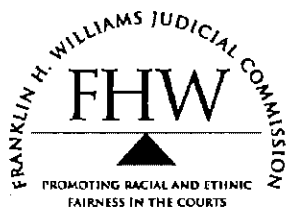


Everything You Need to Know About Becoming a Judge



Franklin H. Williams Judicial Commission AND Onondaga County Bar Association

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HON. ROSE H. SCONIERS

CHAIR, FRANKLIN H. WILLIAMS JUDICIAL COMMISSION
ASSOCIATE JUSTICE APPELLATE DIVISION 4TH DEPARTMENT (RET.)

HON. VANESSA E. BOGAN

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Hon. Rose H. Sconiers

Chair, Franklin H. Williams Judicial Comm., and Associate Justice Appellate Division 4th Department (ret.)

Hon. Rose H. Sconiers was designated as an Associate Justice of the Appellate Division, Fourth Department, by Governor David A. Paterson on February 1, 2010. She was elected to the New York State Supreme Court in 1993 and re-elected in 2007. Justice Sconiers is a former judge of the City Court of Buffalo; former Executive Attorney of The Legal Aid Bureau of Buffalo, Inc.; former Assistant Corporation Counsel for the City of Buffalo; and a 1973 graduate of the State University of New York at Buffalo School of Law. She was admitted to the State Bar in 1974 and to the U.S. Federal District Court in 1975. In addition, she is admitted to the U.S. Court of Appeals for the Second Circuit and the U.S. Supreme Court.

Justice Sconiers was appointed by Chief Judge Jonathan Lippman in 2009 to Chair the statewide Franklin H. Williams Judicial Commission on Minorities. Justice Sconiers is the former President of the Association of Justices of the Supreme Court of the State of New York, former Presiding Member of the Judicial Council of the New York State Bar Association and a former delegate to the National Conference of State Trial Judges of the American Bar Association.

She is the recipient of many honors and awards, including the University of Buffalo Law Alumni Association Distinguished Alumna Award, the YWCA Leader Luncheon Outstanding Achievement Award and the Buffalo Urban League Evans/Young Award. She was inducted into the Western New York Women's Hall of Fame in 2001. She received the 2008 Outstanding Jurist Award from the Bar Association of Erie County and was honored as the 2011 Lawyer of the Year by the Women Lawyers of Western New York. In addition, Justice Sconiers received the 2013 Bridge Builders Award from the Rochester Black Bar Association.

Hon. Judge James C. Tormey, III

District Administrative Judge, 5th Judicial District

Hon. James C. Tormey, Fifth District Administrative Judge and Justice of the Supreme Court, was born in Syracuse, New York, in 1950. He was appointed a New York State Supreme Court Justice by Governor George E. Pataki in 1995, and in that same year, was elected by the voters of the Fifth Judicial District to serve a 14-year term. In 2000, Hon. Jonathan Lippman, Chief Administrative Judge, appointed Justice Tormey to serve as Administrative Judge of the Fifth Judicial District.

Justice Tormey received his B.A. in Political Science from the State University of New York at Cortland in 1972 and his J.D. from Syracuse University College of Law in 1976. He was admitted to the New York State Bar in 1979 and was engaged in the practice of law as well as serving as a member of the Onondaga County Legislature.

He was first elected to the Legislature in 1977 and then re-elected serving a total of five terms or ten years. He was appointed to serve as Chairman of the Legislature's Health Committee for the majority of his tenure. In 1987, Justice Tormey chose to run for election to the Syracuse City Court bench and served as City Court Judge from 1987 to 1995.

Justice Tormey is a devoted family man and has been actively involved in coaching youth hockey, Little League and lacrosse. He was founder of the Valley Lacrosse League in 1992 and was instrumental in the planning of a new turf lacrosse/football field in the Valley section of the City of Syracuse. Together with his son Andrew, Justice Tormey founded the Central New York Koi and Water Garden Society in 2002. He serves as lector at Most Holy Rosary Roman Catholic Church in Syracuse.

Justice Tormey and his wife, Susan, have two children: Andrew and Colleen. Andrew graduated from the United States Naval Academy in Annapolis, is married to Kelly (Taylor) and have a son, Jack Tormey. Colleen graduated from Villanova University and works in Philadelphia, PA.

Hon. Vanessa E. Bogan

Syracuse City Court Judge

Judge Bogan was appointed to the Syracuse City Court bench by Mayor Driscoll in November 2006 and elected to a new term covering 2008 to 2017.

Judge Bogan is a veteran of the United States Air Force. She served as trial and appellant counsel to indigent defendants while working at the Frank H. Hiscock Legal Aid Society. She prosecuted juvenile delinquents and child abuse and neglect cases while with the Onondaga County Law Department. Judge Bogan also worked as Corporate Counsel to Syracuse Community Health Center and its affiliate corporations.

Judge Bogan graduated from City University School of Law at Queens College, receiving a Juris Doctor, 1993; and Columbia College, Columbia Missouri (at Hancock Field, N. Syracuse, NY), with a Bachelors of Arts, 1989. She was admitted to the New York State Bar in 1994.

Linda Campbell, Esq.

Linda M. Campbell, a sole practitioner in Syracuse, New York, is a graduate of the University of Rochester and Syracuse University College of Law, where she was Senior Editor of the Syracuse Law Review. Ms. Campbell, who is a former Assistant Attorney General for the State of New York, served as Principal Confidential Law Clerk to the late Associate Appellate Division Justice Leo J. Hayes, and confidential law clerk to Federal District Court Judge Frederick J. Scullin and Supreme Court Justice Walter T. Gorman. She was an adjunct professor for 15 years at the State University of New York at Oswego. Ms. Campbell is a member of the New York State Attorney Dispute Resolution Board of Directors, the Fifth Judicial District Independent Judicial Election Qualification Commission, and the Fifth Judicial District Character and Fitness Committee.

Hon. Julie A. Cecile

Onondaga County Family Court Judge

Honorable Julie A. Cecile, Onondaga County Family Court Judge. Judge Cecile received her undergraduate degree from Siena College and her JD from Syracuse University College of Law. She had a private practice for 20 years. In addition, she worked for the City of Syracuse as an Assistant Corporation Counsel and Onondaga County as an Assistant Welfare Attorney. Before taking the bench in January, 2013 Judge Cecile was the executive director of the McMahon/Ryan Child Advocacy Center.

Hon. Bernadette T. Clark

New York State Supreme Court Justice (Oneida Co.)

Bernadette T. Clark is a New York State Supreme Court Justice in the 5th Judicial District of New York, having been elected to a 14-year term in November 2005. A lifelong resident of Oneida County, she presides over numerous civil cases in the county. Judge Clark was a leader in bringing the Integrated Domestic Violence Court to Supreme Court in Oneida County and presided over that court for three years. She served five years as Oneida County Family Court Judge, from 2001-2005, and was the Oneida County First Assistant District Attorney from 1994-2000. Judge Clark was the first woman to serve in each of these positions. She received her bachelor's degree from St. Mary's College of Notre Dame in 1974, Cum Laude, and her Juris Doctor from Syracuse University School of Law in 1989, Magna Cum Laude. She was admitted to the New York State Bar, Appellate Division, Fourth Department in 1990.

Judge Clark's other professional credentials include having worked in the labor and litigation department of Bond, Schoeneck & King in Syracuse from 1989 until 1992. She also joined Petrone & Petrone, PC in Utica as a trial attorney for one year until she was appointed as First Assistant District Attorney. Examples of Judge Clark's involvement with law, community and philanthropic-related activities are almost too numerous to mention. Judge Clark has been honored by several organizations, having served on many community boards, including the Boys and Girls Club of Greater Utica, the Mohawk Valley Performing Arts, the National Center for Missing and Exploited Children, the Oneida County Bar Association, and since 2011, she's been a Trustee of Utica College. Judge Clark was the recipient of the New York State Governor's 2001 Justice Award to End Domestic Violence and was nominated by the Fifth Judicial District as the Distinguished Jurist for 2012.

Judge Clark is married to Utica businessman and Utica College Emeritus Trustee, Tom Clark. They live in the Town of New Hartford in Oneida County.

Dustin M. Czarny

Democratic Commissioner, Onondaga County Board of Elections

Dustin Czarny is a longtime political activist in Syracuse, NY. He quickly became known as a behind the scenes political operative specializing in GOTV. During his political career he was often called upon to serve as an advisor in electoral law and parliamentary procedure. He has been serving as Onondaga County's Election Commissioner (D) since January 1, 2013.

Growing up in Eastwood, Dustin attended High Schools in Gainesville FL & Cato, NY, and finally graduating in Skaneateles. He spent his college years in Gainesville.

Shortly after returning to Syracuse, Dustin volunteered for Ted Limpert's 1997 mayoral campaign and in joined Matt Driscoll's campaign for Mayor. In 2002 he was appointed Syracuse City Chair in the OCDC. In his role as City Chair he oversaw the 2003 city elections that saw a virtual sweep of Democratic office holders who ran for City Offices. He served as the 17th Ward Democratic Committee chair from 2006 - 2010. In September of 2012 he was nominated by the OCDC to be Elections Commissioner of Onondaga County (D) and was appointed by a unanimous vote of the Onondaga County Legislature. He was re-appointed in 2014 for a second term. In January of 2015 he was appointed as the the Legislative Committee chair for NYSECA (New York State Elections Commissioner Association) where he lobbies for election law changes on behalf of his fellow commissioners throughout the state.

Hon. Thérèse Wiley Dancks

U.S. Magistrate Judge, Northern District of New York

Thérèse Wiley Dancks is a United States Magistrate Judge for the 32 county Northern District of New York. At the time of her appointment in February of 2012, she was a founding partner in the law firm of Gale & Dancks, LLC, where her practice centered on civil litigation and trial work. She was associated with the Syracuse law firm of Mackenzie Hughes, LLP from 1991 to 1997. Judge Dancks graduated magna cum laude from LeMoyne College in 1985 and earned her J.D. degree cum laude from Syracuse University College of Law in 1991. She serves on district-wide court committees, U.S. Second Circuit court committees, and Federal Magistrate Judges Association committees. She is a native Central New Yorker, and assists local community and professional organizations, with an emphasis on helping providers of legal services to the indigent and poor, bar associations, and higher education institutions. Judge Dancks is a past president of the Central New York Women's Bar Association and established the chapter's award winning Domestic Violence Legal Assistance Clinic during her term. She served as chairwoman of the Hiscock Legal Aid Society board of directors, and has co-authored articles for the Syracuse Law Review. She frequently lectures for educational institutions, professional organizations and bar associations.

Hon. Melissa Davis

Administrative Law Judge, NYS Department of Corrections and Community Supervision

Melissa Davis has served as an Administrative Law Judge with the Department of Corrections and Community Supervision Board of Parole Adjudication Bureau since 1996. She conducts parole revocations hearings in the Central New York Area. In 2012 Judge Davis was presented with the Jay Tinter Award in recognition of her dedication, professional service and promotion of public safety for the Empire State. Prior to becoming an ALJ, Ms. Davis was a Senior Attorney at the Hiscock Legal Aid Society practicing in the areas of criminal, matrimonial, landlord tenant, and unemployment law. Judge Davis is a graduate of the University of Vermont and Syracuse University Law School. She lives in Syracuse and enjoys hiking, biking, kayaking and relaxing at her camp in the Adirondacks.

Christina F. DeJoseph, Esq.

Curtin & DeJoseph, P.C.

Christina F. DeJoseph, Esq., is a graduate of LeMoyne College and Syracuse University College of Law. Christie focuses her practice on various types of commercial disputes and litigation as well as contract negotiation and real estate transactions. She also managed the campaign to re-elect State Supreme Court Justice Brian DeJoseph in 2014. She is a member of the New York State Bar Association, Onondaga County Bar Association, Madison County Bar Association, and Oneida County Bar Association as well as the Central New York Women's Bar Association.

Hon. Brian F. DeJoseph

Associate Justice, Appellate Division, 4th Department

Brian F. DeJoseph is a career jurist, beginning with his appointment to the Syracuse City Court bench in September of 1981. Then 32 years of age, Justice DeJoseph holds the distinction as the youngest judge to sit in that court. His service continued after his election to a 10-year term in 1981 and re-election in 1991.

In 1987, he was designated as supervising judge of Syracuse City Court, a position he held through 2000. In this capacity, he oversaw the work of five other judges and more than 80 non-judicial employees. He was elected president of the New York State Association of City Court Judges in 1991. He was the chair of the New York State City & District Court Planning Committee from 1989 to 1992. He also served on various commissions including the Partnership to Reduce Gun Violence, the Syracuse/Onondaga Drug and Alcohol Abuse Commission and the Onondaga County Criminal Justice Advisory Board.

In November 2000, Justice DeJoseph was elected to a 14-year term to serve on the New York State Supreme Court. From 2001 to 2006, he was assigned to preside and supervise the matrimonial division of Onondaga County Supreme Court. During his tenure, Onondaga County became a statewide model for the effective disposition of matrimonial cases. In recognition thereof, then Chief Judge of the State of New York Judith Kaye appointed him a member of the statewide matrimonial commission. In 2007, he was assigned as a trial justice, hearing a wide variety of civil and commercial cases. On April 15, 2014 Governor Andrew M. Cuomo appointed Justice DeJoseph to the Appellate Division, Fourth Department.

Always an advocate for education, Justice DeJoseph has been a frequent speaker at various venues including annual Law Day festivities, continuing legal education seminars, local schools and neighborhood watch groups. He is committed to the next generation of lawyers and has mentored and instructed many law students, offering them guidance and experience during their internships. Throughout his life, Justice DeJoseph has been involved in a variety of civic organizations. He currently sits on the boards of MESA of Delaware Inc. and L'Arche of Syracuse. Both organizations are committed to addressing the needs of individuals who have developmental disabilities.

Justice DeJoseph was born in Syracuse, New York. A 1972 magna cum laude graduate of Syracuse University, Justice DeJoseph was selected for membership in the academic honorary societies of Phi Beta Kappa and Phi Kappa Phi. In 1975, he graduated cum laude from Syracuse University College of Law. He was a member of the New York State Army National Guard from 1970 to 1976. The proud father of three adult daughters, Justice DeJoseph resides in Syracuse with his wife Stephanie.

Lisa DiPoala Haber, Esq.

Lisa DiPoala Haber has 24 years of experience as litigator and currently has her own law practice focusing on general civil litigation, including matrimonial and family court matters as well as appeals. For many years Lisa was associated with Gilberti, Stinziano, Heintz and Smith, P.C. In March of 2009 she became law clerk to the Honorable David E. Peebles, U.S. Magistrate Judge and returned to the Gilberti Firm as Of Counsel in October 2012.

Lisa has also served as a confidential law clerk to the justices of New York State Supreme Court, Appellate Division, Fourth Department, as well as former Supreme Court Justice Parker J. Stone. She was an Assistant Corporation Counsel for the City of Syracuse in the litigation unit. Lisa is admitted to practice law in the State of New York as well as the Northern and Western Districts of the United States District Courts and the Second and Seventh Circuits of the United States Court of Appeals. She is the immediate past president of the Central New York Women's Bar Association and has been actively involved in both bar association and community organizations throughout her career and regularly lectures on civil law topics. She is a magna cum laude graduate of both Syracuse University College of Law and the S. I. New School of Communications at SU.

Hon. Mary Anne Doherty

Syracuse City Court Judge

Hon. Mary Anne Doherty, is a graduate of Syracuse University and Western New England College School of Law. She was elected Syracuse City Court Judge in November 2013 and began her ten year term in January 2014. Prior to joining the bench, she was the City of Syracuse Corporation Counsel and a law guardian for the Onondaga County Family Court. She began her career at Legal Services of Central New York in 2000. She is a member of the Northern District of NY Federal Bar Association, New York State Academy of Trial Lawyers, Onondaga County Bar Association and the Central New York Women's Bar Association.

Hon. Diane L. Fitzpatrick

NYS Court of Claims

A native of Syracuse, New York, Judge Fitzpatrick graduated from SUNY Oswego and Albany Law School. After law school, she returned to Syracuse, was admitted to the New York State Bar and began her own general practice firm focusing on family law, personal injury and real estate. During that time, she was also a law clerk to an Onondaga County Court Judge on a part-time basis. She was a member of the American Trial Lawyers and the Upstate Trial Lawyers Association, serving as treasurer and deputy treasurer. In 1991, she won a special election to the Lafayette Town Board, and was re-elected to two additional terms. She was designated as an alternate delegate to the Republican National Convention in 1996. In 1998, she was appointed to the New York State Court of Claims by Governor George Pataki, and she is currently in her third term.

Throughout her career, Diane has been involved in her community including service on the Town of Lafayette's Youth Committee, Zoning Committee, Library Board of Trustees, and Town of Lafayette Chamber of Commerce. She served as Honorary Chairperson for Vera House and received the Catholic Charities Lifetime Achievement Award.

She is married and has three grown children. In addition, she has earned a Black Belt in Karate and spends her free time training and riding her horses.

Anthony J. Gigliotti, Esq.

Principal Counsel, Attorney Grievance Committee, 5th Judicial District

Anthony Gigliotti received his undergraduate degree from Syracuse University in 1968 and went on to earn his law degree from St. John's University in 1971. He started his career as the Staff Attorney for Onondaga Neighborhood Legal Services.

In 1976 Mr. Gigliotti became the Executive Director of Legal Services of Central New York where he continued for 10 years. It was during this time that he began his career as adjunct professor at the Syracuse University College of Law which spanned over two decades. From 1987 to 1996, he held positions as City Court Judge, General Counsel for the Widewaters Group, Assistant Attorney General for New York State as well as private practice.

Mr. Gigliotti has spent the past 17 years as Principal Counsel for the Attorney Grievance Committee, Appellate Division Fourth Department, Fifth Judicial District.

Tony continues his community involvement at the Bar Association with the Central New York Lawyers Assistance Steering Committee and the Pro Bono Practice Committee. He is a member of the NYS Bar Association, National Italian American Bar Association, Westcott East Neighborhood Association and the Sedgwick Farms Tennis Club.

Hon. James E. Hughes

Justice, Village of Fayetteville, NY

James E. Hughes, is a partner in the law firm of Hancock Estabrook, LLP, where he practices in the areas of construction law, municipal law, and commercial litigation. Jim is a Construction Arbitrator affiliated with the American Arbitration Association (Arbitration and Mediation Neutral Panel). Jim serves as Village Justice for the Village of Fayetteville, NY.

Jim earned his undergraduate degree at the State University of New York at Buffalo, B.S., magna cum laude, 1976; and his J.D. at University at Buffalo Law School in 1979.

Martin A. Lynn, Esq.

Marty Lynn is a trial attorney with the Lynn Law Firm. He has extensive experience litigating matters including personal injury actions, toxic torts, negligence actions, insurance coverage disputes, product liability actions, as well as all other types of personal injury claims.

Mr. Lynn is a graduate of St. John's University School of Law (J.D. 2004) and the College of the Holy Cross (B.A. 2001) and is admitted to practice in New York and before the United States District Courts for the Eastern, Southern and Northern Districts of New York.

Mr. Lynn is a Certified Interior Structural Firefighter and serves as Vice President of the Skaneateles Fire Department. He serves as Secretary of the Executive Board of the Central New York's Women's Bar Association and is the Co-Chair of the Judicial Screening Committee for the Central New York Women's Bar Association. He is also a member of the Committee on the Judiciary for the Women's Bar Association of the State of New York. He is dedicated to pro-bono service and is listed on the "Honor Roll" of the Pro Bono Attorneys for the District for the Northern District of New York.

Mr. Lynn is a Super Lawyers Rising Star for 2014 and 2015, a recipient of the "40 Under Forty" award by the CNY Business Journal and author of "Claims-Made Policy Coverage Issues" Chapter of the Insurance Law Practice Update 2016.

Hon. Charles Major

New York State Supreme Court (ret.)

Charlie graduated from LeMoyne College and Syracuse University Law School. He worked for 35 years as a trial lawyer. In 1963, he became a justice of the peace for Skaneateles Village. He began serving as town justice in 1965. Two years later the town and village consolidated these positions and he remained town justice until 1977 when he became town supervisor, a position he kept for 14 years.

Until a few years ago, Major served as a justice on the state Supreme Court for the fifth district. His retirement from this position led Major back to the town justice position. "I was retired for about nine hours and 22 minutes," Major told the Syracuse Post-Standard. "And I became the town justice again. I just love it, I love this town, I love the people and I enjoy the work and working with all the people and trying to help them."

Even though retired, Charlie still serves with the state Supreme Court as a hearing officer in areas of mediation, as well as serving on Fridays for family court in Syracuse, hearing matters of custody. He's also an active member of the Skaneateles Fire Department, with 50 years of service.

However, if you Google Charlie Major you'll find most of the websites listed deal with the Charlie Major Nature Trail which was named in his honor. The nature trail is located off Crow Hill Road near Skaneateles Creek in Mottville, a tiny community a few miles north of the village of Skaneateles.

Charlie and his wife, the former Margaret Anita Palmer, have eight children: Michael, Mary, Margaret, Mark, Matthew, Martha, Martin and Mitchell.

Hon. Langston C. McKinney

Syracuse City Court Judge (ret.)

Appointed in 1986 to the Syracuse City Court bench, Judge McKinney was the first African-American to serve as a City Court Judge. The following year he was elected to a full ten-year term and was re-elected to a second ten-year term in 1997. He presided on the City Court Bench until he retired on December 31, 2010. Prior to becoming a judge, he formed the first African-American owned law firm in Syracuse, with attorneys Henry Melchor, Esq. and Hurclee Maye, Esq. Prior to going into private practice, Judge McKinney represented low income clients at Onondaga Neighborhood Legal Services and the Frank H. Hiscock Legal Aid Society.

During his 24 years of distinguished service on the Syracuse City Court bench, Judge Langston McKinney worked tirelessly inside and outside the courtroom to make justice a reality. He developed the Syracuse Community Treatment Court to provide treatment to defendant drug abusers facing nonviolent crimes as an alternative to jail. He advocated towards the achievement of more minority representation on city juries. He regularly devoted countless hours working with neighborhood groups, schools, churches, civic and charitable organizations, and public service agencies in their efforts to make Syracuse a better and safer place to live. Judge McKinney has served on the boards of directors of the Boys & Girls Club; the Samaritan Center; the Boy Scouts of America; the Syracuse Community Health Center; the Onondaga County Bar Association; the Criminal Justice Section of the New York State Bar Association and the Everson Museum. He is a charter member of the New York State Association of Drug Treatment Court Professionals. He has also served as a member of the Syracuse Inter-religious Council, and on the Vestry Board of Grace Episcopal Church. Indeed, in 2011, Judge McKinney was honored by the New York Civil Liberties Union's Central New York Chapter for consistently acting in accordance with his own statement: "Justice is not contained to the courtroom. Justice is a community effort."

