

COURT OF APPEALS

Experts Point to Experience, Diversity of Candidates on List

Candidates for Carmen Beauchamp Ciparick's seat



Sheila Abdus-Salaam

Justice, First Department



Rolando Acosta

Justice, First Department



Kathy Chin

Partner, Cadwalader, Wickersham & Taft



Eugene Fahey

Justice, Fourth Department



Jenny Rivera

Professor, CUNY School of Law



Margarita Rosa

Executive Director, Grand Street Settlement



David Schulz

Partner, Levine Sullivan Koch & Schulz

**BY JOHN CAHER
AND JOEL STASHENKO**

ALBANY

A COMMISSION on Judicial Nomination headed by a former chief judge and counseled by two former clerks of the Court of Appeals has produced what observers say is not only the most diverse group of high court nominees ever, but a list of exceptionally qualified candidates.

On Dec. 1, the commission chaired by former Chief Judge Judith Kaye presented Governor Andrew Cuomo with a list of seven judges and attorneys from which he must select the next Court of Appeals judge. Six of the seven have Ivy League credentials. Three are Appellate Division justices. One is a well-known First Amendment lawyer. Another is a law professor. One is a partner at a large firm. One nominee runs a major human services agency.

"What can you complain about with this list?" asked Vincent Bonventre, an Albany Law School professor and veteran court watcher who has complained about plenty of lists in the past. "If you want peo-

ple with judicial experience, you've got it. If you want diversity, you've got it. If you want women, you've got it. From their educational background to their career experience, it is a very strong list and different kind of list."

The panel delivered to Cuomo what is undeniably the most diverse list ever from which he will select the successor to Judge Carmen Beauchamp Ciparick, the first Hispanic judge on the high court. If Cuomo wants to replace Ciparick with a Hispanic, he has three choices. If he wants to replace her with a Hispanic woman, he has that option. He could appoint the first openly gay member of the court (David Schulz) or the first Asian-American (Kathy Chin). The one thing all seven have in common is they are all, like Cuomo, Democrats.

Bonventre said the list represents not only diversity but quality.

"What strikes you at first glance is the diversity," Bonventre said. "But when you go beyond the names and look at the bios, this is a very, very impressive list. They are really accomplished people."

Victor Kovner, a partner at Davis Wright Tremaine and former chair-

man of the Fund for Modern Courts, said the strong list is a testament to the merit selection process. He said that with the list Cuomo can't go wrong. "I think this is a distinguished list of candidates and I am sure the governor will make an outstanding choice," Kovner said. "We have been blessed in this state with the merit selection system for choosing judges of the Court of Appeals and this is just another occasion where we can feel confident we will have an outstanding new member of our highest court."

Senator John Bonacic, R-Mount Hope, chairman of the Judiciary Committee, said all the candidates "appear to have impressive backgrounds. I look forward to meeting with whichever one the governor nominates. I don't want to otherwise pre-judge any of them."

Cuomo has between Jan. 1 and Jan. 15 to submit the name of one of the nominees to the state Senate for confirmation. He must choose from the list. The Senate has 30 days after receiving the nomination to confirm or reject his choice.

The Commission on Judicial Nomination is a 12-member panel with unpaid appointees of the gov-

error, chief judge and legislative leaders. It is currently chaired by Kaye, now of counsel to Skadden, Arps, Slate, Meagher & Flom, and advised by two former Court of Appeals clerks: counsel Stephen Younger, a partner at Patterson Belknap Webb & Tyler who clerked for Court of Appeals Judge Hugh Jones, and deputy counsel John Halloran, a partner at Speiser Krause who clerked for Court of Appeals Judge Matthew Jasen.

The panel sought out qualified candidates, holding events in Albany, Rochester and New York City to encourage applications for the Ciparick opening. It also conducted outreach through bar groups, community groups and law schools. The effort paid off with the highest number of applications (75), female applicants (35) and minority applicants (24).

"I am very pleased with the process," Kaye said yesterday. "I think the process worked extremely well. We got an unprecedented number

of applicants, which pleases me very much and an unprecedented number of qualified applicants."

While the commission sought applicants from diverse racial, religious, ethnic and geographic backgrounds, Kaye said diversity was not the No. 1 consideration of commission members. "We have quality first on our list," she said.

According to the former chief judge, her years on the Court of Appeals gave her additional insight about the court and she said she found herself weighing in the evaluation process "how that person would fit and how they would maintain the high quality of the Court of Appeals." Kaye said the "stellar" and "superbly qualified" nature of the applicants for the Ciparick opening will make the pool of candidates to fill another vacancy all the stronger. The commission is accepting applications until Dec. 18 for a position vacated by the recent death of Judge Theodore Jones Jr. Kaye anticipates that most, if not

all, of the applicants for the Ciparick seat will be considered for the Jones opening. The position pays \$177,000 annually. Applications are available at www.nysegov.com/cjn.

