chief Judge Lippman: It was a fascinating case.

Susan Arbetter: What do you recall about it?

Chief Judge Lippman: Well, I recall all the public attention. Without going to any details about the inner workings of the court, I think it was like so many cases, an unusual alliance. We pride ourselves in being unpredictable, and what I mean by that is we're not Democrats, Republicans, Liberals, Conservatives. I think there was a lot of public attention to it. We were very aware of the importance to our state of this decision. But we treat each and every case like it was the most important case in the world because it is, not only is to the individuals involved, but to the public. In this particular case, it affected the well-being of our state...

I think we surprised some people by our decision, but we never go in with the preconceived view of it. Sometimes, we don't know even when we start the case what the end result is going to be.

It was one of the number of high profile cases that make life so interesting and rewarding on the Court of Appeals. We have the greatest cases, I think, in the country, and that was certainly one that I would say that I will always remember because we had a very tough decision to make. The leaders of state come looking towards us to do our thing, to do justice.

Susan Arbetter: Finally, what do you think the greatest challenge will be for Janet DiFiore or whoever takes over your job?

Chief Judge Lippman: I think the greatest challenge is to ensure each and every day that the ideal of equal justice is a reality in our state. There are so many things under the civil and criminal side that tell us that justice sometimes is determined by the amount of money that people have in their pocket, and it doesn't matter whether you're rich or poor, high or low, whatever your status is in life, you deserve justice, and that's the challenge, the enduring challenge, that Judge DiFiore will have, that I had, and that must be met if the state court system is going to do its job—first and foremost, justice for all.

Susan Arbetter: Chief Judge Jonathan Lippman is the Chief Judge of the New York State Court of Appeals until the end of the year. Thank you for your good work.

Chief Judge Lippman: Thank you, and it's always a delight, Susan. It's been such a pleasure to talk to you so many times.

John Caher: Thank you, Susan and WCNY for sharing this program with us. And thank you for listening to this edition of AMICI. If you have a suggestion for a topic on AMICI,

call John Caher at (518)453-8669, or send him a note at [jcaher@nycourts.gov](mailto:jcaher@nycourts.gov). In the meantime, stay tuned.