Langston graduated from Howard University in 1965 with a degree in Chemistry, and was recruited to become the first black scientist in the Research and Development Division at Carrier Corporation in Syracuse.

Langston McKinney was inducted into the US Army in April 1966. He entered Law School at Syracuse University College of Law upon his discharge in 1968, using the GI Bill to pay in part for his law school education. As a first year law student he co-founded the SU chapter of the Law Students Civil Rights Research Council and spent a summer internship in the Southern civil rights movement. Langston was also instrumental in implementing the law college's first course in poverty law, helping to establish an internship program in which students could earn credit for serving as legal representatives for poor people.

More recently, though retired from the bench, Judge McKinney remains singularly devoted to the principals of our justice system. His efforts to enhance the rule of law and equality for all have been tireless. He was instrumental in the founding the William Herbert Johnson Bar Association of CNY, the very first African American Bar Association in Onondaga County. He worked with a focus group to create the OCBA's Diversity and Inclusion Committee. He has worked closely with the Law Week Committee to reach the youth in our community and to teach them about the positive changes they can make by utilizing the rule of law. He is a mentor to many lawyers, teaching them how they can apply their knowledge and positions as lawyers to enrich the world, starting in their own communities.

John J. Postel, Esq.

Deputy Administrator, NYS Commission on Judicial Conduct

John J. Postel, Deputy Administrator in Charge of the Commission's Rochester office, is a graduate of the University of Albany and the Albany Law School of Union University. He joined the Commission staff in 1980. Mr. Postel has been in charge of the Commission's Rochester Office covering Central and Western New York since 1984.

Hon. Rosemary S. Pooler

U.S. Court of Appeals, 2nd Circuit

Rosemary S. Pooler received a B.A. from Brooklyn College in 1959, a M.A. in History from the University of Connecticut in 1961, and a J.D. from the University of Michigan Law School in 1965. Following law school, she worked in private practice from 1966 to 1972, when she became Director of the Consumer Affairs Unit of the Syracuse City Corporation Counsel. She was elected a Syracuse City Common Councilor in 1974. Beginning in 1976, she served as Chair and Executive Director of the New York State Consumer Protection Board, which included being the statutory intervenor in rate cases pending before the Public Service Commission. In 1978 she received a graduate certificate in Regulatory Economics from the State University of Albany. Judge Pooler was appointed to a "consumer" seat as a Commissioner of the New York State Public Service Commission. She also served as a visit-ing professor of law at Syracuse University College of Law and as the Vice President of Le-gal Affairs for Atlantic States Legal Foundation, Inc.

In 1991, Judge Pooler became the first woman elected to the New York State Su-preme Court for the Fifth Judicial District. Four years later, she was appointed by President Bill Clinton to the United States District Court for the Northern District of New York, be-coming the first woman to serve on that bench. President Clinton elevated Judge Pooler to the United States Court of Appeals for the Second Circuit, where she assumed duty on June 19, 1998.

Judge Pooler was honored with the Women's Bar Association of the State of New York Doris S. Hoffman Medal in 2012; the Onondaga County Bar Association William C. Ruger Award in 2009; and the National Council of Jewish Women's Hanna G. Solomon Award in 1998. She is a member of the Onondaga County and New York State Bar Associ-ations, the Women's Bar Associations of the State of New York and Central New York, and an honorary member of the Board of Advisors for the Syracuse University College of Law. Judge Pooler is married to retired Syracuse University Professor William Pooler. They have two grown children.

Helen (Pinky) Kiggins Walsh

Republican Commissioner, Onondaga County Board of Elections

Helen Kiggins Walsh, also known as Pinky, attended Bishop Ludden High School, and went on to earn her BS Industrial Relations at Lemoyne College, graduating in 1980. She then attended SU College of Law.

Helen was a Secretary/ Clerk Onondaga County Board of Elections from 1980-1988; Deputy Commissioner of Elections from 1988-1996 and Commissioner of Elections 1997 to present. She was president of the New York State Election Commissioners Association (NYSECA) 2008-2009; member Executive Committee NYSECA 1997 to present; member Onondaga County Republican Committee 1978-2008.

She has worked on many campaigns; was elected Village of Camillus Trustee 2012. She is married to Michael Walsh, and they reside in Camillus.

Jean Marie Westlake, Esq.

DeFrancisco and Falgiatano

A lifelong resident of the Syracuse area, Jean Marie Westlake graduated from LeMoyne College, cum laude, with a Bachelor of Science degree in Industrial Labor Relations in 1994. She received her Juris Doctor from Syracuse University College of Law in 2001. While in law school, Ms. Westlake was a member of the Tournament of Champions and National Trial Teams, where she received extensive training in trial techniques. Prior to joining DeFrancisco and Falgiatano Law Firm, she was a litigation associate for a local law firm and is well versed in insurance industry practices.

Ms. Westlake is currently the President of the Onondaga County Bar Association.

Ms. Westlake focuses her practice on civil litigation involving serious personal injury and wrongful death. She has experience in a broad range of personal injury cases, including but not limited to medical malpractice, motor vehicle accidents, premise liability, construction accidents and products liability.

She is a member of the New York State Bar Association, Onondaga County Bar Association, Central New York Women's Bar Association, and the New York State Academy of Trial Lawyers.

Ms. Westlake is an instructor for the Syracuse University College of Law Trial Team program and is a former advisor for both the Syracuse University and Hamilton College undergraduate trial team programs.

Everything You Need to Know About Becoming a Judge

PART ONE: Election Law Overview and Related Ethical Requirements

Thursday, October 22, 2015
CNY Philanthropy Center
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2014 EDITION JUDICIAL CAMPAIGN ETHICS HANDBOOK

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JUDICIAL CAMPAIGN ETHICS HANDBOOK
of the New York State Advisory Committee on Judicial Ethics
(2014 Edition)

FOREWORD	ii
CONTACT INFORMATION.....	iv
JUDICIAL CAMPAIGN ETHICS HANDBOOK	1
1. Basic Rule: No Partisan Political Activity.....	1
2. Becoming a Candidate	1
2.1 Pre-Candidacy Activities	1
2.1.1 Testing the Waters	1
2.1.2 Anticipated Vacancies	2
2.2 Candidacy and Window Period Defined.....	2
2.2.1 Announcement of Candidacy.....	3
2.2.2 Unopposed Candidates.....	3
2.2.3 “Window Period” Defined.....	3
2.2.4 Judge as Candidate for Non-Judicial Office	5
2.3 Mandatory Education Program	5
2.4 Mandatory Financial Disclosure	6
2.5 Independent Judicial Election Qualification Commissions	6
3. Limits on Permissible Political Activity	6
3.1 Membership in Political Parties; Voting; Signing Nominating Petitions	6
3.2 Membership in Political Clubs or Organizations.....	7
3.3 Endorsement by Political Organizations and Other Persons and Entities	8
3.3.1 Questionnaires.....	10
3.3.2 Screening Panels	10
3.3.3 Limited Endorsement of Judicial Convention Delegate by Supreme Court Candidate in Furtherance of His/Her Own Candidacy	12
3.4 Nominating and Designating Petitions	13
3.5 Attendance at Political Gatherings.....	14
3.6 Attendance at Charitable Gatherings or Events	18
4. Fund-Raising and Use of Campaign Funds During the Campaign.....	18
4.1 Campaign Committees.....	18
4.1.1 Specific Fund-Raising Strategies and Techniques.....	21

4.2	Joint Fund-Raising	22
4.3	Proper Utilization of Campaign Funds	22
4.3.1	Special Considerations - Payments to Political Committees	23
4.3.2	Post-Election Window Period.....	23
4.4	Special Considerations - Candidate Who Anticipates Running for Two Positions in the Same Election Cycle	24
5.	Communications with Voters	25
5.1	Form of Advertisements	25
5.2	Use of Judicial Title, Robes, and Courthouse.....	27
5.3	Content of Campaign Speech.....	29
5.4	Judicial Decisions Affecting Campaign Activities and Comments	32
5.4.1	“Announce Clause” Restrictions Struck Down	32
5.4.2	“Pledge and Promise” Restrictions Remain in Effect.....	32
5.5	Joint Campaigning	33
5.6	Debates.....	34
6.	Involvement of Friends, Family, and Colleagues in Judicial Campaigns.....	34
6.1	Judge’s Staff Participating in the Judge’s Campaign	34
6.2	Participation of a Judicial Candidate’s Family	36
7.	Post-Election Fund-Raising and Use of Unexpended Campaign Funds	37
7.1	Unexpended or Surplus Campaign Funds.....	37
7.1.1	Permissible Uses and Closing of the Campaign Account.....	37
7.1.2	Prohibited Uses	39
7.2	Post-Election Fund-Raising	40
7.3	Other Post-Election Conduct	41
8.	Campaign-Related Disqualifications	42
8.1	Campaign Contributions – Legal and Administrative Considerations	43
8.2	Pledge or Promise	44
8.3	Endorsements.....	44
8.4	During the Campaign.....	44
8.5	After the Campaign: The Two-Year Rule	46
9.	Additional Reminders for Sitting Judges.....	47
	TABLE OF AUTHORITIES	49
	SUBJECT MATTER INDEX.....	52

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November 2014

FOREWORD

Although many judges and justices of the New York State Unified Court System are chosen through a partisan electoral process, they are prohibited from engaging in political activities, except as authorized by the Rules Governing Judicial Conduct (22 NYCRR Part 100) or other provisions of law. While the Rules prescribe the parameters of ethically permissible political activities, applying those rules in specific situations can be challenging. As a result, incumbent judges and non-judge candidates for judicial office (collectively, “judicial candidates”) are encouraged to submit any campaign-related ethics questions to the Judicial Campaign Ethics Center (the “JCEC”) to receive guidance about the propriety of various forms of campaign-related political activity. Judges and quasi-judicial officials should submit all other ethics inquiries to the New York State Advisory Committee on Judicial Ethics (the “Committee”).

The Advisory Committee on Judicial Ethics

In 1987, the Committee was formed to help New York State judges and justices adhere to the high standards set forth in the Rules. In 1988, the legislature codified the Committee’s creation in Judiciary Law §212(2)(1), which provides that whenever a judge acts in accordance with an advisory opinion of the Committee, that act is “presumed proper” for purposes of any subsequent investigation by the New York State Commission on Judicial Conduct. Since then, the Committee has issued between 100 and 250 formal opinions annually in response to questions from judges and justices about the propriety of their own political and other activities. Those opinions set forth the Committee’s interpretations of the Rules regulating political activities of judicial candidates, providing guidance for circumstances not specifically governed by a particular rule.

The Judicial Campaign Ethics Center

The New York State Unified Court System established the JCEC in 2004. Among its several roles, the JCEC serves as liaison to a subcommittee of the Committee to issue quick and reliable responses to judicial candidates with campaign-related ethics inquiries and provides campaign ethics training programs for judicial candidates. It also seeks to educate New York State voters about judicial elections. In its role as liaison to the Committee’s Judicial Campaign Ethics Subcommittee (the “Subcommittee”), the JCEC provides judicial candidates with responses to campaign-related ethics questions during the campaign to help them avoid actionable misconduct and help ensure that candidates act in a way that will maintain public confidence in the judiciary.

Members of the Subcommittee, who also are members of the Committee, review all written inquiries from judicial candidates. The JCEC sends each inquiring candidate a written response from the Subcommittee by e-mail. To facilitate a rapid response (generally within three business days), judicial candidates should e-mail their inquiries to the JCEC. Please visit our website at <http://www.nycourts.gov/ip/jcec/contactus.shtml#howtoask> for details.

Please note that the JCEC responses are not published, and thus apply only to the particular candidate who submitted the inquiry and only for actions taken in connection with that specific campaign. By written agreement with the Commission on Judicial Conduct, a judicial candidate who makes an inquiry and subsequently conforms his/her conduct during that window

period to the advice contained in the JCEC's response is presumed to have acted properly for purposes of any subsequent investigation by the Commission on Judicial Conduct.

The JCEC is only authorized to answer inquiries from a candidate about his/her own proposed conduct and will not answer questions about the conduct of a candidate's opponent or inquiries from third parties. All inquiries, whether by telephone, in writing or via electronic mail are, by law, treated as strictly confidential by the JCEC and the Subcommittee.

The Judicial Campaign Ethics Handbook

To help make the Committee's judicial campaign ethics opinions readily available to those who need them most, we have summarized selected opinions concerning political activities for this Judicial Campaign Ethics Handbook. Although the included opinions address questions frequently asked by judicial candidates about their own permissible political activities, the Handbook is not intended to be an exclusive source for guidance on this subject. There is no substitute for seeking written guidance from the JCEC or the Committee on matters that are not squarely addressed in a black-letter rule or opinion.

In addition, we have included references to opinions issued by the New York State Bar Association ("NYSBA") and the Commission on Judicial Conduct ("CJC"), for informational purposes only. The Advisory Committee was not involved in generating those opinions, and therefore does not necessarily endorse them.

~ ~ ~

It is our hope that candidates will seek and follow guidance from the JCEC and the Committee, in order to reduce the risk of public criticism and to promote public confidence in the judiciary.* Although published disciplinary determinations in campaign ethics matters are seldom unanimous – in fact, dissents and concurrences are common – the CJC has nonetheless imposed discipline on successful judge or non-judge candidates in each of the last several years, and has not been receptive to excuses that a candidate was "unaware of the relevant limitations" (2008 CJC Ann. Rep. at 145-50).

* The CJC has stated that "[a] judge's election is tarnished and the integrity of the judiciary is adversely affected by misconduct that circumvents the ethical standards imposed on judicial candidates and provides an unfair advantage over other candidates who respect and abide by the rules. In such cases, we must consider whether allowing the respondent to retain his or her judgeship would reward misconduct and encourage other judicial candidates to ignore the rules, knowing that they may reap the fruits of their misconduct" (2013 CJC Ann. Rep. at 75-94).

CONTACT INFORMATION

Judicial Campaign Ethics Center (for campaign-related judicial ethics inquiries only)

Address: Judicial Campaign Ethics Center
Office of Court Administration
25 Beaver Street, 8th Floor
New York, New York 10004

Telephone: 1-888-600-JCEC (5232)
Fax: 1-212-401-9029
E-mail: jcec@nycourts.gov
Web site: www.nycourts.gov/ip/jcec

Advisory Committee on Judicial Ethics (for any judicial ethics inquiries)[†]

Address: Advisory Committee on Judicial Ethics
Attn: Maryrita Dobiell, Esq., Chief Counsel
New York State Unified Court System
187 Wolf Road, Suite 103
Albany, New York 12205

Telephone: 1-866-79-JUDGE (toll-free) or 1-518-474-7469
Web site: www.nycourts.gov/ip/acje

Informal Inquiries on Judicial Ethics[‡]

Chair: Hon. George D. Marlow (ret.) at
1-866-79-JUDGE (58343) or 1-845-454-2125

Chief Counsel: Maryrita Dobiell, Esq. at
1-866-79-JUDGE (58343) or 1-518- 453-8650

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1-866-79-JUDGE (58343) or 1-914-824-5329

Staff Counsel: Laura L. Smith, Esq. at 1-212-428-2504
John J. Sullivan, Esq. at 1-518- 453-8650

[†] The Advisory Committee does not accept e-mail inquiries.

[‡] In addition to the names listed here, all judicial members of the Committee are also available by telephone for informal inquiries.

JUDICIAL CAMPAIGN ETHICS HANDBOOK

E-Handbook Hints:

- * Clicking on underlined opinion numbers provides quick access to referenced opinions.
- * Alternatively, to search for these and other opinions, you may go to one of these sites:
www.nycourts.gov > JUDGES > Ethics Opinions
www.nycourts.gov/ip/jcec > Handbook, Rules and Opinions > Search Ethics Opinions
www.nycourts.gov/ip/acje > Search ACJE Opinions > Search Ethics Opinions
- * The words “above” or “below” following a section number link to that handbook section.
- * You may use Ctrl + F (or other shortcuts) to search within this document.

1. Basic Rule: No Partisan Political Activity

The Rules generally prohibit full- or part-time judges, or judicial candidates seeking election to judicial office, from directly or indirectly engaging in any partisan political activity (22 NYCRR 100.5; 100.6[A]; pt. 1200 Rule 8.2[b]). As further explained in Section 3.1, below, one very important exception is that all judges and judicial candidates may at all times be members of political parties.

As discussed in the following sections of this Handbook, the Rules define certain limited permissible political activity and conduct so that an individual can advance his/her own candidacy for elective *judicial* office (22 NYCRR 100.5[A]).

By contrast, as explained further in Section 2.2.4, below, a judge who becomes a candidate for elective *non-judicial* office must resign from judicial office.

The Committee has advised that “[a] judge who is seeking appointment or re-appointment to judicial office is not a ‘candidate’ (*see* 22 NYCRR 100.0[A]) and does not have a ‘window period’ of permissible political activity” (Opinion 14-30).

2. Becoming a Candidate

The definition of “candidate” under the Rules (22 NYCRR 100.0[A]) does not require obtaining a political party’s nomination or support (*see* Section 2.2, below).

It is often important to determine the date on which an individual becomes a “candidate,” as this typically commences the window period during which a judge may engage in limited political activity and a non-judge becomes subject to many of the same limitations. In addition, it triggers financial disclosure obligations for certain candidates (*see* Section 2.4, below).

2.1 Pre-Candidacy Activities

2.1.1 Testing the Waters

A judge may meet privately with the head of a local political committee, political party members and leaders, or may appear privately before a party executive committee at any time to discuss the possibility of becoming a candidate for public office (Opinions 02-34 [judicial candidacy]; 97-65 [Vol. XV] [Lieutenant Governor]; 93-55 [Vol. XI] [district attorney]; 91-44 [Vol. VII] [another judicial office]; 22 NYCRR 100.0[Q]).

Such private preliminary discussions with political leaders or officials about a possible candidacy are not proscribed political activities under the Rules (Joint Opinion 04-143 and 05-05), and a judge need not form a campaign committee before testing the waters (Opinion 94-30 [Vol. XII]). Accordingly, the pendency of a criminal investigation or indictment against a party leader does not render such private discussions impermissible (Joint Opinion 04-143 and 05-05).

By contrast, a judge may not contact community residents before his/her window period begins to determine if they would support the judge's candidacy for judicial office, as such activity "does not involve a 'testing of the waters' about the possibility of receiving backing from a political party, but rather determining what the likelihood is of being supported by the voters themselves" (Opinion 02-34).

2.1.2 Anticipated Vacancies

Until there is a vacancy in a judicial office, or it is a known fact that a vacancy in such office will occur, a prospective candidate cannot be deemed a candidate for that judicial office (Opinions 08-189; 99-14 [Vol. XVII]; 97-45 [Vol. XV]).

The fact that the incumbent "has publicly stated that [he/she] is considering retiring from the bench" is not sufficient to establish that there is an actual, known judicial vacancy (Opinion 99-14 [Vol. XVII]). Similarly, an anticipated vacancy in County Court based on the incumbent's pending appointment to Supreme Court does not exist unless and until the appointment becomes effective (Opinion 97-45 [Vol. XV]).

In practice, this means that a prospective candidate for an anticipated vacancy may not announce his/her candidacy, allow the solicitation of funds, or engage in other political activity that would otherwise be permissible in furtherance of a judicial campaign, unless and until it is known that there is to be a vacancy and therefore an election to fill it (Opinions 08-189; 97-45 [Vol. XV]).

However, a judge may apply to a political party's judicial screening panel to determine his/her qualifications for a particular judicial office at a time when there are no actual, known vacancies for such office provided (1) there is a good-faith reason to believe there will be a vacancy later in the same election cycle; (2) the judicial screening panel process is available to all potential candidates; and (3) the panel is an official screening panel, such as a standing panel of an existing political party (Opinion 09-40).

2.2 Candidacy and Window Period Defined

Until an individual is an announced candidate (Section 2.2.1, below) for an actual, known opening for elective judicial office (Section 2.1.2, above) within his/her window period (Section 2.2.3, below), he/she may not engage in political activity under the Rules, but may only "test the waters" (Section 2.1.1, above) through private meetings to discuss whether he/she may be able to obtain the support of a political party or leader.

2.2.1 *Announcement of Candidacy*

A candidate is defined as “a person seeking selection for or retention in public office by election” (22 NYCRR 100.0[A]). A person becomes a candidate for public office under the Rules as soon as he or she makes a public announcement of candidacy or authorizes solicitation or acceptance of contributions (*id.*). The definition of “candidate” does not in any way depend on obtaining a political party’s nomination or support (*id.*).

Public elections encompassed by the Rules include primary and general elections, partisan and non-partisan elections, and retention elections (22 NYCRR 100.0[N]).

The Rules do not mandate a particular method for declaring oneself a candidate. Sitting judges traditionally write a letter to the Chief Administrative Judge (as the promulgator of the rules) and/or an appropriate local Administrative Judge (as the local representative of the Chief Administrative Judge).¹ However, conduct such as forming a campaign committee, issuing a press release, or meeting with community residents, are examples of alternative ways to publicly manifest one’s candidacy for elective judicial office within the meaning of the Rules (Opinions 02-34; 00-11 [Vol. XVIII]; “Observations and Recommendations,” 2001 CJC Ann. Rep. at 21-22).

2.2.2 *Unopposed Candidates*

Judicial candidates who are running unopposed may participate in permissible campaign activities, such as appearing with other candidates in door-to-door campaigning (Joint Opinion 97-118 and 97-122 [Vol. XVI]). However, the Committee has noted that “there may be limitations in certain areas, such as post-election fund-raising” (*id.*); see Section 7.3, below, for discussion.

2.2.3 *“Window Period” Defined*

The “window period” is the period during which judges and non-judges who seek an elective judicial office may engage in political activity pursuant to Section 100.5 of the Rules Governing Judicial Conduct (Opinion 96-29 [Vol. XIV]). There is no geographic limitation on permissible campaign activities during a candidate’s window period (Opinions 06-152; 03-122; 95-109 [Vol. XIII]).