Carey Dunne, president of the New York City Bar, said the commission produced a list that is both "good and diverse." Dunne said the City Bar is evaluating the candidates and will release its ratings by Dec. 21.

Rivera, Schulz and Abdus-Salaam declined to discuss the application process in detail, except to say that Kaye was welcoming and put them at ease during the interviews.

"She is so people-friendly that it reduces the tension level in the room," Schulz said.

Rivera said she was "just very honored and thrilled to be on the list. It is quite an accomplished list of people."

@ John Caher can be contacted at jcaher@alm.com. Joel Stashenko can be contacted at jstashenko@alm.com.

Candidates' Biographical Information



Sheila Abdus-Salaam, 60

Justice, Appellate Division, First Department (since 2009)

Other Experience: Elected as Supreme Court justice, 1993, reelected in 2007; Civil Court judge, 1992-1993; general counsel, New York City Office of Labor Services, 1988-1991; assistant state attorney general, 1980-1988; staff attorney, Brooklyn Legal Services, 1977-1980.

Education: B.A., 1974, Barnard College, 1974; J.D., 1977, Columbia Law School.

Personal: Democrat; lives in Manhattan.



Rolando Acosta, 56

Justice, Appellate Division, First Department (since 2008)

Other Experience: Elected as Supreme Court justice, 2002; acting Supreme Court justice, 2001-2002; elected as Civil Court judge, 1997; first deputy commissioner, deputy commissioner, New York City Commission on Human Rights, 1988-1993; New York City Legal Aid Society, 1982-1988 and 1994-1997.

Education: B.A., 1979, Columbia University; J.D., 1982, Columbia Law School.

Personal: Democrat, lives in Manhattan. Immigrated from the Dominican Republic at age 14.



Kathy Chin, 59

Partner, Cadwalader, Wickersham & Taft (since 1980)

Other Experience: Member, New York City Commission to Combat Police Corruption, 2003-present; member, New York City Planning Commission, 1995-2001.

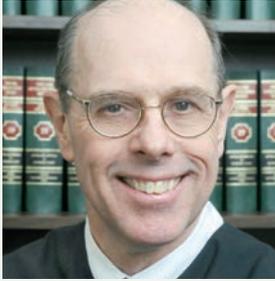
Education: B.A., 1975, Princeton University; J.D., 1980, Columbia Law School.

Personal: Democrat, lives in Manhattan. Married to Judge Denny Chin, U.S. Court of Appeals for the Second Circuit.

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Candidates' Biographical Information

Continued from previous page



Eugene Fahey, 61

Justice, Appellate Division, Fourth Department (since 2006)

Other Experience: Elected as Supreme Court justice, 1996, reelected in 2010; Buffalo City Court judge 1994-1996; house counsel, Kemper Insurance Co., 1985-1994; law clerk to Court of Claims Judge Edgar NeMoyer, 1984; member, Buffalo Common Council, 1978-1984 and 1988-1994.

Education: B.A., 1974, SUNY Buffalo, 1974; J.D., 1984, SUNY Buffalo Law School; M.A., 1998, SUNY Buffalo.

Personal: Democrat, lives in Buffalo.



Jenny Rivera, 51

Professor, City University School of Law (since 1997)

Other Experience: Founder, director, Center on Latino and Latina Rights and Equity at CUNY Law, 2008-present; special deputy attorney general for civil rights, 2007-2008; commissioner, New York City Commission on Human Rights, 2002-2007; clerk for then-Southern District Judge Sonia Sotomayor, 1993-1994; administrative law judge, New York Commission of Human Rights, 1992-1993; associate counsel, Puerto Rican Legal Defense and Education Fund, 1988-1992; counsel, Legal Aid Society's Homeless Family Rights Project, 1987-1988; law clerk, Second Circuit's pro se law clerk's office, 1985-1987.

Education: B.A., 1982, Princeton University; J.D., 1985, New York University School of Law; LL.M., 1993, Columbia Law School

Personal: Democrat, lives in the Bronx.



Margarita Rosa, 59

Executive director, Grand Street Settlement (since 1995)

Other Experience: Commissioner, New York State Division of Human Rights, 1990-1995; executive deputy commissioner, New York State Division of Human Rights, 1988-1990; general counsel, Division of Human Rights, 1985-1988; associate, Rabinowitz, Boudin, Standard, Krinsky & Lieberman, 1981-1984; staff attorney, Puerto Rican Legal Defense and Education Fund, 1979-1981; attorney, Rosenman & Colin, 1977-1979.

Education: B.A. 1974, Princeton University; J.D., 1980, Harvard Law School

Personal: Democrat, lives in Manhattan.



David Schulz, 60

Partner, Levine Sullivan Koch & Schulz (since 2003)

Other Experience: Lecturer, Yale Law School, 2009-present; lecturer, Columbia Law School, 2006-present; attorney, Rogers & Wells and Clifford Chance, 1978-2003; counsel, John Anderson for President, 1980.