Calculating the Start of the Window Period. The start of the window period for a particular elective judicial office is nine months before the primary election, judicial nominating convention, party caucus or other party meeting held to nominate candidates for that elective

¹ This tradition is a means for sitting judges to make a formal record of when their window period begins, and may also enable an appropriate administrative office to respond to inquiries about the propriety of political activity by a sitting judge.

judicial office, or at which a committee or other organization may publicly solicit or support a candidate for that office (22 NYCRR 100.0[Q]).

Thus, to determine the start of the applicable window period, a judicial candidate may either count back nine months from the date of the formal nomination, *i.e.*, the scheduled primary, nominating convention, or party caucus for that judicial office; or (if earlier) count back nine months from the date of an official party meeting at which a candidate for the judicial office will be designated and endorsed, even if that designation is subject to being contested at a subsequent primary; or (if earlier) the date of the commencement of the petition process for that judicial office (Opinions 07-152; 06-152; 05-97; 02-90; 94-97 [Vol. XII]).

The window period for Supreme Court candidates commences nine months prior to the earlier of the following dates: (1) the date of formal nomination by convention; or (2) the date of a recognized party-sponsored caucus or committee meeting within the candidate's judicial district held for the purpose of discussing or considering judicial nominations, even if a resulting designation or endorsement would be subject to a subsequent contest (Opinion 08-196).

If no date for such an official party meeting has yet been set, the candidate may assume that the previous year's official date will be used again for the upcoming party meeting and then count back nine months from that presumed date (Opinions 08-196; 07-152).

In Joint Opinion 14-92/14-94, the Committee took the opportunity to apply these principles to the unusual circumstance where, after a political party held its official designating meeting, it subsequently scheduled a second one:

The Committee's intention is to allow judicial candidates to count back nine months from the date when "the nomination process ... functionally starts" (Opinion 08-196). Accordingly, a judicial candidate may count back nine months from the date of the earliest official party meeting at which a candidate will be informally designated or endorsed for the position. It is irrelevant that, under some circumstances, the political party may also need to hold additional meetings due to a previously designated candidate's withdrawal or ineligibility, or perhaps due to a vacancy that has unexpectedly been created, or other unforeseen circumstances. ... Where a judicial candidate has calculated commencement of the applicable window period in good faith based on a political party's announced meeting schedule, the Committee can see no public interest to be served by calling that determination into question merely because the party has decided to hold additional meetings beyond the one initially announced. Judicial candidates must be able to calculate the start of their window period for a known judicial vacancy and then move forward with their campaigns.

Calculating the End of the Window Period. The end of the window period for a judicial candidate depends on whether he/she is a candidate in the general election.

If the candidate is not a candidate in the general election, the window period ordinarily ends six months after the date of the primary election, convention, caucus or meeting at which he/she would have been nominated (22 NYCRR 100.0[Q]; Opinions 03-122; 01-111; 97-121 [Vol. XVI]). The window period for a judicial candidate who submitted his/her name to a party screening panel but did not receive the party's endorsement or nomination, and whose name ultimately did not appear on the ballot for the primary election, ends exactly six months from the last date on which the candidate could have filed an independent nominating petition for the judicial office sought (Opinion 08-53).

When a candidate for Supreme Court Justice formally withdraws his/her name from consideration before the judicial nominating convention takes place, his/her window period ends six months from the date of his/her withdrawal or six months from the date of the nominating convention, whichever is earlier (Opinion 09-194).

If he/she is a candidate in the general election, the window period ends precisely six months after the date of the general election (22 NYCRR 100.0[Q]; General Construction Law § 30; Opinions 04-87; 97-121 [Vol. XVI]; 97-25 [Vol. XV]; 93-20 [Vol. X] [fund-raising event for judge elected on November 3 must take place prior to May 3]; 91-67 [Vol. VII]). A recently elected judge may not attend a political event held "six months and one day after the general election" (Opinion 91-67 [Vol. VII]).

2.2.4 Judge as Candidate for Non-Judicial Office

A judge must resign from judicial office on becoming a candidate for elective non-judicial office, other than that of a delegate in a State constitutional convention (22 NYCRR 100.5[B]).² A judge may nonetheless test the waters for non-judicial office by making an appearance before the Executive Committee of a political party for the purpose of being interviewed as a possible candidate for the position of district attorney (Opinion 93-55 [Vol. XI]; *see also* Opinion 97-65 [Vol. XV]). See also Section 2.1.1, above, for further discussion of testing the waters.

2.3 Mandatory Education Program

The Rules require all judicial candidates (except for those seeking town or village justice positions) to attend a mandatory judicial ethics education program (22 NYCRR 100.5[A][4][f]).

The rule provides that all judge and non-judge candidates for elective judicial office "shall complete" the ethics training program "any time after the candidate makes a public announcement of candidacy or authorizes solicitation or acceptance of contributions for a known judicial vacancy, but no later than 30 days after receiving the nomination for judicial office" (*id.*). For

² The term "candidate" is defined in the Rules as "a person seeking selection for or retention in public office by election" (22 NYCRR 100.0[A]), and the Committee has cited this definition in the context of Section 100.5(B) (Opinions 10-207; 98-64 [Vol. XVIII]).

candidates running in a primary election, the date of nomination is defined as “the date upon which the candidate files a designating petition with the Board of Elections” (*id.*).

This ethics program is administered by the JCEC. Contact the JCEC at 1-888-600-5232 for more information and to register.

2.4 Mandatory Financial Disclosure

The Rules require all judicial candidates (other than candidates for justice of a town or village court) to file a financial disclosure statement with the Ethics Commission for the Unified Court System within 20 days following the date on which the judge or non-judge becomes a judicial candidate, unless the candidate was already required to file a financial disclosure statement for the preceding calendar year pursuant to Part 40 of the Rules of the Chief Judge (22 NYCRR 100.5[A][4][g]).

The JCEC has prepared an [online FAQs page](http://www.nycourts.gov/ip/jcec/financialdisclosure.shtml) to help candidates determine whether and when they must file (<http://www.nycourts.gov/ip/jcec/financialdisclosure.shtml>).

For more information, such as what forms to use, what must be disclosed, and where to file, please visit the Ethics Commission’s website at <http://www.nycourts.gov/ip/ethics>, or contact the Ethics Commission at 1-212-428-2899 for more information. This is different from, and in addition to, the campaign financial disclosure reports required under the Election Law. Contact the Board of Elections for more information about Election Law requirements.

2.5 Independent Judicial Election Qualification Commissions

The independent judicial election qualification commissions were established by the chief administrator of the courts in February 2007 (22 NYCRR 150). All judicial candidates, other than candidates for town or village justice, are invited to submit specified information to one of these commissions for evaluation (22 NYCRR 100.5[A][7]; 22 NYCRR 150 & Appendix A[5][A]; Opinion 07-91). Please visit <http://www.ny-iejqc.org> for more information. These independent judicial election qualification commissions are different from, and in addition to, any other screening panels that may be offered by bar associations and political parties or other entities. See Section 3.3.2, below, for further discussion of screening panels and their ratings.

3. Limits on Permissible Political Activity

The Rules distinguish between “conduct integral to a judicial candidate’s own campaign” and “ancillary political activity” in support of other candidates or party objectives, in order to address the State’s compelling interest in preventing the appearance or reality of political bias or corruption in its judiciary (*Matter of Raab*, 100 NY2d 305, 315 [2003] [upholding sanctions for candidate’s improper payments to a political party, anonymous participation in a phone bank for another candidate, and participation in a political party’s screening of other candidates]).

3.1 Membership in Political Parties; Voting; Signing Nominating Petitions

All judges and judicial candidates may maintain membership in a political party and identify themselves as a member of a political party, regardless of whether they are in their

window period (22 NYCRR 100.5[A][1][ii]; 100.5[A][1][b]; Opinion 91-68 [Vol. XI]). However, a judge may not pay any dues to a political party, even during the window period of his/her election year (Opinion 91-68 [Vol. XI]). The following paragraphs describe activities in which a judge or non-judge may participate at any time. The discussion focuses on judges, however, because it is describing exceptions to the rule barring judges from participating in political activities outside of their applicable window period.

In any year, whether a judge is or is not standing for election during that year, the judge also may vote in a party primary in which the judge, as a registered party member and voter, is eligible to vote. The Committee advised in 1990 that a judge who is a registered voter/member of a party may attend an official party caucus to nominate political candidates if all eligible registered voters/members are allowed to attend, provided that the vote is by secret ballot and the judge does not participate in the discussion or otherwise indicate a preference in any way for a specific candidate (Opinions 90-153 [Vol. VI]; 90-139 [Vol. VI]). In 2009, the Committee expressly modified these earlier opinions, advising that a judge may attend a political party caucus held for the purpose of nominating and voting for political candidates and may vote for the candidate(s) of his/her choice even if voting is accomplished other than by secret ballot (22 NYCRR 100.5[A][1][ii]; Opinion 09-180).

A judge may sign a nominating petition to place the name(s) of an individual or individuals on an electoral ballot in any year whether the judge is or is not standing for election in that year, as signing an election petition “is an act akin to voting rather than to campaigning” (Opinions 99-125 [Vol. XVIII]; 89-89 [Vol. IV]).

3.2 Membership in Political Clubs or Organizations

There are different rules for judge and non-judge judicial candidates with respect to membership in a political club or organization.³

Sitting judges may not be members, leaders, or officers of political clubs or organizations, whether or not they are in their window period (22 NYCRR 100.5[A][1][a]-[b]; Opinion 96-29 [Vol. XIV] [judge may not serve as a political party’s committee person]; 90-88 [Vol. VI] [judge may not be a member of a Chairman’s Club of a county political organization]), and may not pay dues to such organizations (Opinion 91-68 [Vol. XI]).

A *non-judge candidate* for judicial office may be a member of a political organization (22 NYCRR 100.5[A][3]). If the non-judge candidate is elected, he or she must resign from the political club or organization.

³ The term “political organization” is defined in the Rules as “a political party, political club or other group, the principal purpose of which is to further the election or appointment” of persons to public office (22 NYCRR 100.0[M]).

Although non-judge candidates may continue to maintain ordinary membership during their campaign, they may not serve as officers in a political club or organization (Opinion 01-44 [non-judge candidate may not retain the position of ward committee person]; 22 NYCRR 100.5[A][1][a]). This means that when a non-judge becomes a candidate for elective judicial office (22 NYCRR 100.0[A]), he/she must resign any leadership position he/she may have held in any political club or organization.

3.3 Endorsement by Political Organizations and Other Persons and Entities

Personal Involvement of Candidate. A judicial candidate may personally seek and/or accept the support and endorsement of a wide variety of persons and entities, including labor unions, political parties, caucuses, political action committees, politicians and candidates for non-judicial office, and lawyers who appear before the court to which the candidate seeks election or re-election (Opinion 07-24 [labor union]; Joint Opinion 05-23 and 05-24 [non-judicial officials running for elective office]; Opinions 01-44 [Police Benevolent Association and political parties]; 94-86 [Vol. XII] [New York State Trial Lawyers Association]; 94-30 [Vol. XII] [members of political committees and “other parties and organizations”]; 93-99 [Vol. XI] [National Women’s Political Caucus and Republican Pro Choice PAC]; 93-52 [Vol. XI] [single-issue Right to Life party]; 92-19 [Vol. IX] [lawyer]; 89-125 [Vol. IV] [political party]). In Opinion 01-44, the Committee expressly rejected the view of NYSBA Opinion 289 (1973), based on former Canon 7(b)(2) of the Code of Judicial Conduct, which prohibited judicial candidates from personally seeking endorsements (Opinion 01-44).

Improper Pressure or Appearance of Impropriety. Any solicitation or acceptance of support or endorsements must be done in a time, place and manner consistent with the impartiality, integrity and independence of the judiciary (22 NYCRR 100.5[A][4][a]). Among other things, the judge must not create the appearance or reality of improper pressure on attorneys who have cases pending before him/her (*compare* Joint Opinion 05-105, 05-108, and 05-109; Opinion 97-99 [Vol. XVI]; 2009 CJC Ann. Rep. at 176-80 [disciplinary determination] *with* Opinion 04-94 [judge may accept an offer of support for his/her candidacy from an elected official who recently appeared before him/her on a family court matter, made after the parties and their attorneys resolved the matter by stipulation without the judge’s intervention on their first court appearance]). A judge who is a judicial candidate within his/her window period may ask attorneys who regularly appear before him/her to attend a reception and speak to attendees about their experience appearing before the judge, as long as the candidate takes care to avoid any appearance of undue pressure on the attorneys in making this request (Opinion 08-152; *cf.* 2009 CJC Ann. Rep. at 176-80 [disciplinary determination]). But, to avoid any appearance of undue pressure, a town justice should not ask individual court officers of the town court to publicly support his/her re-election (Opinion 11-65).

Improper Pledges or Promises. A candidate must be careful when seeking or accepting an endorsement not to make any commitments, pledges or promises of conduct that are inconsistent with the impartial performance of the adjudicative duties of the office (22 NYCRR 100.5[A][4][d]; Opinions 99-33 [Vol. XVII]; 93-99 [Vol. XI]; 93-52 [Vol. XI] [candidate may not sign a pledge to support a party’s platform]; *cf.* Opinion 99-44 [Vol. XVII]). (Restrictions on campaign speech are covered in more detail in Section 5, below.) Sitting judges must at all times refrain from public comment about a pending or impending proceeding in any court within the

United States or its territories (22 NYCRR 100.3[B][8]). These restrictions on a judicial candidate's speech during the campaign do not preclude the candidate from commenting on measures that would impact the administration of justice, such as, for example, a proposal to build a new courthouse, the adequacy of judicial salaries, or proposals to relieve calendar congestion.

Other Cautions. In seeking or accepting an endorsement from a non-judicial official or a candidate for non-judicial office, a judicial candidate should take steps, to the extent possible, to avoid the appearance that he/she is, in turn, endorsing another candidate (Joint Opinion 05-23 and 05-24; Opinion 03-64). The rule against endorsing other candidates is described further in Section 3.3.3, below, and 5.5, below.

A judicial candidate may not make any payment to a political party or its committee in order to be considered for endorsement (Opinion 01-21; *cf.* Election Law 17-162).

Disclosure. Mere endorsement, in and of itself, does not trigger any recusal obligations for a judicial candidate who is a sitting judge. That is, the fact that a particular person or entity was among those endorsing his/her candidacy, without more, does not warrant a conclusion that the candidate's impartiality as a judge might reasonably be questioned and therefore does not mandate disqualification when that person or entity appears before the judge (22 NYCRR 100.3[E][1]; Opinions 07-24 [mere endorsement by a party of the judge's candidacy]; 04-106 [mere attendance of a party or attorney at a fund-raising event for the judge]; 03-64 [mere listing of attorney as a supporter of the candidate]).

However, if a sitting judge is aware that a person or entity who is appearing before him/her has endorsed his/her candidacy, the Committee has advised:

The judge should disclose the fact that a named party to the litigation endorsed his/her candidacy and should give all counsel and parties the opportunity to be heard. The judge may preside, even if a party objects, provided the judge determines that he/she can be fair and impartial.

In deciding whether to recuse, however, the judge should consider all relevant factors, including, but not limited to: (a) the merits of any objections voiced by the parties or counsel, (b) any additional involvement by the labor union in the judge's campaign, and (c) the period of time since the election. If, after considering all relevant factors, the judge concludes in his/her discretion that the specific circumstances might give rise to an appearance of partiality, the judge should recuse.

(Opinion 07-24.) Other campaign-related disqualifications are covered in Section 8, below.

Declining an Endorsement or Nomination. A judicial candidate is free to decline a nomination, endorsement, or cross-endorsement from any person or entity, as long as the declination is for independent reasons and is not a *quid pro quo* for his/her nomination or endorsement by another person or entity (Opinions 00-86 [Vol. XIX]; 93-99 [Vol. XI]; 93-25 [Vol. XI]; Joint Opinion 91-27/91-49 [Vol. VII] [judicial candidate may not agree to accept one

party's designation conditioned on declining any offer of nomination for the same position by another political party)).

If a judicial candidate does not feel that he/she will be able to be fair and impartial in cases involving persons who have endorsed him/her, then he/she must either decline the endorsements, or must recuse from any specific cases in which he/she cannot be fair and impartial (*cf. People v. Moreno*, 70 NY2d 403 [1987]).

3.3.1 Questionnaires

A judicial candidate may answer questionnaires provided by a screening committee, an independent judicial election qualifications commission, a union, the League of Women Voters, or other groups, provided that the questions do not seek to elicit a pledge, promise or commitment inconsistent with the impartial performance of the adjudicative duties of the office (22 NYCRR 100.5[A][4][d][i]-[ii]; Opinions 05-119 [League of Women Voters]; 93-106 [Vol. XI] [questionnaire from bar association's judicial screening committee]; 93-99 [Vol. XI] [questionnaires from National Women's Political Caucus and/or the Republican Pro Choice PAC]). A candidate may respond to questions regarding the proper administration of justice, and may make a promise or pledge to perform faithfully and impartially the duties of judicial office (22 NYCRR 100.5[A][4][d][i], [iii]). A judicial candidate may sign a "Statement of Principles" pledging that the candidate intends to use fair campaign practices during his/her campaign (Opinion 05-119). The statements a candidate makes on a questionnaire or in seeking an endorsement are subject to the same ethics rules as the candidate's other campaign statements, as explained further in Section 5, below.

3.3.2 Screening Panels

The Rules Governing Judicial Conduct do not require a judicial candidate to participate in any screening process to determine his/her qualifications for judicial office, whether conducted by a political party, a bar association, or an independent judicial election qualification commission (22 NYCRR 100.5; Opinion 07-91).⁴ However, "appearing before a bar association's judicial screening committee is not a prohibited activity" under the Rules (Opinion 94-86 [Vol. XII] [noting that non-participation "could result in serious repercussions to the judge's candidacy, especially if bar association or screening committee approval is a requirement of the political body nominating or appointing the judge"]). Thus, for example, a judge or non-judge judicial candidate for election to town or village justice may fully participate as a candidate in a local bar association's screening process, subject to generally applicable limitations on judicial campaign speech (Opinion 12-97).

⁴ The independent judicial election qualification commissions were established by the chief administrator of the courts (22 NYCRR 150). Please see Section 2.3, or visit <http://www.ny-ijecq.org> for more information.

A judicial candidate may appear before a political party's screening panel (Opinion 11-64). A judge may even apply to a political party's judicial screening panel to determine his/her qualifications for a particular judicial office at a time when there are no actual, known vacancies for such office provided (1) there is a good-faith reason to believe there will be a vacancy later in the same election cycle, (2) the judicial screening panel process is available to all potential candidates, and (3) the panel is an official screening panel, such as a standing panel of an existing political party (Opinion 09-40).

Disqualification is not automatically required if attorneys on the screening committee later appear before the judge as attorneys (Opinion 11-64). See discussion in Section 8.2, below.

A judicial candidate may answer the questions posed in a questionnaire of a bar association's judicial screening committee, subject to the limitations on judicial campaign speech (Opinion 93-106 [Vol. XI]).

The Committee has advised that a judicial candidate's decision about whether to sign a waiver of the privilege of confidentiality at the request of a screening committee is a personal decision, which does not raise a question of judicial ethics (Opinion 94-86 [Vol. XII]).

Providing names of references. A judicial candidate may provide a party screening panel with the names of individuals "who can meaningfully assess the [candidate's] qualifications, character and temperament" (Opinion 11-64); and, in the Committee's view, the public can only benefit when such individuals are also "familiar with the legal system" (*id.*).

Attorneys. A judge who is a judicial candidate may provide the names of attorneys who regularly appear before him/her as references (Opinion 97-99 [Vol. XVI]).

Judges. A judicial candidate should not ask sitting judges to write to a political party's screening panel directly but, instead, should give the panel names of sitting judges the candidate wishes the panel to contact (Joint Opinion 12-84/12-95[B]-[G], at Question 3; Opinion 11-64 [noting that "sitting judges are not only familiar with the legal system but are likely well-situated to observe conduct that is relevant to a potential judicial candidate's qualifications, competence, character, and temperament" and therefore a candidate may "provide a political party's screening panel with the names of sitting judges as references, if the candidate wishes to do so"]).

Asking individuals to provide information directly to a screening panel. The Committee has addressed two specific situations so far. For other situations not directly covered by these opinions, candidates may seek further guidance from the JCEC or the Committee.

Asking attorneys. A judge who is seeking re-election may request attorneys who regularly appear before him/her to furnish comments or testimony to a bar association's screening committee, but only if such materials are given directly and exclusively to the screening committee and not to the judge (Opinion 97-99 [Vol. XVI]).

Asking judges. By contrast, a judicial candidate should not ask sitting judges to write to a political party's screening panel directly but, instead, should give the panel names of

sitting judges the candidate wishes the panel to contact (Joint Opinion 12-84/12-95[B]-[G], at Question 3).⁵

Use of screening panel ratings. A judicial candidate may inform the public that an independent judicial election qualification commission has found the candidate qualified for the judicial position he/she seeks and may publish an exact copy of the commission's press release about such finding (Joint Opinion 07-150 and 07-151). However, if an independent judicial qualifications commission issues only one of two ratings – “qualified” or “not qualified” – a judicial candidate may not state that he/she has received the “highest” or “best” rating from the commission (Opinion 09-162).⁶ A judicial candidate may also comment about his/her opponent's rating by an independent judicial qualifications commission as long as his/her comments are accurate and not misleading (Opinion 09-162).

A judicial candidate may also truthfully refer to a local bar association evaluation committee rating of his/her qualifications in his/her campaign materials (Opinion 12-97). The Committee has also recognized, without specifically commenting on the practice, that a local bar association's rating of a candidate may be used by that candidate's organization as an “endorsement” in campaign advertising (Opinions 07-130; 88-100 [Vol. II]).

A judicial candidate may not, however, participate in the screening of other candidates (*Matter of Raab*, 100 NY2d at 315; Joint Opinion 05-105, 05-108, and 05-109).

3.3.3 *Limited Endorsement of Judicial Convention Delegate by Supreme Court Candidate in Furtherance of His/Her Own Candidacy*

As discussed further in Section 5.5, below, a candidate for judicial office is prohibited from “publicly endorsing or publicly opposing (other than by running against) another candidate for public office” (22 NYCRR 100.5[A][1][e]; *see generally id.* at 100.5[A][1][c], [d], [f]).

However, the Committee has advised that a candidate for Supreme Court who seeks a political party's nomination may ask voters to vote in a primary election for the judicial convention delegate who will support his/her nomination, as long as the Supreme Court candidate

⁵ The Committee has emphasized that, to avoid any appearance that a sitting judge is engaging in impermissible political activity by providing comments to a political party's screening panel, “the judge's comments should be made solely in response to a direct request from the [political] party's screening panel and should be addressed only to the requesting panel” (Joint Opinion 12-84/12-95[B]-[G]).

⁶ Part 150 was amended in March 2012 to provide that the independent judicial election qualification commissions in all four departments will evaluate judicial candidates “to determine whether they are highly qualified, qualified, or not qualified for the office to which they seek election” (22 NYCRR 150.5[a]). Thus, the independent judicial election qualification commissions can now issue three different ratings.

makes clear that his/her endorsement of the delegate is for the purpose of furthering his/her own candidacy (Opinion 08-157).

This very limited exception has been recognized in light of the specific nature of the judicial convention system for nominating candidates for Supreme Court (*compare* Opinion 97-75 [Vol. XV] [candidate for town justice may not circulate separate petitions to form a judicial convention and/or to name a delegate to the party's national convention, as in doing so the candidate would be "engaging in partisan political activity unrelated to [his/her] own campaign for elective judicial office"]).

In Joint Opinion 10-101/11-01, in response to inquiries from Supreme Court candidates, the Committee provided further guidance on the practical implications of the narrow exception recognized in Opinion 08-157:

Circulating Petitions. A Supreme Court candidate may circulate petitions listing only the names of the delegate candidates who will support his/her nomination, and no other names, but must make clear that his/her endorsement of such delegates is for the purpose of furthering his/her own candidacy (Joint Opinion 10-101/11-01).

Campaign Literature. A Supreme Court candidate may use his/her own campaign funds to pay for campaign literature or mailings in which the judicial candidate will ask voters to vote in a primary election for the judicial convention delegates who will support his/her nomination, but again the candidate must make clear that his/her endorsement of the delegate candidates is for the purpose of furthering his/her own candidacy (Joint Opinion 10-101/11-01). In such campaign literature or mailings, the Supreme Court candidate may announce and comment on the fact that particular delegate candidates have pledged to support him/her but should not further describe or comment on the delegate candidates' views or stances on issues (*see id.*).

Direct and Indirect Campaign Contributions. A Supreme Court candidate may not make campaign contributions to a delegate candidate's campaign and may not pay for a delegate candidate's own advertisements (Joint Opinion 10-101/11-01).

Must Comply with Applicable Laws and Rules. The campaign activities authorized in Joint Opinion 10-101/11-01 are only ethically permissible "to the extent that they are legally permitted and otherwise performed in compliance with the Rules Governing Judicial Conduct" (*id.*)

3.4 Nominating and Designating Petitions⁷

A judicial candidate may circulate a nominating or designating petition only if the petition includes the candidate's own name as a nominee or designee (Opinions 09-148; 03-42; 98-99)

⁷ The Rules do not define the terms "nominating petition" and "designating petition," and the terms appear to be used interchangeably in published ethics opinions. Sample petition forms are

[Vol. XVII]; 91-96 [Vol. VIII]; 91-94 [Vol. VIII]). Judicial candidates may be listed together on a petition with other candidates on their slate (Opinions 03-06; 02-64). Thus, a judicial candidate may circulate a petition for several candidates that includes his/her own name, but may not circulate individual petitions for other candidates (Opinions 09-148; 02-64; 98-99 [Vol. XVII]; 91-94 [Vol. VIII]).

A judge may sign a petition to place the name(s) of an individual or individuals on an electoral ballot in any year, whether the judge is or is not standing for election in that year (Opinions 99-125 [Vol. XVIII]; 89-89 [Vol. IV]).

Sitting judges who are judicial candidates have sometimes asked whether they may authenticate nominating petitions. The question of who may authenticate a nominating petition is primarily a legal question (*see, e.g.*, Election Law § 6-132; *Russell v. Board of Elections*, 45 NY2d 800 (1978) (“Given the unambiguous wording of the statute . . . , it is clear that the Legislature intended to restrict the class of officials who are authorized to authenticate a nominating petition.”). However, as it appears that a notary public may authenticate petitions of any political party,⁸ the Committee has discussed this question in light of certain constitutional restrictions on several categories of judges. Specifically, the Committee has advised that “a judge who is constitutionally barred from holding ‘another public office or trust’ (NY Const art VI §20[b]) may not serve as a notary public” and therefore cannot witness signatures on his/her petitions as a notary public (Opinions 14-109; 13-111; 03-129). By contrast, a judge who is not subject to this constitutional bar, such as a town or village justice, may “hold the office of a Notary Public, and as such, may authenticate a nominating petition of any political party as a Notary Public” (Opinion 03-42).⁹

3.5 Attendance at Political Gatherings

During the judicial candidate’s window period, the candidate may, unless otherwise prohibited by law or rule, attend and speak at gatherings on behalf of his/her own candidacy (22 NYCRR 100.5[A][2][i]-[v]). The candidate may attend a wide variety of events as part of his/her campaign, including his/her own fund-raising events (Opinion 91-37 [Vol. VII]), fund-raisers for other elected officials (Opinions 03-51; 01-17 [Vol. XIX]; 91-94 [Vol. VIII]), a fund-raiser sponsored by a not-for-profit advocacy organization that promotes equal rights for gay and

available on the Board of Elections web site.

⁸ “In lieu of the signed statement of a witness who is a duly qualified voter of the state qualified to sign the petition, the following statement signed by a notary public or commissioner of deeds shall be accepted: ...” (Election Law § 6-132[3]; *see also id.* 6-138[2]; 6-140[2]; 6-204[1]; 6-206[2]).

⁹ Article 6, Section 20(b) applies to a “judge of the court of appeals, justice of the supreme court, judge of the court of claims, judge of a county court, judge of the surrogate’s court, judge of the family court or judge of a court for the city of New York” (Opinion 13-111). The provision does not apply to a town or village justice (Opinion 03-42), district court judge (Opinion 98-07/98-24 [Vol. XVI]), or city court judge outside of New York City (Opinion 90-32 [Vol. V]).

lesbians (Opinion 03-45), politically sponsored golf tournaments (Opinion 12-129[A]-[G], at Question 3), or a rally sponsored by civic associations in opposition to a shopping mall project in the candidate's township (Opinion 00-82 [Vol. XIX] [decided without reference to Part 100.5]).¹⁰ However, a judicial candidate must faithfully follow the prohibition against personally soliciting funds and other campaign speech restrictions (22 NYCRR 100.5[A][1][h]; 100.5[A][4][d]). These restrictions are covered in more detail in Section 5, below.

Purchasing tickets to politically-sponsored events. Judicial candidates may not make contributions to any political organization or candidate (22 NYCRR 100.5[A][1][h]; *see also* Election Law 17-162). Thus, a judicial candidate may not contribute money to assist in covering the cost of the music at a political fund-raising event (Opinion 88-72 [Vol. II]). However, the Rules expressly permit a judicial candidate to purchase two tickets to, and attend, a politically-sponsored dinner or event, including a fund-raising event for other elected officials or candidates (Opinion 01-17 [Vol. XIX]; 88-87 [Vol. II]), subject to certain restrictions to help prevent the appearance of an impermissible political contribution (22 NYCRR 100.5[A][2][v]).

Number of tickets: Judicial candidates may not purchase more than two (2) tickets to a politically-sponsored dinner or event (22 NYCRR 100.5[A][2][v]). A judicial candidate may not purchase an entire table (*i.e.*, more than two tickets), even when the price per ticket falls under the \$250 limit (Joint Opinion 06-80 and 06-81).

Price of tickets: The ticket price "shall not exceed the proportionate cost" of the event (22 NYCRR 100.5[A][2][v]). A ticket price of \$250 or less is deemed to be the proportionate cost of the function (*id.*). Judicial candidates may purchase two tickets for \$250 or less, regardless of whether other attendees pay more than \$250 per ticket (Joint Opinion 06-80 and 06-81).

In addition, a judicial candidate may not purchase tickets at a price higher than the price all other attendees are required to pay, because that would be an impermissible political contribution (Opinions 13-60; 12-129[A]-[G]; 03-122 ["The payment may not exceed the cost of the ticket."]; 92-97 [Vol. X] [where tickets are offered at multiple prices, the candidate "must purchase those with the lowest price"]; 88-26 [Vol. I] [judicial candidate "may purchase the lowest priced dinner ticket to the political club fundraiser, but should not purchase the more expensive tickets denominated as 'Sponsor' or 'Patron'"]; 22 NYCRR 100.5[A][1][h]).

¹⁰ The principle is not unlimited, of course, because a judicial candidate must maintain the dignity of judicial office and act in a manner consistent with the impartiality, integrity and independence of the judiciary (22 NYCRR 100.5[A][4][a]). For example, where an entity organizes and promotes its fund-raiser around a theme exhorting attendees to "repeal or disregard" a particular statute, a judicial candidate should not attend that particular event (Opinion 14-49 ["the theme of simply 'repealing or disregarding' a particular law is profoundly disrespectful of the rule of law, and reflects an attitude which is wholly incompatible with the judicial function"]).

A candidate may not pay more than \$250 per ticket unless he or she obtains a statement from the sponsor of the event that the amount paid represents the candidate's proportional cost of the function (22 NYCRR 100.5[A][2][v]).

“Pay-What-You-Wish” Fund-Raiser: Subject to certain limitations, a judicial candidate may pay to attend a political fund-raiser for which no tickets are sold and no standard admission price has been set (Joint Opinion 13-99/13-100 and 13-101/13-102). If the invitation provides a “list of suggested levels of ‘donations’ or ‘support,’” a judicial candidate “may treat these ‘suggested donation’ levels as ticket prices and may, therefore, pay the lowest priced suggested donation if it is \$250 or less” (Joint Opinion 13-99/13-100 and 13-101/13-102). If the invitation provides no guidance whatsoever to attendees about how much they are expected to pay, a judicial candidate may pay up to \$250 to attend the event (Joint Opinion 13-99/13-100 and 13-101/13-102). For situations not directly covered by Joint Opinion 13-99/13-100 and 13-101/13-102, including the question of how much a judicial candidate may pay for two people to attend such an event, please contact the Subcommittee for an opinion.

Use of tickets: A judicial candidate may “purchase two tickets to, and attend, politically sponsored” events (22 NYCRR 100.5[A][2][v]). The Committee has advised that a judicial candidate should not purchase tickets to a political function unless he/she “intends and expects to use” the tickets (Opinion 03-68). It is permissible for a judicial candidate who is unable to attend a politically sponsored function to purchase up to two tickets to the function and send up to two bona fide campaign representatives to attend on his/her behalf (Opinion 07-64).

Source of funds: The Rules do not specify whether personal funds (as opposed to campaign funds) may be used to purchase tickets to political events. However, it appears that both “campaign contributions” and the “personal funds” of judicial candidates may be used to pay for campaign-related goods and services, subject to the fair value rule (22 NYCRR 100.5[A][6]; cf. Opinions 08-43 [noting that a campaign may be entirely self-financed]; 03-122 [permitting judicial candidate to substitute a personal check for a committee check, where the event sponsor states that the committee check cannot legally be accepted, as “payment in a legally required manner would not be prohibited”]; Joint Opinion 98-132 and 98-136 [Vol. XVII] [holding that “reimbursement of personal funds used solely for campaign-related expenses is not prohibited” under the circumstances presented]).

No involvement in internal workings of a political party. Although a judicial candidate may attend political functions during his/her window period, he/she may not be involved in the political process other than in furtherance of his/her own campaign or as a voter (*see generally* 22 NYCRR 100.5[A][1]-[2]; *Matter of Raab*, 100 NY2d at 315). Thus, a judicial candidate may not sit in on a political party's interviews of candidates for elective office, even if requested to do so by the party (Opinion 00-64 [Vol. XIX]). Similarly, if a judge who is a judicial candidate wishes

to attend the national convention of a political party, he/she must do so strictly as a spectator (Opinion 99-156 [Vol. XVIII]; *see also* Opinion 95-83 [Vol. XIII]). A judge who is a judicial candidate also may not accede to the request of a political organization's district leader to comment on a proposed judicial candidate rating system for the political party (Opinion 12-144).

Speaker or guest of honor. A judicial candidate must not be a speaker, guest of honor, or award recipient at a politically sponsored event, unless either (a) the event is not a fund-raiser, or (b) the candidate's participation is unannounced prior to the event (Joint Opinion 12-84/12-95[B]-[G], at Question 1). During his/her window period, a judicial candidate may nonetheless attend fund-raising events sponsored by a political organization, be introduced as a judicial candidate, and briefly acknowledge the introduction (Opinions 07-09; 03-51 [candidate may attend Congressman's fund-raiser, but may not accept a Congressional Merit Award at the event]; 01-27 [candidate may attend political party's fund-raiser, but may not accept an award]; 22 NYCRR 100.5[A][1][d]; *see also* 2007 CJC Ann. Rep. at 127-35 [disciplinary determination] [judicial candidate engaged in impermissible political activity by serving as a keynote speaker for a political party's fund-raiser]). A judicial candidate may not permit his/her name to be listed as a "Contributor" on an invitation to a political club's fund-raising dinner (Opinion 88-26 [Vol. I]).

Political functions held after the election but during the window period. A judicial candidate who has been elected as a judge may continue to attend political functions throughout his/her window period, which ends exactly six months after the general election (Opinions 92-29 [Vol. IX]; 91-67 [Vol. VII] [recently elected judge may not attend political event held "six months and one day after the general election"]; 91-24 [Vol. VII]; 89-136 [Vol. IV]). The judge's campaign committee may purchase these tickets using campaign funds (Opinion 92-29 [Vol. IX]; 91-24 [Vol. VII].) A recently elected judge may retain a small portion of unexpended campaign funds to pay for tickets and to attend political events during his/her window period (Opinion 07-187).

A judge who was an unsuccessful candidate in a primary election for a different judicial office may also continue to attend political functions throughout his/her window period, which ends exactly six months after the primary election (Opinion 96-124 [Vol. XV]).

See Section 2.2.3, above, for a discussion of how to calculate the window period.

Political functions held after the window period. A judge who is no longer a candidate within his/her appropriate window period may not attend a political gathering, or any gathering sponsored by a political organization, even if the gathering is of a laudable, non-political nature ("Observations and Recommendations," 2001 CJC Ann. Rep. at 27). A non-candidate judge may not escort his/her spouse (who was a candidate for elective office) to fund-raising events held for the spouse, even where the judge did not participate in the event and was not introduced at the event (Opinions 07-169; 06-147; *see also* 1990 CJC Ann. Rep. at 150-52 [disciplinary determination]). This restriction has no geographic limitations, insofar as it has been extended to national political conventions or out-of-state events sponsored by a political party organization at a national level (Opinion 99-156 [Vol. XVIII]; *cf.* Opinion 95-109 [Vol. XIII]). A judge who is not a candidate for judicial office, therefore, has an affirmative obligation to inquire regarding the sponsor's identity and purposes of an event in order to avoid inadvertently attending a prohibited political event ("Observations and Recommendations," 2001 CJC Ann. Rep. at 27).

3.6 Attendance at Charitable Gatherings or Events

The Committee has recognized that a judicial candidate may promote his/her candidacy at events that are not politically sponsored, including charitable fund-raisers (Opinion 07-137). For instance, a judicial candidate may purchase an advertisement on a T-shirt that will be distributed to participants in a charitable event, so long as neither the candidate's name nor the prestige of judicial office will be used for fund-raising purposes (Opinion 07-137). However, a candidate may not use campaign funds to make charitable donations unless they directly benefit the campaign, because charitable contributions per se are not a traditional part of the election process and are impermissible under prior opinions, unless they are used to secure campaign-related advertising, goods or services, or to attend charitable events in furtherance of the candidate's campaign (Opinion 07-137; 22 NYCRR 100.5[A][6]).

To the extent legally permissible, a judicial candidate may use campaign funds to attend bar association functions or other events that are not hosted by political organizations throughout his/her window period, including in the post-election window period, provided that his/her attendance is in furtherance of his/her campaign for judicial office and the candidate determines that he/she will receive fair value for the expenditure (Joint Opinion 12-84/12-95[B]-[G], at Question 2).

An individual who is not currently a judge may be a speaker or guest of honor at a charitable fund-raising event, even though he/she is a judicial candidate (Opinion 07-90). By contrast, a sitting judge may not be the speaker or guest of honor at a charitable organization's fund-raising events, even during his/her window period (22 NYCRR 100.4[C][3][b][ii]; Opinion 07-90).

4. Fund-Raising and Use of Campaign Funds During the Campaign

A judicial candidate may, of course, contribute to his or her *own* campaign to the extent permitted by the Election Law (Opinions 01-21 [Vol. XIX]; 91-68 [Vol. XI]; 22 NYCRR 100.5[A][2]). If the candidate is not soliciting or accepting money from any other person (i.e., if he/she is running an entirely self-funded campaign), he/she is not ethically required to form a campaign committee (Opinion 08-43; cf. Opinion 89-05 [Vol. III]).

However, a judicial candidate may not personally solicit or accept campaign contributions or funds (22 NYCRR 100.5[A][1][h]; 100.5[A][5]; *see also, e.g.*, Opinion 92-43 [Vol. IX] [recently elected judge may not personally sell tickets to a political victory celebration]; 2013 CJC Ann. Rep. at 75-94 [“While it is improper for a judicial candidate to personally accept campaign contributions..., a disguised contribution is equally impermissible.”]). Therefore, if a candidate wishes to accept any campaign contributions, he/she must form a campaign committee (22 NYCRR 100.5[A][4][c]; 100.5[A][5]). Candidates should, of course, comply with any Election Law requirements with respect to reporting and/or registration of their committee.

4.1 Campaign Committees

A judicial candidate may establish one or more committees of “responsible persons” to solicit and accept reasonable campaign contributions and support from the public (including lawyers), manage the expenditure of funds for the candidate's campaign and obtain public

statements of support for the candidacy (22 NYCRR 100.5[A][5]; Opinions 07-135; 95-62 [Vol. XIII]).¹¹ The campaign committee may also conduct the candidate's campaign through media advertisements, brochures, mailings, candidate forums, etc. (22 NYCRR 100.5[A][5]).

Formal requirements. The Rules Governing Judicial Conduct do not impose any formal filing or registration requirements for the establishment of a campaign committee or designation of a campaign treasurer or finance chair. Such requirements, if any, would be imposed by law or regulation.

Who may serve on the campaign committee. Although the Rules do not set forth a list of qualifications for persons who may serve on a campaign committee, it is the judicial candidate's obligation to make sure that all individuals serving on the campaign committee are "responsible persons" (22 NYCRR 100.5[A][5]; "Observations and Recommendations," 2001 CJC Ann. Rep. at 26-27; cf. Opinion 07-64 [noting that a candidate must instruct his/her representative about the limitations on campaign speech and conduct that he/she should observe when acting on the candidate's behalf]). Attorneys may serve on the campaign committee, and a judge who is a candidate for judicial office may personally ask individual attorneys to join his/her campaign committee (Opinion 92-19 [Vol. IX]), although this must be done in a manner consistent with the impartiality, integrity and independence of the judiciary (22 NYCRR 100.4[A][4][a]). In December 2008, a judge was publicly disciplined for requesting support for his/her candidacy from an attorney in his/her courtroom shortly before the attorney was scheduled to appear before the judge (2009 CJC Ann. Rep. at 176-80). For specific issues relating to family and court employees serving on a campaign committee, please see Section 6, below.

When the committee may be formed. The committee may be formed during a candidate's window period. However, if a judicial candidate has run an entirely self-funded campaign, without a campaign committee, he/she may not form a campaign committee after the election "to recoup costs [he/she] incurred and paid personally during the campaign period" (Opinion 89-05 [Vol. III]). See generally Section 7, below, regarding post-election fund-raising.

No joint campaign committees. Judicial candidates may not establish a joint campaign committee with other candidates, because participation by the candidate, directly or indirectly, in the activities and functioning of the single joint re-election committee constitutes an involvement in a political campaign other than his/her own campaign for judicial office (Opinions 03-06; 02-64; 88-04 [Vol. I]; see also Section 4.2, below, regarding joint fund-raising, and Section 5.5, below, regarding joint campaigning). Similarly, a judicial candidate may not participate in a campaign bank account maintained by a political organization, in which contributions received by the organization on behalf of the judge are mingled with contributions received on behalf of other judicial and non-judicial candidates (Opinion 97-80 [Vol. XVI]).

¹¹ A judicial candidate who wishes to solicit or accept campaign contributions must establish a committee to solicit and accept campaign contributions on his/her behalf (22 NYCRR 100.5[A][1][h]; 100.5[A][2][i]; 100.5[A][4][c]; 100.5[A][5]; Opinions 07-135; 95-62 [Vol. XIII]).

Knowledge of the identities of contributors and amounts contributed. A judicial candidate may attend his/her own fund-raising event and may actually see and acknowledge individuals in attendance, but the identities of those who contribute to a judicial candidate's campaign should otherwise be kept from the candidate (Opinion 07-88). No candidate for judicial office should attempt to have any listing of contributors made available to him/her, nor may the candidate seek to learn the identity of those who contributed to his/her campaign (Opinions 02-06; 87-27 [Vol. I]; see also NYSBA Opinion 289 [stating that a candidate also should not seek to learn the identity of those who contributed to his/her opponent's campaign]).

A judicial candidate should not personally send a letter to persons who contributed funds to his/her election campaign, because such a letter would clearly signify knowledge of those who contributed (Opinion 02-06). The campaign committee, however, may send a letter thanking contributors for their financial support, provided that the committee sends it within the candidate's window period (Opinion 02-06). Such a letter may even include a direct quote from the candidate expressing thanks, but the campaign committee should make clear in the letter that the candidate has not been informed of the identities of the contributors (*id.*).¹²

Although dinners and other fund-raising affairs are permitted during the window period, it is impermissible to publish a Souvenir Journal with advertisements solicited from various businesses, because "[i]t would be unrealistic to expect that the judge would be unaware of the names appearing in and contributors to such publication" and "it is conceivable that one or more subscribers would use such Souvenir Journal to convey that they are in a position to improperly influence" the judge (Opinion 87-27 [Vol. I]).