Education: B.A., 1974, Knox College; M.A., 1976, Yale University; J.D., 1978, Yale Law School.

Personal: Democrat, lives in Manhattan.

Past Candidates for the Court of Appeals

Vacancy	Year	Governor	Appointed	Other Candidates
<p>Judith Kaye (Chief Judge)</p> 	2008	<p>David Paterson</p> 	<p>Jonathan Lippman Presiding Justice First Department</p> 	<p>George Carpinello, private practice attorney</p> <hr/> <p>Evan Davis, private practice attorney</p> <hr/> <p>Steven Fisher, justice, Second Department</p> <hr/> <p>Theodore Jones Jr., judge, Court of Appeals</p> <hr/> <p>Eugene Pigott, Jr., judge, Court of Appeals</p> <hr/> <p>Peter Zimroth, private practice attorney</p>
<p>Carmen Beauchamp Ciparick</p> 	2007	<p>Eliot Spitzer</p> 	<p>Carmen Beauchamp Ciparick Court of Appeals</p> 	<p>George Carpinello, private practice attorney</p> <hr/> <p>Jeremy Epstein, private practice attorney</p> <hr/> <p>Helen Freedman, justice, Manhattan Supreme Court</p> <hr/> <p>Steven Krane, private practice attorney</p>
<p>Judith Kaye (Chief Judge)</p> 	2007	<p>Eliot Spitzer</p> 	<p>Judith Kaye Court of Appeals</p> 	<p>Richard Andrias, justice, Nassau Supreme Court</p> <hr/> <p>George Carpinello, private practice attorney</p> <hr/> <p>Jeh Johnson, private practice attorney</p> <hr/> <p>Steven Krane, private practice attorney</p> <hr/> <p>Thomas Mercure, justice, Third Department</p> <hr/> <p>David Schulz, private practice attorney</p>
<p>Albert Rosenblatt</p> 	2006	<p>Eliot Spitzer</p> 	<p>Theodore Jones, justice, Brooklyn Supreme Court</p> 	<p>Richard Andrias, justice, Nassau Supreme Court</p> <hr/> <p>Juanita Bing-Newton, judge, Court of Claims</p> <hr/> <p>George Carpinello, private practice attorney</p> <hr/> <p>Steven Fisher, justice, Second Department</p> <hr/> <p>Thomas Mercure, justice, Third Department</p> <hr/> <p>James Yates, justice, Manhattan Supreme Court</p>

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Past Candidates for the Court of Appeals

Continued from previous page

Vacancy	Year	Governor	Appointed	Other Candidates
<p>George Bundy Smith</p> 	2006	<p>George Pataki</p> 	<p>Eugene Pigott Jr., presiding justice, Fourth Department,</p> 	<p>Richard Andrias, justice, Nassau Supreme Court</p> <p>James Catterson, justice, First Department</p> <p>Steven Fisher, justice, Second Department</p> <p>Thomas Mercure, justice, Third Department</p> <p>A. Gail Prudenti, presiding justice, Second Department</p> <p>George Bundy Smith, judge, Court of Appeals</p>
<p>Richard Wesley</p> 	2003	<p>George Pataki</p> 	<p>Robert Smith, Private practice attorney</p> 	<p>Daan Braverman, professor, Syracuse University College of Law</p> <p>Steven Fisher, justice, Queens Supreme Court</p> <p>Helen Freedman, justice, Manhattan Supreme Court</p> <p>Steven Friedman, private practice attorney</p> <p>Eugene Pigott Jr., presiding justice, Fourth Department</p> <p>Guy Miller Struve, private practice attorney</p>
<p>Howard Levine</p> 	2002	<p>George Pataki</p> 	<p>Susan Phillips Read, presiding judge, Court of Claims</p> 	<p>Steven Fisher, justice, Queens Supreme Court</p> <p>Helen Freedman, justice, Manhattan Supreme Court</p> <p>L. Priscilla Hall, justice, Brooklyn Supreme Court</p> <p>Eugene Pigott Jr., justice, Fourth Department</p> <p>Guy Miller Struve, private practice attorney</p> <p>James Yates, justice, Manhattan Supreme Court</p>

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Past Candidates for the Court of Appeals

Continued from previous page

Vacancy	Year	Governor	Appointed	Other Candidates
Joseph Bellacosa 	2000	George Pataki 	Victoria Graffeo , justice, Third Department 	Richard Andrias , justice, First Department Juanita Bing-Newton , deputy chief admin. judge, Court of Claims/Manhattan Stephen Crane , justice, Manhattan Supreme Court Steven Fisher , justice, Manhattan Supreme Court James Moore , private practice attorney Susan Phillips Read , presiding judge Court of Claims

SOURCE: Commission on Judicial Nomination