Permissible contributors. The campaign committee may solicit and accept reasonable contributions from the public, including lawyers (Opinion 03-06).

The New York State Bar Association has taken the position that a judge's campaign committee may not knowingly solicit or accept contributions from a party to litigation that is before the judge, nor one employed by, affiliated with, or a member of the immediate family of a party to litigation before the judge. In addition, a judicial candidate's campaign committee should not solicit or accept contributions from a party which may reasonably be expected to come before

¹² The Committee has recognized that a judge or judicial candidate may inadvertently or incidentally become aware of some of his/her campaign contributors through attendance at fund-raisers (Opinions 07-88; 04-106), through a litigant's decision to seek the judge's disqualification based on campaign contributions (Opinion 10-135), or through reading a newspaper (Opinion 04-106). Such knowledge, inadvertently gained, does not automatically require a judge's disqualification, as long as the judge concludes that he/she can be impartial. See Section 8.4. In 2011, the Administrative Board adopted Part 151, a case assignment rule, to help ensure that cases involving a judge's larger campaign contributors are not assigned to the judge for a two-year period (22 NYCRR 151). Part 151 is designed to operate at the administrative level, without any involvement by the judge, parties, or counsel.

the candidate if elected or from one who has come before the candidate so recently that it manifests an appearance of impropriety (NYSBA Opinion 289).

The campaign committee may accept a campaign contribution from a local elected official who is not a judge, when the source of the funds is the official's own political campaign committee account (Opinion 02-109).

The committee may also accept campaign contributions from an already existing political committee or a group of lawyers who raise funds on the candidate's behalf, as long as neither the existing political committee nor the group of lawyers uses the judicial candidates' names to raise funds for other non-judicial candidates or for a political party (Opinion 03-06).

4.1.1 Specific Fund-Raising Strategies and Techniques

Permissible Methods of Fund-Raising. Although the Rules do not set forth a list of permissible and impermissible methods for a campaign committee to use in raising funds for the judicial candidate's campaign, any method chosen must be consistent with the dignity, impartiality, integrity and independence of the judiciary (22 NYCRR 100.5[A][4][a]). The Committee has provided guidance on a few specific methods of fund-raising:

Dinners and Fund-Raising Affairs: The campaign committee may hold dinners and other fund-raising events during the window period (Opinion 87-27 [Vol. I]).

Campaign Committee's Website: The campaign committee may solicit campaign contributions on a website it sponsors, provided that the contributors are directed to send all donations to the campaign committee and not to the candidate himself/herself (Opinion 07-135). The judicial candidate may not solicit campaign contributions on his/her own website (*id.*).

Raffle: The campaign committee may, if permitted by law, sell raffle tickets and conduct a raffle at a fund-raiser for the candidate (Opinion 07-88). The judicial candidate may be present during the raffle, but must not personally participate in selling tickets (*id.*).

Cautionary Note: Candidates who wish to authorize or permit their campaign committees to raise money by conducting raffles or other games of chance should carefully check applicable statutes and regulations to determine the lawfulness of the proposed activity.¹³

No Souvenir Journals: It is impermissible to publish a Souvenir Journal with advertisements solicited from various businesses, because "[i]t would be unrealistic to

¹³ The Board of Elections has posted an online brochure which discusses certain issues regarding door prizes and raffles. The brochure suggests contacting "the NYS Racing and Wagering Board (518-395-5400) or the Attorney General (518-474-7330)" for further information.

expect that the judge would be unaware of the names appearing in and contributors to such publication” and “it is conceivable that one or more subscribers would use such Souvenir Journal to convey that they are in a position to improperly influence” the judge (Opinion 87-27 [Vol. I]).

Providing Free Admission to a Fund-Raising Event. A judicial candidate may permit other individuals to attend his/her fund-raiser without charge, regardless of whether such individuals are currently seeking election to public office (Joint Opinion 12-84/12-95[B]-[G], at Question 4).

Professional Fund-Raising Consultant. A judicial candidate may not hire a professional fund-raising consultant who will be paid on a percentage or commission basis (Opinion 12-129[A]-[G], at Question 1).

4.2 Joint Fund-Raising

A judicial candidate may not hold a joint fund-raiser with a non-judicial candidate (Opinion 08-40).

Two judicial candidates may participate in a joint fund-raising event if the proceeds are divided equally between the two campaigns, provided neither candidate comments on the other’s qualifications or endorses the other (Opinions 01-99; 91-113 [Vol. VIII]).

The candidates may not establish a single joint campaign committee, however, as each candidate would then be perceived as a participant in another candidate’s campaign, and would readily be seen as endorsing the other candidate (Opinions 03-06; 02-64; 88-04 [Vol. I]).

A judicial candidate may not participate in a political organization’s campaign bank account that would co-mingle the funds contributed to the judge’s campaign with contributions received on behalf of other judicial or non-judicial candidates (Opinion 97-80 [Vol. XVI]).

For a discussion of joint campaigning see Section 5.5, below.

4.3 Proper Utilization of Campaign Funds

A judicial candidate may expend campaign funds during the window period in any manner consistent with the Rules and the Election Law (Opinion 92-97 [Vol. X]; *see also, e.g.*, Election Law §§14-130; 17-162). For example, judicial candidates are specifically prohibited from using campaign funds or personal funds to pay for any campaign-related goods or services for which fair value is not received (22 NYCRR 100.5[A][6]).

Campaign contributions may not be used for the private benefit of the candidate or others (22 NYCRR 100.5[A][5]; Election Law §14-130) and thus should not be used for personal expenses unrelated to the campaign (Opinion 89-152 [Vol. V]). See Section 7.1.2, below, for a discussion of several prohibited uses of campaign funds.

Campaign funds generally should be used in a manner consistent with the contemplation of donors, such as to fund campaign activities and literature, and after the campaign ends, to fund

a modest and reasonable victory party within the window period as part of the election cycle (Opinion 87-16 [Vol. I]). See Section 3.5, above, regarding attendance at political events; see Section 5, below, regarding campaign advertisements.

4.3.1 *Special Considerations - Payments to Political Committees*

A judicial candidate may not make a payment to a political party in order to be considered for its endorsement (Opinion 01-21 [Vol. XIX]; Election Law §§14-130; 17-162).

A judicial candidate may not make a general payment or contribution to a political party or county committee (*Matter of Raab*, 100 NY2d at 315-16 [“The contribution limitation is intended to ensure that political parties cannot extract contributions from persons seeking nomination for judicial office in exchange for a party endorsement.”]; 22 NYCRR 100.5[A][5]; Opinions 01-21 [Vol. XIX]; 92-97 [Vol. X]; cf. Election Law 17-162).

Nor may the candidate pay for a share of a political party’s headquarters or general campaign mailings, such as those generally encouraging voters to vote for that party’s candidates without specifying the names of particular candidates (*Matter of Raab*, 100 NY2d at 316 [candidate sanctioned for, among other things, paying a substantial sum to a political party without verifying that the payment was used to cover expenditures for his own campaign as opposed to other candidates’ races or general party needs]; Opinions 01-21 [Vol. XIX] [candidate may not pay \$2,500 to party to “support the endorsed candidates for town offices in the payment of campaign expenses”]; 92-97 [Vol. X]; cf. Opinion 91-94 [Vol. VIII] [paying more than the candidate’s proportionate share of actual campaign services would constitute an impermissible contribution]).

However, a candidate may reimburse such a committee or organization for his/her proportionate share of the actual campaign costs (Opinions 92-97 [Vol. X]; 91-94 [Vol. VIII]). The Committee has advised that a candidate for Supreme Court “may reimburse the county committee for expenses it incurred in the preparation and the printing of petitions and distribution for judicial delegates, for postage for notices, audio and refreshment expenses for the judicial convention and for the printing of campaign materials ..., provided that the candidate or the candidate’s treasurer on a reasonable basis of fact believes that these expenses are reasonable and actual costs actually and proportionately relating to the candidate’s judicial campaign” (Opinion 92-97 [Vol. X]; see also Opinion 01-21 [Vol. XIX]; *Matter of Raab*, 100 NY2d at 316).

4.3.2 *Post-Election Window Period*

A judicial candidate may continue to attend political events and make certain other expenditures using campaign funds throughout his/her window period, even after the general election. The Committee has advised:

During the six-month post-election Window Period, a judge or candidate for judicial office may use campaign funds for those activities permitted under Section 100.5(A)(2) of the Rules Governing Judicial Conduct and for some expenditures that are considered a “traditional part of the total election process”. For example, during his/her Window Period, a judicial candidate may

continue to use campaign funds to purchase two tickets to and attend political dinners and other events, “provided that the event’s organizer sells tickets to judicial candidates or their campaign committees [at] a price not exceeding \$250 per ticket, even if the price per ticket for other attendees exceeds \$250”. This Committee also has advised that a successful candidate for judicial office may use a small amount of campaign funds for “a modest victory celebration during the six-month post-election period (Window Period)” because it is a “traditional part of the total election process”.

At the end of their Window Periods, candidates for judicial office must return any unexpended campaign funds to donors on a pro rata basis.

(Opinion 07-187 [citations omitted]). See Section 7, below, for further discussion of proper post-election handling of unexpended or surplus campaign funds and other post-election conduct.

To the extent legally permissible, a judicial candidate may also use campaign funds to attend bar association functions or other events that are not hosted by political organizations throughout his/her window period, provided that his/her attendance is in furtherance of his/her campaign for judicial office and the candidate determines that he/she will receive fair value for the expenditure (Joint Opinion 12-84/12-95[B]-[G], at Question 2).

A judicial candidate may not use unexpended campaign funds to purchase tickets and a journal advertisement as part of a charitable fund-raising event which will take place after the expiration of the window period (Opinion 99-56 [Vol. XVII] [purchase of tickets for a charitable dinner that will not take place until after the window period expires “amounts to a contribution to the charity and is therefore, in our opinion, an improper expenditure of campaign funds”]).

4.4 Special Considerations - Candidate Who Anticipates Running for Two Positions in the Same Election Cycle

The Committee has advised that funds raised for one judicial campaign may not, after that campaign has concluded, be transferred or retained for use in another judicial campaign, whether for the same or a different office, even if the donors consent (Opinions 01-81; 92-68 [Vol. IX]; 90-06 [Vol. V]; 88-89 [Vol. II]). Of particular note, the Committee reasoned that “the contributions were given for the candidate’s election to a specific judicial office and not for another office,” and that a donor who supported a candidate against one opponent “may not support [him/her] against a different opponent” (Opinions 90-06 [Vol. V]; 88-89 [Vol. II]; cf. 22 NYCRR 100.5[A][4][a]).

Opinion 12-172 addresses special considerations for a candidate who has accepted a party’s nomination for one judicial position, but hopes to receive a nomination for Supreme Court later in the same election cycle. A judicial candidate may not use funds raised for one judicial race to make purchases which are exclusively related to his/her campaign for a different judicial position, but may use those funds to make generically useful purchases which could be used for either judicial campaign (Opinion 12-172).

5. Communications with Voters

Judicial candidates “are encouraged to educate the voting public on the qualities and qualifications that would make them the best candidate for the office sought” and all campaign communications “should be designed to instill confidence in the candidate’s ability to fairly and impartially discharge the duties of the office” (Opinion 04-95). Judicial candidates may also use campaign slogans that are consistent with the Rules (e.g., Opinion 05-117 [“vote experience not politics”]).

5.1 Form of Advertisements

Any form of media, including but not limited to radio, television, the Internet, newspapers, periodicals, palm cards, lawn signs, flyers, billboards, posters and handbills, may be used in a judicial campaign (e.g., Opinions 07-135; 05-99; Joint Opinion 05-23 and 05-24). A judicial candidate may personally appear in media advertisements and may distribute pamphlets and other literature to support his/her candidacy (22 NYCRR 100.5[A][2][i]-[ii]). The Committee has provided guidance on a few specific methods of advertising:

Promotional Items. A judicial candidate may distribute promotional materials of no more than nominal value, such as pens, pencils, letter openers and the like, to support his/her candidacy (Opinion 98-97 [Vol. XVII] [noting that “these items have campaign slogans imprinted on them” and thus are treated as campaign literature]; compare 2007 CJC Ann. Rep. at 127-35 [candidate disciplined for distributing items of value to voters, such as \$5 coupons and drinks at a local bar]).

A judicial candidate may purchase an advertisement on a T-shirt, along with the names or business logos of the other eligible donors, that will be given at no cost to participants in a charitable event, so long as neither the candidate’s name nor the prestige of judicial office will be used for fund-raising purposes (Opinion 07-137).

Political Journals. A judicial candidate may use campaign funds to purchase the lowest priced full-page advertisement in a political organization’s journal, in which the candidate’s supporters are thanked, where the journal is being distributed at a politically sponsored dinner held after the election but during the window period (Joint Opinion 13-99/13-100 and 13-101/13-102; Opinion 99-38 [Vol. XVII] [suggesting the possibility that paying \$3,000 for an advertisement might be regarded as an impermissible political contribution]).

However, a judicial candidate may not pay a premium for the increased exposure of an inside cover or other prominent placement of the advertisement (Joint Opinion 13-99/13-100 and 13-101/13-102).

Internet. Although the Committee has not addressed use of many specific forms of internet-based communications in a judicial campaign, the Committee also “has not opined that there is anything per se unethical about communicating using other forms of technology” (Opinion 08-176 [providing general guidelines for a judge’s use of online social networks]).

A judicial candidate may include a link from his/her campaign website to a political organization's website which contains information promoting the judicial candidate's campaign (Joint Opinion 12-84/12-95[B]-[G], at Question 5). Specifically, the Committee reasoned that "link[ing] to the website of a political party that has endorsed" the candidate is "a way for the candidate to demonstrate that he/she in fact has obtained the party's support" (*id.*). The candidate should be careful that his/her link "is not presented in such a way that it appears to vouch for or adopt the content of the political party's website" (*id.*).

Cautionary Note: The Committee suggests that judicial candidates seek guidance from the Subcommittee before including a link from their campaign website to any other partisan political websites beyond the specific circumstances addressed in the Committee's published opinions (*cf.* "Observations and Recommendations," 2001 CJC Ann. Rep. at 27).

A candidate may include a link on his/her campaign website to newspaper articles about him/her, provided that nothing in the article is misleading and provided the article maintains the dignity of judicial office (Opinion 07-135; 22 NYCRR 100.5[A][4][a]).

A candidate may use an email signature block on his/her personal email which requests non-financial support from voters and provides links to the campaign committee's social media page and campaign website (Opinion 13-126).

Radio. A judicial candidate may be endorsed for re-election in a radio advertisement by a candidate for elective non-judicial office, provided the radio advertisement does not suggest the judicial candidate is endorsing the other candidate (Joint Opinion 05-23 and 05-24).

Photographs with Others. While a judicial candidate may include a photograph taken with a relative in a state trooper uniform, neither the photograph or its context may suggest that the candidate would support law enforcement interests over other parties that may appear before his or her court (Opinion 07-136).

A judicial candidate who is married to a sitting judge may include in his/her campaign literature a photograph of the candidate's family, which includes and identifies the spouse, as long as the spouse's judicial title and position are not mentioned or featured (Opinion 96-07 [Vol. XIV]; *cf.* Opinion 06-94).

A judicial candidate may be photographed with other candidates for elective office and use this photograph in his/her campaign, although use by another candidate which "might imply an endorsement by the judge of the candidate is to be avoided, and the judge should take steps to prevent such use to the extent possible" (Opinion 03-64).

A judicial candidate may not use a photograph taken at a social event with an elected local public official who is not part of the candidate's slate and who has not endorsed the candidate, unless the official consents to use of the photograph in the judicial candidate's campaign (Opinion 12-114).

Campaign Signs. It is ethically permissible for a judicial candidate within his/her window period to display campaign signs supporting his/her own candidacy, even if these signs also list other candidates on his/her slate (22 NYCRR 100.5[A][2][ii]-[iv]; Opinion 07-167). However, a judicial candidate should not display a campaign sign that endorses another candidate (22 NYCRR 100.5[A][1][c]-[e]; Opinion 07-167), such as, for example, campaign signs that list only other candidates' names.

Sponsorship of Softball Team. A judicial candidate in his/her window period may promote his/her candidacy at non-politically sponsored events, including a local softball tournament (Opinion 10-80). Although a candidate may not simply donate campaign funds to a softball team (*see* 22 NYCRR 100.5[A][5]; Election Law §14-130), it is permissible to purchase campaign-related advertising in furtherance of the candidate's campaign by sponsoring a softball team (Opinion 10-80). As with any other campaign expenditures, the candidate should first determine that he/she will obtain fair value for the money expended for such advertisements to avoid any appearance of impropriety (*id.*; 22 NYCRR 100.5[A][6]).

Hosting a Free "Meet and Greet" Event. A judicial candidate may hold a free "meet and greet" event at which modest and reasonable refreshments are served (Opinion 12-129[A]-[G], at Question 2).

5.2 Use of Judicial Title, Robes, and Courthouse

An incumbent judge may not use the prestige of judicial office to promote his/her candidacy. For example, an incumbent judge may not make a judicial determination calculated to obtain support for his/her candidacy or to further the judge's political interest (22 NYCRR 100.2[A]-[B]; 100.3[B][1]).

Use of Judicial Title and Robes. An incumbent judge running for re-election or for election to another judicial position may be identified as "judge" (or "justice," as may be appropriate) on campaign signs and other literature (Opinion 94-50 [Vol. XII] [part-time town justice]; 22 NYCRR 100.5[A][4][d][iii]). A Housing Court judge, although not a judge of the Unified Court System, is still a judge and thus may refer to himself/herself as a "judge" in campaign literature (Opinion 03-90).

An incumbent judge may circulate campaign literature with a photograph of himself/herself in judicial robes (Opinions 05-101; 03-90).

A judicial candidate may not use the term "re-elect" when seeking an office other than the one in which he/she is currently serving by election (Opinion 94-50 [Vol. XII] [town justice who received nomination for county court judge]; 22 NYCRR 100.5[A][4][d][iii]). This limitation applies even if the candidate was previously elected to the judgeship sought and, although defeated for re-election, currently holds the office by appointment (Opinion 97-18 [Vol. XV] [noting that the judge has held the same judicial title on a continuing basis]).

A non-judge judicial candidate who formerly held the position of village justice may use the phrase "former village justice" and may use photographs in which he/she appeared in judicial robes for use with that designation in campaign literature (Opinion 04-16). A former judge may

not, however, be referred to as a “judge” or ask the voters to “re-elect” him/her (Opinion 97-72 [Vol. XV] [former judge may not use the phrase “Vote for Judge (name)” or “Re-elect Judge (name)”]).

Use of Juror Contact Information. Neither a judge nor the judge’s campaign committee may contact jurors who have served on cases over which the judge has presided, to ask their support in the judge’s re-election campaign (Opinion 90-93 [Vol. VI]). A law clerk must refrain from post-trial contact with jurors at all times, including during his/her campaign for judicial office (Opinion 01-36).

Use of Judicial Letterhead or Stationery. A judge should not use court stationery in a re-election campaign, even if the stationery is marked “personal and unofficial” (Joint Opinion 04-143 and 05-05; Opinion 99-155 [Vol. XVIII]).

Use of Courthouse. Because the courthouse may not be used for political purposes, “care must be taken to avoid using photographs that might convey the impression that the courthouse is being used for political purposes and, in particular, to facilitate the candidacy of a sitting judge” (Opinion 05-101). The judge may not “be filmed inside his/her chambers, or inside the courthouse while asking viewers to vote for him/her” (Opinion 07-139).

Judicial candidates who are incumbent judges are permitted to use photographs depicting them in judicial robes and taken in any public place, or in chambers or the court library, provided that there is no indication of the official nature of the location and administrative permission is obtained (Opinion 05-101; 22 NYCRR 29.1 [requirements for obtaining administrative permission for photographs or videorecording in a courthouse]). Subject to the rules relating to the permissible scope of comment by candidates, the campaign committee of a judge seeking re-election may reproduce excerpts of audio and video recordings and photographs of court proceedings which were authorized by existing rules (Opinion 94-67 [Vol. XII]). With appropriate administrative approval, a judge who is a judicial candidate may use a photograph of himself/herself in a public hallway of the courthouse, in front of the door to his/her chambers (Opinion 07-139; 22 NYCRR 29.1).

Published Courtroom Photographs. A judge who is a judicial candidate may use photographs of himself/herself that a photographer took in the courtroom during a public trial with appropriate administrative permission and that were thereafter published by a newspaper (Opinion 07-135). A judge who is a judicial candidate may also use administratively approved, published photographs of himself/herself hosting visitors to the court while the court was not in session (Opinion 07-137).

Photographs of Swearing In Ceremony. An incumbent judge who is currently a judicial candidate may use a photograph from his/her public swearing-in ceremony held in the town hall that was published as a news item in the local newspaper, provided such use does not in any way imply that the judge who was administering the oath of office endorses the judicial candidate (Opinion 07-89; 22 NYCRR 100.5[A][1][e]).

Use of Quotations from Current Judges and Quasi-Judicial Officials. A judicial candidate should not use quotations from letters written by judges or quasi-judicial officials of the Unified

Court System in his/her campaign literature, because it would imply that the person quoted was endorsing the judge's election (Opinion 08-64; 22 NYCRR 100.5[A][1][e]).

5.3 Content of Campaign Speech

Comments on Pending or Impending Cases. With very limited exceptions, an incumbent judge may not comment publicly about any proceeding that is pending or impending in any court within the United States or its territories (22 NYCRR 100.3[B][8]). This restriction applies at all times, whether or not the judge is a candidate for judicial office, and both within and outside the window period (Opinion 90-67 [Vol. V]).

Although non-judge candidates for judicial office are not prohibited from publicly commenting on pending or impending cases, they must exercise caution, with respect to any particular cases, controversies or issues that are likely to come before the court, to avoid making any commitments that are inconsistent with the performance of the adjudicative office (22 NYCRR 100.5[A][4][d][ii]).

Holders of Non-Judicial Public Office. Non-judge candidates for judicial office who are simultaneously holders of other political offices are given some flexibility to make statements or participate in activities which might otherwise be prohibited for judicial candidates, assuming those statements or acts are necessary as a function of the non-judicial public office (22 NYCRR 100.5[A][1][c]).

Pledges and Promises. All judicial candidates must refrain from making improper pledges or promises (*Matter of Watson*, 100 NY2d 290 [2003]; 22 NYCRR 100.5[A][4][d][i]), and any promises of conduct in office must be consistent with the impartial performance of the adjudicative duties of the office (22 NYCRR 100.3[B][9][a]; 100.5[A][4][d][i]-[ii]). A candidate must consider the import of his/her statements in the context of the campaign as a whole to determine whether he/she has articulated a pledge or promise that compromises the faithful and impartial performance of judicial duties (*Matter of Watson*, 100 NY2d 290 [candidate sanctioned for explicit and repeated statements that he intended to "work with" and "assist" police and other law enforcement personnel if elected to judicial office]).

For example, a judicial candidate may not:

- Make campaign statements indicating a refusal to participate in the lawful and accepted practice of plea bargaining in criminal cases (Opinion 04-95);
- Promise to set up and fund a "legal scholarship" if elected (Opinion 03-28);
- Imply a predisposition to decide particular classes of cases in a particular way (Opinion 93-101 [Vol. XI]);
- Sign a pledge to support a political party's platform (Opinion 93-52 [Vol. XI]).

By contrast, a candidate may sign a "Statement of Principles" pledging that the candidate intends to use fair campaign practices during his/her campaign (Opinion 05-119).

The Commission on Judicial Conduct has publicly admonished a judge for use of campaign literature advertising a lecture the judge planned to give with a “tenant attorney and activist” on how to “beat your landlord, ... and win in court!” (2010 CJC Ann. Rep. at 124-28 [disciplinary determination]). The Commission has also publicly admonished a judge for statements which, when viewed in their entirety, conveyed bias because they “single[d] out a particular class of litigants for special treatment” (2011 CJC Ann. Rep. at 120-24).

Further, if a judicial candidate has made an improper promise during his/her campaign, he/she may be required to disqualify him/herself in certain matters (22 NYCRR 100.3[E][1][f]; *see also* Section 8.2, below).

Qualifications. Campaign material may include a truthful, dignified discussion of the candidate’s qualifications and the qualifications of his/her opponent(s), as long as the discussion is accurate and not misleading (Opinions 04-16; 90-67 [Vol. V]; 2007 CJC Ann. Rep. at 115-18 [disciplinary determination]). A judicial candidate may not, in the guise of discussing qualifications, make an otherwise prohibited statement (NYSBA Opinion 289).

A judicial candidate may refer to his/her current and past employment in campaign materials, including service on the staff of sitting judges (Opinion 97-32 [Vol. XV] [noting that the mere listing of the names and titles of these judges does not constitute impermissible participation by those judges in the judicial campaign]).

A judicial candidate should not use quotations from letters written by judges or quasi-judicial officials of the Unified Court System in his/her campaign literature, because it would imply that the person quoted was endorsing the judge’s election (Opinion 08-64; 22 NYCRR 100.5[A][1][e]). However, it is ethically permissible for a judicial candidate to use quotations from letters written by individuals who are not subject to Part 100.5, as long as the candidate ensures that doing so does not mislead the public (Opinion 08-64). Thus, if a judicial candidate wishes to use quotations from letters written in support of his/her nomination for a prestigious award, the candidate should clearly indicate the date and the original purpose for each quotation, and any other information required to ensure that each quotation is presented accurately (*id.*).

Judicial candidates on the same slate may jointly advertise their candidacies and refer to the number of years of judicial experience of each candidate, but may not refer to the total number of years of judicial experience of the candidates collectively (Opinion 99-117 [Vol. XVIII]). See also Section 5.5, below, for a discussion of joint campaigning.

A judicial candidate may not knowingly make a false statement or misrepresent the identity, qualifications, current position or other fact concerning himself/herself or his/her opponent (22 NYCRR 100.5[A][4][d][iii]). A judicial candidate should take care to ascertain the truth of claims that he/she makes about an opponent, and be careful not to create a false impression of his/her opponent’s record by omitting relevant facts (2007 CJC Ann. Rep. at 115-18 [disciplinary determination] [noting that there is no place for distortions in a campaign for judicial office]).

The Commission on Judicial Conduct has publicly admonished a judicial candidate for using campaign literature which “conveyed the erroneous impression that respondent had been

endorsed” by a particular newspaper (2010 CJC Ann. Rep. at 124-28 [disciplinary determination]).

The Commission has also disciplined a judicial candidate for stating that as a Supreme Court Justice, he/she “will still be responsible for all pistol permits” in a particular county (2011 CJC Ann. Rep. at 120-24). The Commission found that the representation was “legally incorrect” because it misrepresented the candidate’s jurisdiction over pistol permits as exclusive, and also found that this misstatement of law “buttressed” the candidate’s overall “biased message” (*id.*).

Opponent’s Conduct. The Committee has advised that a judicial candidate may comment on an opponent’s conduct, subject to certain limitations (Opinion 12-129[A]-[G], at Question 4). A candidate

should take steps to ensure the accuracy of the information he/she includes about any opponent, and make every effort to avoid misleading the public with mere speculation or innuendo. Moreover, any reference to an opponent must be made in a manner which maintains the dignity appropriate to judicial office.

(Opinion 12-129[A]-[G]). During a campaign for judicial office, a candidate may bring to the public’s attention the fact that his/her opponent has been publicly admonished or censured by the Commission on Judicial Conduct as long as such reference is made in a manner that maintains the dignity appropriate to judicial office (Opinion 01-98).

By contrast, where a judicial candidate believed that an opponent engaged in unethical conduct, but there was no published finding of misconduct by an official disciplinary body, the Committee advised the inquiring candidate to “take particular care to avoid giving the false impression that such a finding has been issued or is forthcoming” (Opinion 12-129[A]-[G], at n.5). Likewise, where a candidate wished to comment on historical case assignment statistics in the court to which he/she sought election, but there was no published administrative or disciplinary determination that the incumbent judge was “shirking” his/her judicial duties, the Committee advised the inquiring candidate to “carefully consider whether there may be other reasons for a seemingly imbalanced caseload in a particular court” (*id.*).

It is also permissible to refer to ratings by screening panels and independent judicial election qualification commissions; see Section 3.3.2, above, for a discussion of relevant opinions.

A judicial candidate may respond to personal attacks or attacks on the candidate’s record as long as the response is consistent with the requirements of the rules, i.e., dignified, truthful, etc. (22 NYCRR 100.5[A][4][e]).

A judicial candidate is prohibited from appealing directly or indirectly to the fear, passion or prejudice of the electorate or from appealing purposefully to or against members of a particular race, sex, ethnic group, religion or similar group (Opinion 05-119; NYSBA Opinion 289).

5.4 Judicial Decisions Affecting Campaign Activities and Comments

5.4.1 “Announce Clause” Restrictions Struck Down

In June 2002, the United States Supreme Court determined that a section of the Minnesota Code of Judicial Conduct known as the “announce clause,” which prohibits candidates for judicial election from announcing their views on disputed legal and political issues, violated the First Amendment to the United States Constitution (*Republican Party of Minnesota v. White*, 536 US 765 [2002]).

Although New York’s Rules do not include an “announce clause,” some precedential authority in New York has restricted campaign statements similar to those previously prohibited by Minnesota’s now invalid “announce clause” (Opinion 90-67 [Vol. V]; NYSBA Opinion 289). Following the U.S. Supreme Court opinion, in July 2002, the New York State Court of Appeals determined that it was not misconduct for a candidate for judicial office to refer to himself/herself as a “law and order” candidate (*Matter of Shanley*, 98 NY2d 310 [2002]).

5.4.2 “Pledge and Promise” Restrictions Remain in Effect

The U.S. Supreme Court specifically refrained from addressing or striking down other language in the Minnesota rules that prohibited a candidate for judicial office from making pledges or promises of conduct in office (*White*, 536 US 765).

In *Matter of Watson*, the Court of Appeals reviewed a Commission on Judicial Conduct determination that an elected judge should be disciplined for improper statements made while he was a non-judge candidate for elective judicial office (100 NY2d 290 [2003]). The Commission had held that these statements gave the appearance that the newly elected judge would not be impartial, would not decide cases on an individual basis, and would be biased against defendants in criminal cases. The statements at issue included: an exhortation to “put a real prosecutor on the bench”; representations that the candidate (then employed as an assistant district attorney) had “proven experience in the war on crime” and could, if elected, use bail and sentencing to make the municipality “very unattractive” for certain criminal defendants; promises to “work with” and “assist” law enforcement personnel if elected to judicial office; and statements that his opponents were to blame for an increase in crime (*Matter of Watson*, 100 NY2d at 296-97, 299).

The Court of Appeals agreed that the campaign statements made by Judge Watson were improper (*id.* at 299) and upheld New York’s limitation on campaign “pledges and promises” against a constitutional challenge. The Court held that New York’s Rules do not include a provision analogous to Minnesota’s “announce clause” (*id.* at 300) and expressly determined that New York’s limitation on campaign “pledges and promises” does not suffer from the same constitutional infirmity that invalidated the “announce clause” (*id.* at 303).

The Court also noted that in order for a statement to be deemed an improper pledge or promise, a candidate need not preface a statement with the phrase “I promise” (*id.* at 298). Rather, statements are deemed improper if they favorably or unfavorably single out a particular party or class of litigants or convey the impression that the candidate will behave in a manner inconsistent with the faithful and impartial performance of judicial duties (*id.* at 298-99).

In light of the above-described cases, candidates for judicial office in New York must take great care not to run afoul of existing restrictions on campaign language. Until there has been a dispositive ruling from a court of final jurisdiction, the only prudent course for a judicial candidate to follow is to adhere to the standards called for within New York's existing Rules as interpreted and applied by the Committee and to seek guidance wherever needed by contacting the JCEC.

5.5 Joint Campaigning

A judicial candidate is prohibited from publicly endorsing or publicly opposing (other than by running against) any other candidate for political or judicial office (22 NYCRR 100.5[A][1][e]). This prohibition includes both direct and indirect endorsement of any other candidate for elective office (22 NYCRR 100.5[A][1]).¹⁴ The Committee has stated that a judicial candidate may not indirectly endorse an incumbent judge who is running for re-election by stating that he/she is the unanimous choice to "join the incumbent" judge on the bench (Opinion 05-117). Judicial candidates on the same slate may jointly advertise their candidacies and refer to the number of years of judicial experience of each candidate, but may not refer to the total number of years of judicial experience of the candidates collectively (Opinion 99-117 [Vol. XVIII]). Judicial candidates may not make statements directly in support of another candidate (Opinion 91-94 [Vol. VIII]), and they are also prohibited from distributing literature on behalf of another candidate (Opinion 91-94 [Vol. VIII]), erecting signs on their real property supporting other candidates, displaying "bumper stickers" on their vehicles supporting other candidates, or engaging in similar partisan conduct. (See Section 6.2, below, for a discussion of political activity by a judicial candidate's spouse on jointly owned property.)

The judicial candidate's name may, however, appear in media advertisements and may be listed on election materials along with the names of other judicial and non-judicial candidates for elective office as part of a single "slate" of candidates (22 NYCRR 100.5[A][2][iii]-[iv]; Opinions 05-99; 91-94 [Vol. VIII]). Thus, a judicial candidate may display campaign signs promoting his or her own candidacy, even if the sign also lists other candidates on the slate (Opinion 07-167), and may similarly distribute joint campaign literature on which his or her name appears (Opinion 91-94 [Vol. VIII]).

Two judicial candidates may display campaign lawn signs that have both candidates' names printed on them, but they may not send voters one letter conveying both candidates' qualifications and bearing both candidates' signatures that is printed on letterhead comprising both candidates' names (Opinion 09-176).

A judicial candidate may allow a political party to issue joint campaign literature with other candidates for elective office (22 NYCRR 100.5[A][2][iii]; Opinion 01-99). In addition, a candidate may advertise with one or more candidates for elective office, including those running

¹⁴ The Committee has recognized one very limited exception. See Section 3.3.3 (discussing Opinion 08-157 and Joint Opinion 10-101/11-01).

for non-judicial office, provided that the candidate does not endorse any other candidate and pays no more than his or her *pro rata* share of the cost of the advertisements (Opinions 05-99; 01-99; 91-107 [Vol. VIII] [suggesting a disclaimer that neither judicial candidate is endorsing another candidate]).

A judicial candidate's participation in a joint advertisement, prepared on behalf of a slate of judicial and non-judicial candidates, is not rendered impermissible merely because the advertisement characterizes the slate as a "team" and urges voters to vote for particular row(s) on the ballot on which the slate appears (Joint Opinion 13-137/13-152/13-153).

Use of disclaimer language indicating that the judicial candidate is not publicly endorsing other candidates is not mandatory for any judicial candidate (Joint Opinion 13-137/13-152/13-153).

A judicial candidate may appear at gatherings and otherwise campaign with other candidates for elective office (including campaigning door-to-door), but must take great care to ensure that he/she does not endorse or comment on the qualifications of other candidates (22 NYCRR 100.5[A][2][ii]; Opinions 91-94 [Vol. VIII]; 90-166 [Vol. VI]).

5.6 Debates

A judicial candidate may participate in a debate with other judicial candidates, as long as he/she adheres to the Rules Governing Judicial Conduct (Opinions 05-119; 94-78 [Vol. XII]). For instance, judicial candidates should be careful to maintain the dignity of judicial office, avoid making pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office, and avoid making statements that commit or appear to commit him/her with respect to cases, controversies or issues that are likely to come before the court (Opinions 05-119; 94-78 [Vol. XII]; 22 NYCRR 100.5[A][4][d]). A sitting judge must not publicly comment on pending or impending matters in the United States or its territories (Opinion 94-78 [Vol. XII]; 22 NYCRR 100.3[B][8]). A judicial candidate may need to make clear to organizers of a debate that, as a candidate for judicial office, he or she must comply with the Rules, and that such compliance may constrain his or her participation in any debate (Opinion 05-119).

6. Involvement of Friends, Family, and Colleagues in Judicial Campaigns

A judicial candidate may personally "seek sign locations and campaign workers" (Opinion 94-30 [Vol. XII]). See also Section 4.1, above, regarding campaign committees.

6.1 Judge's Staff Participating in the Judge's Campaign

All nonjudicial court employees, whether or not they are members of a judge's staff, are subject to Part 50 of the Rules of the Chief Judge governing the political activities of non-judicial employees. Court employees should contact the Unified Court System's Office of Court Administration for guidance on how Part 50 applies to their particular circumstances. (Contact: ETHICS HELPLINE: 1-888-28ETHIC.)

Court employees are barred from holding elective office in a political party, club or organization, subject to certain exceptions specified in the rule itself (22 NYCRR 50.5[e]; 100.5[C][1]; Opinions 04-142; 00-108; 99-95 [Vol. XVII]; 95-43 [Vol. XIII]; 94-35 [Vol. XII]).

Court employees may, in general, attend political fund-raising events (subject to the \$500 limit if a personal appointee), pass nominating petitions, attach campaign bumper stickers to their cars, post campaign signs at their residences, hold a non-elected or otherwise permissible positions in a political organization and participate in any other permissible political activity as long as it takes place (a) outside of scheduled work hours and (b) away from the workplace (22 NYCRR 50.1[III][B]; 50.2[c]; 50.5; 100.5[C]; Opinions 07-11; 03-111 [circulating, reviewing and drafting petitions]; 94-35 [Vol. XII] [joining political club]; 93-100 [Vol. XI] [political bumper stickers and campaign signs]; 93-36 [Vol. XI] [soliciting and coordinating volunteers, designating persons to organize volunteer efforts, canvassing for signatures on nominating petitions, conducting telephone polls for a candidate]; 91-77 [Vol. VII] [participating in political campaign of law clerk's spouse]; 90-102 [Vol. VII]; 90-85 [Vol. V] [carrying nominating petitions]; 89-101 [Vol. IV] [attending political fund-raiser]).

They should avoid giving the impression that the judge or the court is involved in political activities (Opinions 10-116; 93-100 [Vol. XI]; 93-36 [Vol. XI]; 90-102 [Vol. VII]).

Court employees may also serve on a judge's campaign committee, subject to certain limitations depending on their roles in the court system (22 NYCRR 100.5[A][4][b]; 100.5[A][5] [members of a campaign committee must be "responsible persons"]; Opinion 04-10 [typist in appellate court may serve as treasurer of trial judge's campaign committee]).

All Staff Members. A judge who is a candidate for judicial office must prohibit his/her staff from doing anything on his/her behalf that he/she would be prohibited from doing himself/herself (22 NYCRR 100.5[A][4][b]). A judge must further, except to the extent permitted by Rule 100.5(A)(5), prohibit his/her staff from taking part in any activity that might be perceived as doing for the candidate what he/she is prohibited from doing under Part 100.5 (22 NYCRR 100.5[A][4][c]).

Personal Appointees. An incumbent judge shall prohibit members of the judge's staff who are the judge's personal appointees (such as the judge's law clerk, personal secretary, etc.) from contributing, directly or indirectly, money or other valuable consideration (e.g., non-monetary contributions) in amounts exceeding \$500 in the aggregate during any calendar year, to all political campaigns or other partisan political activity (22 NYCRR 100.5[C][2]; Opinions 10-76; 97-103 [Vol. XVI] [judge's part-time law clerk should not donate office space to a political party which, if rented on the open market, could have a value of over \$500]; 89-101 [Vol. IV] [judge's law assistant may attend political fund-raisers, subject to the aggregate calendar year limit]).

The \$500 limit does not apply to a staff member's contribution to his/her own campaign (22 NYCRR 100.5[C][2]; Opinion 07-189).

A judge's personal appointee may not personally sell tickets to or promote a fund-raising event of a political candidate, political party or partisan political club (22 NYCRR 50.2[c]; 100.5[A][4][b]-[c]; 100.5[C][3]; Opinion 90-102 [Vol. VII]).

A judge's personal appointee also is prohibited from serving as treasurer of the judge's re-election committee (22 NYCRR 50.2[c]; 100.5[C][3]; Opinions 03-48 [law clerk]; 00-05 [Vol. XVIII] [court attorney]).

Quasi-Judicial Employees. Quasi-judicial employees, such as judicial hearing officers, court attorney-referees and support magistrates, are subject to the same limitations on political activity as judges (22 NYCRR 100.6[A]; Opinions 05-14; 00-117 [Vol. XIX]; 95-119 [Vol. XIII]).

The Committee has advised that principal law clerks who are appointed to serve part-time as SCAR hearing officers during regular court hours as part of their job responsibilities are subject to the same restrictions as sitting judges with respect to political activities (Opinion 13-133).

6.2 Participation of a Judicial Candidate's Family

The Rules define a member of the judicial candidate's family to include "a spouse, child, grandchild, parent, grandparent or other relative or person with whom the candidate maintains a close familial relationship" (22 NYCRR 100.0[H]).

The Rules do not restrict the bona fide, independent political activity of a judicial candidate's spouse or any other member of the judicial candidate's family (Opinion 06-147). Generally, a spouse or other member of the judicial candidate's family may exercise his/her individual political rights, including circulating and authenticating nominating petitions, attending politically sponsored events, holding office in a political organization, making contributions to political campaigns or organizations and participating in other activities that would not be permissible for the candidate, as long as the actions are those of the family member and not intended to be the indirect political activity of the candidate (Opinions 06-142; 98-99 [Vol. XVII]). A judge or judicial candidate should, however, make a concerted effort to convince his/her spouse to refrain from referring to him/her when supporting or soliciting support for another candidate, to avoid the appearance that the judge or judicial candidate also supports that candidate (22 NYCRR 100.5[A][1]; Opinion 06-142).

The judicial candidate must, however, encourage family members to adhere to the same standards of political conduct in support of the candidate as apply to the candidate himself/herself (22 NYCRR 100.5[A][4][a]). The judicial candidate must further, except to the extent permitted by Rule 100.5(A)(5), prohibit his/her family from undertaking any activities on the candidate's behalf that the candidate is prohibited from doing himself/herself or which may appear to be the candidate's indirect activity (22 NYCRR 100.5[A][1]; 100.5[A][4][c]; Opinion 98-99 [Vol. XVII]). Family members may also serve on a judicial candidate's campaign committee as long as the candidate determines that they are "responsible persons" who will abide by applicable laws and ethics rules (22 NYCRR 100.5[A][5]; *cf.* Opinion 07-64 [noting that a candidate must instruct his/her representative about the limitations on campaign speech and conduct that he/she should observe when acting on the candidate's behalf]). See also Section 4.1, above.

A judicial candidate may permit his/her relatives to serve on his/her campaign committee (Joint Opinion 08-125, 08-147, 08-148 and 08-149). As members of a candidate's campaign committee, a candidate's relatives "may solicit and accept reasonable campaign contributions and support from the public" (22 NYCRR 100.5[A][5]) as long as their actions do not appear to be the

candidate's indirect activity (Opinion 98-99 [Vol. Vol. XVII]), and as long as such relatives are careful to keep the donors' identities and the amount of any donation from the candidate (Joint Opinion 08-125, 08-147, 08-148 and 08-149).

Campaign Signs. A judicial candidate should not display campaign signs endorsing another candidate on his/her real property (22 NYCRR 100.5[A][1][c]-[e]), other than a sign listing the candidate as a member of a slate of current candidates (22 NYCRR 100.5[A][2][ii]-[iv]; Opinion 07-167). A judicial candidate should "strongly urge" his/her spouse not to place signs endorsing other political candidates on the real property where the judicial candidate and spouse reside, even if the spouse is the sole titled owner of the property (Opinions 07-169; 99-118 [Vol. XVIII]; 96-112 [Vol. XIV]). Once the candidate has done so, he/she is not required to take further action (Opinion 07-169). A judicial candidate or judge whose spouse is a candidate for public office is not required to discourage the spouse-candidate from placing the spouse's own campaign sign on jointly-owned property (Opinion 06-94).

Political Contributions. Because a judicial candidate may not make political contributions (22 NYCRR 100.5[A][1][h]), if family members of the candidate make political contributions, these should be made from the family member's separate funds (Opinion 95-138 [Vol. XIII]). It is inadvisable for a judicial candidate's family member to make a political contribution using a joint bank account, even if the candidate's name is deleted from the check (Opinions 98-111 [Vol. XVII]; 96-29 [Vol. XIV]). Any contribution should specify that it is the contribution of the family member and not that of the judicial candidate (Opinion 96-29 [Vol. XIV]). If a judicial candidate's spouse has no independent source of income, however, he/she may make political contributions from funds that have been set aside for the spouse's sole discretionary use, again provided that the spouse does not use a check from a joint checking account with the candidate (Opinion 98-111 [Vol. XVII]).

7. Post-Election Fund-Raising and Use of Unexpended Campaign Funds

A judicial candidate who is on the ballot for the general election in November need not cease all campaign conduct immediately after the election. However, some additional restrictions may apply during the post-election window period.

7.1 Unexpended or Surplus Campaign Funds

A judicial candidate may continue to make certain campaign expenditures throughout his/her post-election window period, including the purchase of tickets to events that will take place during the window period. See Section 4.3.2, above.

Please note that there may also be legal issues with respect to repayment of loans after election day (*see* Election Law 14-114[6]), which the Committee cannot address.

7.1.1 Permissible Uses and Closing of the Campaign Account

Permissible campaign expenditures are discussed in more detail in Section 4.3, above, and 7.3, below. Judicial candidates should make every reasonable effort to return unexpended campaign funds to contributors on a *pro rata* basis at the conclusion of the window period (Opinions 07-187; 93-80 [Vol. XI]; 91-12 [Vol. VII]; 90-06 [Vol. V]; 89-152 [Vol. V]; 88-89

[Vol. II]; 88-59 [Vol. II]; 87-02 [Vol. I]; *see also* Opinion 92-94 [Vol. X] [funds left over from prior non-judicial campaign]). A judicial candidate who receives a cross-endorsement may even, if he/she wishes, return most of the funds *pro rata* before the election while retaining a small sum for possible use during the window period (Opinion 05-21; *see also* section 2.2.2, above, regarding unopposed candidates).

Nevertheless, if the remaining unexpended funds are *de minimis* or otherwise so limited that, under the circumstances, returning the balance to contributors will be significantly unworkable or impracticable, unexpended funds may be used to purchase items which the court system or municipality does not otherwise provide, for use by the judge in the performance of judicial duties (Opinions 12-95[A] [funds totaling less than \$1,000 are *de minimis* and need not be returned to contributors on a *pro rata* basis]; 06-162). In determining whether it is impracticable to return the unexpended campaign funds to contributors, the judicial candidate may consider factors such as the total number of contributors and the cost of returning the funds (Opinions 07-65; 06-162). A candidate should, to the extent possible, take steps to minimize the risk of uncashed checks that will delay the closing of his or her campaign account (Opinion 07-65). When returning unexpended campaign funds *pro rata* to contributors, however, a candidate may not decline to issue checks under a specific monetary threshold (*e.g.*, \$10 or less), even if the funds would be distributed *pro rata* to other contributors (*id.*).

Subject to the considerations set forth in Opinions 07-65 and 06-162, a small amount of unexpended campaign funds may be used to purchase an item such as a modestly-priced laptop, if it is necessary to the performance of judicial duties and is not otherwise provided by the court system or the municipality (Opinion 06-162). Any items so purchased must be donated to the Unified Court System (Opinions 98-139 [Vol. XVII] [office furniture]; 95-36 [Vol. XIII] [carpeting in chambers]; 93-56 [Vol. XI] [office equipment]). The donation may be formalized by writing a letter to the local District Administrative Judge identifying the designated items (Opinion 04-06).

It is not appropriate for a judge to use significant amounts of unexpended campaign funds to purchase numerous items, or items which the court system or municipality readily provide (Opinion 06-162 [unexpended campaign funds may not be used to purchase a fax machine, desk or chair for a state-paid judge when such items are provided by the Unified Court System]). Nor may they be used to purchase an item that requires an ongoing service agreement that would be billed to the Unified Court System, such as a cell phone (Opinion 06-162). Unexpended campaign funds may not be used to purchase a television (Opinion 06-162). Some otherwise unexpended campaign funds may, however, be used to finance a “modest and reasonable” post-election victory reception within the window period (Opinions 07-187; 93-19 [Vol. X]; 89-152 [Vol. V]; 87-16 [Vol. I] [authorizing “a modest reception to which contributors and campaign workers are invited”]). The Committee has noted that “[t]he ‘induction’, ‘robing’, or ‘victory’ party or reception is a traditional part of the total election process and a reasonable expenditure is expected for this purpose by those persons who contributed to the campaign fund” (Opinion 87-16 [Vol. I]). In 2003, the Commission on Judicial Conduct sanctioned a judicial candidate who spent nearly \$20,000 in unexpended campaign funds on an induction reception and dinner for over 250 guests (2004 CJC Ann. Rep. at 153-56 [disciplinary determination]). The Commission concluded that “[t]he amount expended for the dinner was an unreasonably large amount of campaign funds to be spent for a dinner to celebrate respondent's induction as a Supreme Court Justice” (*id.* at

¶11). After the expiration of the window period, a judge may hold a victory party “only if it is financed with the judge’s private funds” (Opinion 93-19 [Vol. X]) (noting that “a victory party is a private party and not a political activity as long as no campaign funds are used to finance the event”).

Analogously, an unsuccessful judge or non-judge candidate may also use a *de minimis* amount of campaign funds to host a modest and reasonable social event to say “thank you” to persons who volunteered significant time and/or efforts in support of the candidate’s campaign (Opinion 12-129[A]-[G], at Question 5).

Judicial candidates should be aware that the Rules further prohibit the use of campaign funds to pay for any campaign-related goods or services for which fair value is not received (22 NYCRR 100.5[A][6]).

Time frame for closing the campaign account. Although the Rules do not specify a time-frame for the disposition or return of funds or the closing of the campaign account, it should be done as soon as practicable on expiration of the window period, and in compliance with the requirements of the Election Law (22 NYCRR 100.5[A][2]; 100.5[A][5]; Opinions 07-187; 05-21; 04-87; 01-81). A judge’s intention to purchase unspecified items for the courthouse at some indeterminate time in the future is not an adequate basis for leaving the campaign account open beyond the window period (Opinion 04-87).

7.1.2 Prohibited Uses

Unexpended campaign funds may not be used for the private benefit of the candidate or others (22 NYCRR 100.5[A][5]). Thus, campaign funds may not be donated (either directly or through the purchase of gifts) to any:

- Political party or entity (Opinions 90-193 [Vol. VI]; 88-59 [Vol. II]; 87-02 [Vol. I])
- Charitable fund or institution, even if designated in the State tax return (Opinions 08-151; 03-109; 90-04 [Vol. V]; 87-02 [Vol. I])
- Bar association (Opinion 92-29 [Vol. IX])
- Community legal assistance group (Opinion 93-80 [Vol. XI])
- Graduates of the drug court program (Opinion 05-132)
- Campaign workers (Opinion 98-06 [Vol. XVI] [even “token gifts”]).

As further explained in Section 7.1.1, above, there are limits on the items that a judge may purchase with unexpended campaign funds even for use in his/her official duties. For instance, a judge should not use unexpended campaign funds to purchase items that require an ongoing service agreement that would be billed to the Unified Court System, items that the court system or municipality readily provide, or items (such as a television) that are not directly necessary to the performance of his/her judicial duties (Opinion 06-162).

Similarly, the Committee has advised that the definition of the window period “makes each campaign finite, allowing no campaign fund-raising action between campaigns. Nor does it permit any coalescence of the funds solicited for one campaign with another campaign” (Opinion

94-21 [Vol. XII]). Accordingly, a judicial candidate may not transfer, use or retain any campaign funds to satisfy debts from past campaigns (Opinions 97-04 [Vol. XV]; 94-21 [Vol. XII] [repayment of loans made by judge and spouse in prior campaigns]), or for use in any future campaign for any office, judicial or otherwise, including the candidate's anticipated campaign for election or re-election to the same bench or election to a higher judicial office (Opinions 01-81; 92-68 [Vol. IX]; 90-06 [Vol. V] [same or other office]; 89-152 [Vol. V]; 88-89 [Vol. II] [higher judicial office]).

Unexpended campaign funds may not be used for another election campaign, even if the donor states that he/she does not want the funds and wishes the judge to use them for another campaign (Opinions 01-81; 91-12 [Vol. VII]; *see also* 2004 CJC Ann. Rep. at 156 [disciplinary determination]). The judicial candidate may not ask donors to allow the unexpended funds to be utilized for any unpaid expenses or outstanding loans generated in any other past campaign or for a potential future campaign (Opinions 97-04 [Vol. XV]; 93-15 [Vol. XI]).

The Committee has also advised that a judicial candidate may not use unexpended campaign funds from a prior non-judicial campaign for a present judicial campaign, for general party use, or for the campaigns of other candidates on the same slate (Opinions 93-15 [Vol. XI]; 92-94 [Vol. X]).

7.2 Post-Election Fund-Raising

Post-election fund-raising, where permitted, must be held within the candidate's window period (Opinion 02-13). Accordingly, a judge must instruct his/her campaign committee not to undertake any fund-raising events after the window period has expired, even if there are unpaid campaign debts (*id.*). The following paragraphs discuss several specific types of post-election fund-raising events for which candidates have sought guidance from the Committee.

Raising funds to repay loans that were made before the election. In addition to the ethical restrictions discussed in the Committee's opinions, please note that there may also be legal issues with respect to repayment of loans after election day (*see* Election Law 14-114[6]), which the Committee cannot address.

Raising funds to satisfy outstanding election debts to third parties. A judicial candidate's campaign committee may, within the applicable window period, hold a post-election fund-raising event, the proceeds of which will be used to satisfy outstanding election debts to third parties (Opinions 97-41 [Vol. XV] [legal obligations of the campaign committee for the recently concluded campaign]; 96-31 [Vol. XIV] [outstanding campaign debts to third parties]; 87-27 [Vol. I]). It is advisable that the campaign committee disclose that the funds raised will be used to pay off the debts of the campaign (Opinion 03-122). The judicial candidate may attend such a post-election fund-raising event held on his/her behalf (Opinions 03-122; 97-41 [Vol. XV]). To the extent that any such post-election fund-raiser succeeds in raising more funds than necessary to discharge the debts owed to third party creditors, any such excess funds must be returned to the campaign contributors on a *pro rata* basis (Opinion 03-119).

Raising funds to reimburse the candidate or his/her spouse. The campaign committee may not raise funds after the election to repay loans made to the committee by the candidate or the candidate's spouse, or to permit the candidate to recoup campaign expenses he/she incurred and

paid personally during the campaign period (Opinions 05-136; 03-119; 96-31 [Vol. XIV] [repaying loans made by candidate to campaign committee]; 94-21 [Vol. XII] [repaying loans made by candidate and spouse to prior campaigns]; 89-05 [Vol. III] [reimbursement for campaign expenses paid by the candidate]). The fact that the campaign treasurer executed a promissory note in return for the candidate's loan to the campaign committee does not change the result (Opinion 05-136).

The campaign committee may not hold a post-election fund-raiser to reimburse a recently elected judge for expenditures personally made by the judge for an induction party (Opinion 90-195 [Vol. VI]).

Raising funds to benefit or reimburse political party. The campaign committee may not hold a post-election fund-raiser to reimburse a political leader for campaign costs incurred by the leader, absent a legal obligation to make such reimbursement (Opinion 90-195 [Vol. VI]). A judicial candidate may not authorize a political party to hold a post-election fund-raising event on behalf of the judge, where it is intended that any funds remaining after payment of campaign debts would belong to the political party organization (Opinion 98-146 [Vol. XVII]).

Third party fund-raiser honoring newly elected judge. A newly elected full-time judge may be the honoree of a dinner sponsored by a civic organization where any profits will be transferred to the judge's campaign committee, provided that this event takes place within the judge's window period (Opinion 93-20 [Vol. X]).

7.3 Other Post-Election Conduct

During the Post-Election Window Period. A recently elected judge may continue to attend political functions throughout his/her window period, which ends exactly six months after the general election (Opinions 92-29 [Vol. IX]; 91-67 [Vol. VII] [recently elected judge may not attend political event held "six months and one day after the general election"]; 91-24 [Vol. VII]; 89-136 [Vol. IV]). The judge's campaign committee may purchase these tickets using campaign funds (Opinion 92-29 [Vol. IX]; 91-24 [Vol. VII]). A recently elected judge may retain a small portion of unexpended campaign funds to pay for tickets and to attend political events during his/her window period (Opinion 07-187). See also Sections 4.3, above, and 7.1.1, above, for further discussion of post-election use of campaign funds.

A recently elected judge may attend and deliver a presentation on a non-controversial substantive legal topic at a political organization's meeting held within his/her window period (Opinion 97-35).

A judge who was an unsuccessful candidate in a primary election for a different judicial office may also continue to attend political functions throughout his/her window period, which ends exactly six months after the primary election (Opinion 96-124 [Vol. XV]).

After the Window Period. A judge who is no longer a candidate within his/her appropriate window period may not attend a political gathering, or any gathering sponsored by a political organization, even if the gathering is of a laudable, non-political nature ("Observations and Recommendations," 2001 CJC Ann. Rep. at 27). A non-candidate judge may not escort his/her candidate spouse to fund-raising events held for the spouse, even where the judge would not

participate in or be introduced at the event (Opinion 06-147; *see also* 1990 CJC Ann. Rep. at 150-52). The restriction applies to national political conventions or out-of-state events sponsored by a political party organization at a national level (Opinion 99-156 [Vol. XVIII]; *cf.* Opinion 95-109 [Vol. XIII]).

A judge who is not a candidate for judicial office, therefore, has an affirmative obligation to inquire regarding the sponsor's identity and purposes of an event in order to avoid inadvertently attending a prohibited political event ("Observations and Recommendations," 2001 CJC Ann. Rep. at 27). *See also* generally Sections 8 and 9, below.

8. Campaign-Related Disqualifications

The Committee has issued many opinions addressing whether disqualification or disclosure is required in specific factual situations, and whether remittal is available. Although there is no substitute for carefully reviewing these opinions and seeking advice from the Committee or Subcommittee on matters not squarely covered by prior opinions, a brief introduction to these concepts may be helpful in understanding the opinions discussed in the present section of the Handbook.

With respect to disqualification, the Committee has advised:

There are two initial objective tests to determine if disqualification is mandatory: Is disqualification required under a specific provision of the Rules Governing Judicial Conduct (*see* 22 NYCRR 100.3[E][1][a]-[f]) or Judiciary Law § 14? If not, might the judge's impartiality nonetheless "reasonably be questioned" (22 NYCRR 100.3[E][1])? If disqualification is not mandated under either objective test, the judge "is the sole arbiter of recusal" (*People v Moreno*, 70 NY2d 403, 405 [1987]). Of course, if the judge questions his/her own ability to be impartial in a particular matter, then he/she must not preside (*see* Opinion 11-64).

(Opinion 13-47).

Moreover, even where disqualification is mandated, it is possible in many circumstances for the disqualification to be remitted. The Committee has noted that:

Rule 100.3(F) forbids remittal of disqualification in four scenarios. That is, remittal is prohibited if the judge: (1) has a personal bias or prejudice concerning a party (*see* 22 NYCRR 100.3[E][1][a][i]); (2) knows that he/she served as a lawyer in the matter in controversy (*see* 22 NYCRR 100.3[E][1][b][i]); (3) knows that he/she served as a material witness concerning the matter in controversy (*see* 22 NYCRR 100.3[E][1][b][iii]); or (4) knows that the judge or the judge's spouse, or a person known by the judge to be within the sixth degree of relationship to either of them, or the spouse of such person, is a party to the proceeding (*see* 22 NYCRR 100.3[E][1][d][i]). Because remittal is not available in these circumstances, the judge must disqualify him/herself from the proceeding (*see* Opinion 08-15; 100.3[F]).

In addition, the Committee has advised that remittal is not available if any party is appearing without counsel (*see e.g.* Opinions 12-111; 09-138) or if the judge is unwilling or unable to make full disclosure of the basis for disqualification on the record (*see e.g.* Opinions 12-111; 10-86).

* * *

[footnote:] Where permitted, remittal is a three-step process: “First, the judge must fully disclose the basis for disqualification on the record... Second, ... without the judge’s participation, the parties who have appeared and not defaulted and their lawyers must all agree that the judge should not be disqualified. Third, the judge must independently conclude that he/she can be impartial and be willing to participate in the case. If all three steps are satisfied, the judge may accept remittal of his/her disqualification and must incorporate the parties’ and their attorneys’ agreement into the record of the proceeding” (Opinion 09-138; 22 NYCRR 100.3[F]).

(Opinion 13-64). The Committee has also advised that disqualification based on a judge’s decision to report an attorney to a disciplinary authority is not subject to remittal (Opinion 13-61).

8.1 Campaign Contributions – Legal and Administrative Considerations

Under the Rules Governing Judicial Conduct, the fact that an attorney contributed to a judge’s campaign does not, without more, require the judge to disqualify himself/herself when the attorney appears before the judge (Opinions 10-135; 07-26; 04-106; see also Section 8.4, below). However, candidates should be aware that other laws or rules could apply.

The United States Supreme Court addressed legal disqualification of a judge based on expenditures of a campaign supporter in *Caperton v. A.T. Massey Coal Co.*, 556 US 868, 129 S Ct 2252 (2009) (holding that, for due process reasons, recently elected appellate judge should have disqualified himself from presiding over appeal involving corporation whose president and chief executive officer had spent over \$3 million in support of the judge’s campaign). The Court noted that these expenditures were made following the trial court’s entry of a \$50 million judgment against the corporation, at a time when it was likely that corporation would be seeking review in the court to which the judge was seeking election. The Court termed *Caperton* an “exceptional” and “extreme” case, which it expected to apply only in “rare instances” (*id.*, 129 S Ct at 2263, 2265, 2267).

As of the date of writing, it appears that there are no published New York State court opinions applying *Caperton* to disqualify judges based on campaign contributions in New York (*see Glatzer v. Bear, Stearns & Co., Inc.*, 95 AD3d 707 [1st Dep’t 2012] [noting the “stark contrast” with the facts in *Caperton* and finding no basis to conclude that actual bias or prejudice existed]; *Anderson v. Belke*, 80 AD3d 483 [1st Dep’t 2011] [citing *Caperton* for the proposition that “Not every campaign contribution by a litigant or attorney creates a probability of bias that requires a judge’s recusal; and this is no ‘exceptional case.’”]).

In 2011, the administrative board of the courts adopted Part 151 (22 NYCRR pt 151). The Unified Court System’s website states that Part 151 “restricts the assignment of cases where

participating litigants, counsel or firms made significant campaign contributions to the assigned judge, for a period of two years from the date the State Board of Elections first publishes a record of the contribution.” Please see <http://www.nycourts.gov/rules/chiefadmin/151-intro.shtml> for additional information and links.

8.2 Pledge or Promise

A judge must disqualify himself/herself in a proceeding if, while a candidate for judicial office, he/she made a pledge or promise of conduct in office that is inconsistent with the impartial performance of the adjudicative duties of the office or made a public statement not in his/her adjudicative capacity that commits the judge with respect to an issue in the proceeding or the parties or controversy in the proceeding (22 NYCRR 100.3[E][1][f]). (Making such a pledge or promise as a judicial candidate is also prohibited directly, as discussed in Sections 5.3, above, and 5.4, above.)

8.3 Endorsements

As discussed in more detail in Section 3.3, above, mere receipt of an endorsement, in and of itself, does not trigger any recusal obligations for a judicial candidate, although it may result in disclosure obligations under some circumstances.

8.4 During the Campaign

Opponent. A judge may preside over a case when one of the attorneys representing a party is the judge’s opponent in the upcoming election, unless the judge doubts his/her own impartiality (Opinion 11-76; Joint Opinion 00-78 and 00-80 [Vol. XIX] [opponent is chief assistant district attorney]; Opinions 92-82 [Vol. IX] [opponent is attorney]; 92-57 [Vol. IX] [opponent is district attorney]); *see also* Opinion 06-12 [opponent is district attorney and has threatened to file an ethics complaint against the judge]). However, the judge should recuse himself/herself when the judge’s opponent in an upcoming election is a party in a proceeding before the judge (Opinion 91-110 [Vol. VIII]).

Opponent’s supporter. Where a law firm has distributed a letter to the public requesting financial and political support for a judge’s opponent in a re-election campaign, the judge need not disqualify himself/herself from matters in which attorneys from that law firm appear before him/her, if the judge believes he/she can be impartial, but the judge should disclose on the record that he/she is aware of the letter and believes he/she can be impartial (Opinion 03-77).

Mere contributor to or supporter of judge’s campaign. A judge running for re-election is not disqualified solely because a party or attorney was present at a fund-raiser held on the judge’s behalf and is now appearing before the judge (Opinion 04-106). Knowledge that an attorney contributed to the judge’s campaign does not, by itself, require the judge to disqualify himself/herself when the attorney appears before the judge (Opinions 10-135; 07-26; 04-106). Merely being listed as supporting the candidate does not give rise to an inference of partiality (Opinion 03-64).

If attorneys who regularly appear before the judge attend a reception and speak to attendees about their experience appearing before the judge at the judge’s request, in support of

the judge's candidacy, recusal is not thereafter required, as long as the judge believes he/she can be fair and impartial (Opinion 08-152).

Active campaign conduct in support of judge. A judge who is running for election should exercise recusal when attorneys who are engaged in fund-raising or in other active conduct in support of the judge's candidacy appear before the judge during the course of the campaign, even for matters the judge considers to be "routine, non-contested or administrative" (Opinions 07-26; 03-64; 01-07 [attorneys involved in planning an initial fund-raiser for the judge, who will not hold any office in the campaign or provide any assistance beyond contacting persons with respect to the initial fund-raiser]; 97-129 [Vol. XVI]; 94-12 [Vol. XII]; 89-107 [Vol. IV] [campaign manager]; see also *Matter of Doyle*, 23 NY2d 656 [2014]).

A judge also must disqualify himself/herself in any matter involving the law firm of the judge's campaign coordinator or campaign finance chair for the duration of the campaign, subject to remittal (Opinions 13-64; 97-129 [Vol. XVI]). Disqualification, subject to remittal, is also required for partners or associates of individuals who were involved in planning an initial fund-raiser for the judge (Opinion 01-07). However, a judge need not disqualify himself/herself from a pending class action, where the judge's campaign treasurer is a member of "a large class" solely in an individual capacity rather than as treasurer of the campaign committee (Opinion 91-131 [Vol. VIII]).

Screening panel member appears as an attorney. A judge or non-judge candidate for election to judicial office who appears before a bar association's judicial screening committee does not need to recuse himself/herself from cases in which an attorney who sits on the screening panel appears before the judge in a representative capacity, nor must the judge disclose that fact to opposing counsel (Opinions 12-97; 94-86 [Vol. XII]). A judge who recently appeared before a political party's screening panel may also preside in a matter in which a member of the panel appears as an attorney, in the absence of any other disqualifying factor and assuming the judge can be impartial (Opinion 11-64).

Screening panel member appears as a party. A judge who is a candidate for judicial office should disqualify him/herself, subject to remittal, from presiding in a case when an attorney who is a member of a political party's candidate screening panel subcommittee that reviewed the judge's application for the political party's endorsement also is a partner in the plaintiff/law firm in the case (Opinion 10-121 [noting that the screening panel member is involved "not as an attorney representing a client but as a partner in a law firm that is the plaintiff in the case"]).

Officer of a political party. A judge need not disqualify himself/herself in a proceeding in which an officer of a political party that designated the judge for judicial office is likely to be a material witness, where the official did not play any specific role in the judge's campaign (Opinion 02-108).

Employee of a political party. Absent additional factors, a judge is not disqualified solely because one of the litigants, in his/her capacity as a secretarial employee of a political party, answered the telephone when the judge called the political party's headquarters to discuss his/her own candidacy during the applicable window period (Opinion 13-47).

8.5 After the Campaign: The Two-Year Rule

Opponent. A judge need not disqualify himself/herself when a party in a proceeding or the attorney representing a party was the judge's opponent in a prior campaign (Opinions 91-146 [Vol. VIII] [former opponent as litigant]; 90-136 [Vol. VI] [former opponent as attorney]), unless the judge doubts his/her impartiality.

Minimal participant. In general, a judge need not disclose or disqualify himself/herself in a matter in which an attorney who appears before the judge publicly supported the judge (Opinion 90-182 [Vol. VI]), or who minimally participated in the judge's campaign by gathering petition signatures (Opinion 90-196 [Vol. VI]) or distributing literature (Opinion 90-196 [Vol. VI]), unless the judge doubts his/her own impartiality (Opinion 07-26).

Similarly, neither disclosure or disqualification is required after the date of the election with respect to attorneys who were involved only in planning an initial fund-raiser for the judge, or who served only as the host of a single fund-raiser or on the committee that was hosting that fund-raiser, as long as they did not hold any office in the campaign or provide any continuing assistance beyond that one fund-raiser (Opinions 03-64; 01-07).

Assuming the judge can be fair and impartial, a judge need not disqualify him/herself when a campaign advisor who was appointed by a county political committee to advise several candidates during a recent election, including the judge, appears before the judge as an attorney, where the advisor did not play an active, significant or pivotal role in the judge's campaign (Opinion 12-28).

More than minimal participant, but not a leadership or continuing fund-raising role. Where an attorney's participation in a judge's election campaign was more than minimal, but not at the formal leadership level, the judge need not disqualify him/herself when the attorney appears in the judge's court if the judge can be impartial (Opinions 12-164; 09-245).

However, for two years after the election, the judge must disclose the nature and extent of the attorney's involvement in the judge's campaign when that attorney appears before the judge (Opinions 12-164; 09-245).¹⁵ If a party objects to the judge's continued involvement in the matter, disqualification is left to the judge's discretion (Opinions 12-164; 09-245).

The disclosure is personal, involving only to the individual attorney who participated in the judge's campaign, and does not extend to his/her partners or associates (Opinion 12-164).

Leadership or continuing fund-raising role. If attorneys appearing before the judge held leadership positions in the campaign or maintained a continuing fund-raising role throughout the course of the campaign, then the recusal should extend for a two-year period following the

¹⁵ Where disclosure is mandated in lieu of disqualification, the judge must disqualify him/herself if a party is appearing without counsel (Opinion 12-164 n.1)

election, subject to remittal (Opinions 07-26; 03-64; 97-129 [Vol. XVI] [campaign coordinator or campaign finance chair]; 89-107 [Vol. IV] [campaign manager]). This applies even if the judge's campaign was unsuccessful (Opinion 06-54).

With respect to other attorneys from the former campaign manager's firm, including an attorney listed as "of counsel" on firm letterhead, the judge must continue to disclose the relationship and should consider recusal if the parties' motions warrant it for a two-year period following the campaign (Opinion 06-54). After two years have elapsed, the judge must continue to disclose but may preside in such matters (Opinions 97-129 [Vol. XVI] [campaign coordinator or campaign finance chair]; 91-129 [Vol. VIII] [campaign treasurer]).

A judge may also need to disqualify himself/herself, under certain circumstances, when a "key member" of his/her campaign committee is called as an expert witness (Opinion 05-77 [advising disqualification in light of the totality and history of the relationship under the facts presented]).

9. Additional Reminders for Sitting Judges

Comments on candidates. A sitting judge may respond to an inquiry from a political party's screening panel (Joint Opinion 12-84/12-95[B]-[G]) or a bar association screening panel (Opinions 08-160; 07-130) concerning a judicial candidate, or to an inquiry from a screening committee in connection with the reappointment of sitting judges (Opinion 00-124 [Vol. XIX]). The judge "should draw from his/her personal knowledge of the potential judicial candidate" and "should neither urge approval nor disapproval of a candidate" (Joint Opinion 12-84/12-95[B]-[G]; Opinion 08-160).

The Committee has emphasized that, to avoid any appearance that a sitting judge is engaging in impermissible political activity by providing comments to a political party's screening panel, "the judge's comments should be made solely in response to a direct request from the [political] party's screening panel and should be addressed only to the requesting panel" (Joint Opinion 12-84/12-95[B]-[G]).

However, a judge may not express an opinion to "members of the bar" or "members of the public" about the qualifications of a judicial candidate (Opinion 10-117; 22 NYCRR 100.5[A][1][e]).

Political functions held after the window period. A judge who is no longer a candidate within his/her appropriate window period may not attend a political gathering, or any gathering sponsored by a political organization, even if the gathering is of a laudable, non-political nature or is held out-of-state ("Observations and Recommendations," 2001 CJC Ann. Rep. at 27; *see also* Opinions 07-169; 06-147; 99-156 [Vol. XVIII]; 1990 CJC Ann. Rep. at 150-52 [disciplinary determination]). A judge who is not a candidate for judicial office, therefore, has an affirmative obligation to inquire regarding the sponsor's identity and purposes of an event in order to avoid inadvertently attending a prohibited political event ("Observations and Recommendations," 2001 CJC Ann. Rep. at 27).

A judge must not meet privately with a local political party regarding the inner workings of the court, including its procedures, personnel or decisions (Opinion 13-92).

Political contributions. A sitting judge may not make political contributions at any time, even to a U.S. presidential candidate or to a federal congressional candidate outside of New York State (Opinion 11-146; 22 NYCRR 100.5[A][1][h]).

A part-time judge who practices law may not permit his/her law firm to make political contributions using the law firm's checking account, "even where the judge is not the signatory on the check" (Opinion 96-29 [Vol. XIV]). A part-time judge was disciplined where, among other things, the judge's law firm, apparently without the judge's knowledge, "made \$925 in contributions to political candidates and organizations using firm checks issued from the firm business account" (2012 CJC Ann. Rep. at 113-129 ["The onus was on respondent to ensure that [his/her] law firm was in compliance with the ethical rules."]).

Political offices. A sitting judge may not hold the position of a political party "committee person" (Opinion 96-29 [Vol. XIV]). Similarly, a judge may not serve as a political party's "area chairman in the town" (Opinion 96-29 [Vol. XIV]).

TABLE OF AUTHORITIES

Please Note: References are to sections of the Handbook, not to page numbers. This Table of Authorities has been prepared as a convenience to help the reader find locations in which certain rules and opinions are currently discussed in the Handbook.

United States Supreme Court Decisions

<i>Caperton v. A.T. Massey Coal Co.</i> , 556 US 868, 129 S Ct 2252 (2009)	8.1
<i>Republican Party of Minnesota v. White</i> , 536 US 765 (2002)	5.4.1, 5.4.2

New York Court of Appeals Decisions

<i>People v. Moreno</i> , 70 NY2d 403 (1987)	3.3
<i>Matter of Doyle</i> , 23 NY2d 656 (2014)	8.4
<i>Matter of Raab</i> , 100 NY2d 305 (2003)	3, 3.3.2, 3.5, 4.3
<i>Matter of Shanley</i> , 98 NY2d 310 (2002)	5.4.1
<i>Matter of Watson</i> , 100 NY2d 290 (2003)	5.3, 5.4.2

New York Statutes

Election Law § 14-130	4.3
Election Law § 17-162	3.3, 3.5, 4.3
Judiciary Law § 212(2)(l)	Foreword (p. ii)

Rules Governing Judicial Conduct (22 NYCRR part 100)

Definitions

100.0(A) (candidate)	2.2.1
100.0(H) (family member)	6.2
100.0(M) (political organization)	3.2
100.0(N) (public election)	2.2.1
100.0(Q) (window period)	2.1.1, 2.2.3

Judicial Ethics (for sitting judges)

100.2(A) (integrity and impartiality)	5.2, 5.3
100.2(B) (family, social, political and other relationships)	5.2
100.3(B)(1) (partisan interests, public clamor, fear of criticism)	5.2
100.3(B)(8) (public comment)	3.3, 5.3, 5.6
100.3(B)(9) (pledge or promise)	5.3
100.3(E)(1) (disqualification)	3.3, 5.3, 8.4
100.4(C)(3)(b)(ii) (charitable fund-raising)	3.6

Campaign Ethics (for all judicial candidates)

100.5(A)(1).....	3.5, 5.5, 6.2
100.5(A)(1)(ii).....	3.1
100.5(A)(1)(a).....	3.2
100.5(A)(1)(b).....	3.1, 3.2
100.5(A)(1)(c).....	3.3.3, 5.1, 5.3, 6.2
100.5(A)(1)(d).....	3.3.3, 3.5, 5.1, 6.2
100.5(A)(1)(e).....	3.3.3, 5.1, 5.2, 5.3, 5.5, 6.2
100.5(A)(1)(f).....	3.3.3
100.5(A)(1)(h).....	3.5, 4, 6.2, 9
100.5(A)(2).....	3.5, 4, 7.1.1
100.5(A)(2)(i)-(iv).....	3.5, 5.1, 5.5, 6.2
100.5(A)(2)(v).....	3.5
100.5(A)(3).....	3.2
100.5(A)(4)(a).....	3.3, 4.1, 5.1, 6.2
100.5(A)(4)(b).....	6.1
100.5(A)(4)(c).....	6.1, 6.2
100.5(A)(4)(d).....	3.3, 3.3.1, 3.5, 5.2, 5.3, 5.6
100.5(A)(4)(e).....	5.3
100.5(A)(4)(f)-(g).....	2.3-2.4
100.5(A)(5).....	4.1, 4.3, 6.1, 6.2, 7.1.1, 7.1.2
100.5(A)(6).....	3.5, 3.6, 4.3, 7.1.1
100.5(A)(7).....	2.5, 3.3.2
100.5(B).....	2.2.4
100.5(C).....	6.1

Scope

100.6(A).....	1, 6.1
---------------	--------

Rules of Professional Conduct (22 NYCRR part 1200)

Rule 8.2(b).....	1
------------------	---

Other Court Rules (22 NYCRR)

Part 29 (audio-visual recording).....	5.2
Part 50 (court employees).....	6.1
Part 150 (screening panels).....	2.5, 3.3.2
Part 151 (case assignment).....	8

Bar Association Opinions†

NYSBA Opinion 289 (1973)..... 3.3, 4.1, 5.3, 5.4.1

Disciplinary Determinations†

1990 CJC Ann. Rep. at 150-52 3.5, 7.3, 9
2004 CJC Ann. Rep. at 153-56 7.1.1, 7.1.2
2007 CJC Ann. Rep. at 115-18 5.3
2007 CJC Ann. Rep. at 127-35 3.5, 5.1
2008 CJC Ann. Rep. at 145-50 Foreword
2009 CJC Ann. Rep. at 176-80 3.3, 4.1
2010 CJC Ann. Rep. at 124-28 5.3
2011 CJC Ann. Rep. at 120-24 5.3
2012 CJC Ann. Rep. at 113-29 9
2013 CJC Ann. Rep. at 75-94 4

“Observations and Recommendations”†

2001 CJC Ann. Rep. at 21-28 2.2.1, 3.5, 4.1, 5.1, 7.3, 9

† References to ethics opinions of the New York State Bar Association and annual reports of the Commission on Judicial Conduct are included for informational purposes only. The Advisory Committee on Judicial Ethics was not involved in generating such opinions, and therefore does not necessarily endorse them.

SUBJECT MATTER INDEX

Please Note: References are to sections of the Handbook, not to page numbers.

Advertisements.....	5.1 et seq.
Content (see “Campaign Speech”).....	5.3
Courthouse or Courtrooms, Use of (Prohibited)	5.2
Joint Advertising	5.5
Judiciary / Use of Judicial Affiliation (Very Limited).....	5.2
Courthouse or Courtrooms (Use in Campaign Prohibited).....	id.
Judicial Robes	id.
Judicial Letterhead (Use in Campaign Prohibited)	id.
Judicial Title.....	id.
Juror Contact Information (Use in Campaign Prohibited).....	id.
Sitting Judge Relative Appearing in Photo	id.
Method / Type of Advertising.....	5.1
Billboards	id.
Charitable Journals.....	3.6
Flyers.....	5.1
Internet	4.1, 5.1
Newspapers	5.1
Political Journals	id.
Promotional Items	id.
Radio	id.
Signs	id.
T-shirts, Promotional.....	3.6
Television.....	5.1
Websites	4.1, 5.1
Photographs.....	5.1
In Chambers	id.
In Courtroom or Courthouse	id.
In Mock Courtroom.....	id.
With Law Enforcement Official.....	id.
With Other Candidates.....	id.
With Relative Who is a Sitting Judge	id.
With Slate.....	id.
Spending Limits (Implied from Rules on Fair Value / No Personal Benefit).....	5.1
Announcement of Candidacy.....	2.2.1
Campaign Committees	4.1
Joint Committees (Prohibited)	4.1, 4.2
Registration or Reporting Requirements	Contact the Board of Elections
When Committee May be Formed.....	4.1
Who May Serve / “Responsible Persons” Requirement	4.1
Attorneys	id.
Family Members	4.1, 6.2

Judge's Staff.....	4.1, 6.1
Campaign Funds, Expenditure (for solicitation of funds, see "Fund-Raising")	4.3, 7.1
Closing of Campaign Account	7.1
Permitted Uses During the Window Period	4.3
Advertisements.....	id.
Campaign Goods and Services.....	id.
Fair Value Rule	id.
Reimbursement of Actual Campaign Expenditures on Candidate's Behalf	id.
Tickets to Events for Campaign Purposes.....	id.
Victory Party (must be modest and reasonable).....	id.
Prohibited Uses	4.3, 7.1.2
Charitable Contributions	id.
Donations	id.
Estimated Future Expenditures	id.
Gifts.....	id.
Party Headquarters or General Expenses.....	id.
Personal Benefit of Candidate or Others.....	id.
Political Contributions	id.
Reimbursement of Candidate's Loans <u>Post-Election</u>	4.1, 7.2
"Rolling Over" Funds from One Campaign to Another	7.1.2
Unexpended Campaign Funds	4.3, 7.1
De Minimis Amount	7.1.1
Modestly Priced Item for Judicial Duties (Very Limited)	id.
Pro Rata Return to Contributors.....	id.
Victory Party (within Window Period).....	id.
Campaign Contributions	4.1, 6.1, 6.2
Solicitation (see "Fund-Raising")	
Retention or Transfer of Monies for Future Campaign (Prohibited)	7.1.2
Use of Monies from Prior Campaigns (Prohibited)	7.1.2
Use of Personal Funds.....	3.5, 4.1, 4.3, 7.2
Campaign Speech.....	5.3 et seq.
Basic Principles.....	5.3
Dignity.....	id.
Distortions Prohibited	id.
Endorsements of Other Candidates Prohibited	3.3.3, 5.1, 5.5
Impartiality and Independence	5.3
Pledges or Promises	3.3, 3.3.1, 5.3, 5.4.2, 8.2
Truthfulness.....	5.3
Advertisements.....	5.1 et seq.
"Announce Clause"	5.4
Debates	5.6
Minnesota (Republican Party of) v. White.....	5.4
Permissible Statements (if truthful and not misleading, etc.)	5.4
Endorsements Received	id.

“Law and Order Candidate”	id.
Promises Consistent with Impartial Adjudication.....	id.
Public Discipline of Opponent	id.
Screening Panel Ratings.....	5.6
Truthful Statements about Qualifications, Experience	id.
“Pledge and Promise”	3.3, 3.3.1, 5.3, 5.4.2, 8.2
Republican Party of Minnesota v. White	5.4
Statements about Opponent.....	5.3, 5.6
“Candidate,” Definition under the Rules.....	2.2.1
Charitable Organizations & Events	
Donations Using Campaign Funds (Prohibited)	3.6
Purchasing Campaign Advertisements.....	4.1, 5.1
Speaker at Fund-Raising Events (Prohibited for Judges).....	3.6
Communications with Voters (see “Advertisements”, “Campaign Speech”, “Debates”)	
Debates	5.6
Designating Petitions (see “Petitions”)	
Disqualification, Campaign-Related	8
Election Law	Contact the Board of Elections
Endorsements	3.3, 8.3
Accepting an Endorsement.....	3.3
Cross-Endorsement by Candidate (Prohibited).....	id.
Declining an Endorsement	id.
Disqualification / Recusal Obligations.....	8.1
Endorsing Other Candidates (Prohibited)	3.3
Limited Exception: Judicial Convention Delegates	3.3.3
Soliciting Endorsements.....	3.3, 4.1
Supreme Court Candidates.....	3.3.3
Events - Attendance by Candidate During Window Period.....	3.5, 3.6
Charitable Gatherings.....	3.6
Fund-Raisers for Other Candidates	3.5
Political Gatherings	id.
Family of Candidate	
Activity in Support of Candidate	
Appearance in Campaign Advertisements	5.1, 6.2
Campaign Activities	6.2
Participation in Campaign Committee	4.1
Other Political Activity	

In General.....	6.2
Campaign Signs at Joint Marital Residence (supporting other candidates).....	id.
Political Contributions (supporting other candidates).....	id.
Filing Requirements	Contact the Board of Elections
Financial Disclosures	
Reporting campaign revenue and expenditures	Board of Elections (2.4)
Reporting employment and investment income, etc.	UCS Ethics Commission (2.4)
Fund-Raising or Solicitation of Funds	
By Whom	4.1
Campaign Committee.....	id.
Candidate (Prohibited)	id.
For Other Candidates (Prohibited)	3.3, 4.1
Joint Fund-Raising (Very Limited).....	4.2
Knowledge of Contributors.....	4.1
Methods	id.
Campaign Website	id.
Dinners	id.
Raffles	id.
Souvenir Journals (Prohibited).....	id.
Permissible Contributors	id.
Geographic Limitations	
Campaign Activities.....	2.2.3
Political Functions.....	3.5, 9
Internet (see “Websites”)	
Joint Campaign Activities	
Door-to-Door Campaigning	2.2.2, 5.5
Joint Advertising	5.5
Joint Committees (Prohibited)	4.1, 4.2
Joint Fund-Raising (Very Limited).....	4.1, 4.2
Judicial Staff, Participation in Campaign.....	6.1
Personal Appointees (Limited).....	id.
Quasi-Judicial Officials (Prohibited)	id.
Nominating Petitions (see “Petitions”)	
Non-Judge Candidates for Judicial Office	
Basic Principle: Same Rules Apply	1
Comment on Pending or Impending Cases	5.3
Holder of Other Political Office.....	5.3
Membership in Political Organization	3.2

Speaker or Guest of Honor at Charitable Fund-Raising Event	3.6
Use of Judicial Title, Robes (Prohibited)	5.2
Non-Judicial Office, Candidates for	
Campaigning with Judicial Candidates	4.1, 4.2
Judge as Candidate for Non-Judicial Office (Prohibited)	2.2.4
Petitions to Designate or Nominate Candidates	
Authenticating or Witnessing as Notary	3.1 et seq.
Carrying or Circulating	3.4
Petition Containing Own Name (Permitted)	id.
Petition Solely for Other Candidates (Prohibited)	id.
Signing (Permitted)	3.1, 3.4
Political Events	
Attendance	3.5
Membership in Political Clubs	3.1, 3.2
Screening Panels	3.3.2, 8.2
Speaking Engagements	3.5
Tickets to Political Gatherings (Limited)	3.5
Window Period Activities	3.5, 7.3
Political Clubs or Organizations	
Non-Judge Candidate	id.
Sitting Judges	id.
Political Party	
Advertisements	3.3
Contributions to (Prohibited)	4.3
Endorsements by	3.3, 8.1
Fund-Raising Events	3.5
Membership Permitted	3.1
Nominations	3.2
Officer Positions (Prohibited)	3.2
Petitions, Nominating or Designating	3.4
Petitions, Signing of	3.1
Voting in Primary Permitted	3.1
Post-Election Activity	
Fund-Raising	7.2
Funds, Handling of	7.1, 7.2
Political Functions	3.5, 4.3.2, 7.3
Presentations	7.3
Prohibited Uses for Funds	7.1.2
Victory Party	7.1
Pre-Candidacy Activity	2.1

Privately Testing the Waters (Permitted).....	2.1
Questionnaires.....	3.3.1
Recusals, Campaign-Related.....	8
Requirements of the Ethics Rules	
Mandatory Education Program.....	2.3
Mandatory Financial Disclosure.....	2.4
Screening Panels	
Disqualification.....	3.3.2, 8.3
General.....	3.3.2
Incumbent Judges, Participation in.....	8.2
Slate of Candidates.....	5.5
Advertisements.....	5.1, 5.3, 6.2
Campaigning.....	5.3, 5.5, 6.2
Fund-Raising.....	5.5, 7.1
Solicitation of Funds (see “Fund-Raising”)	
Solicitation of Endorsements or Non-Financial Support (see “Endorsements”)	
Testing the Waters.....	2.1
Tickets, Purchase of.....	3.5, 3.6
Training Requirements.....	2.3
Unopposed Candidates.....	2.2.2
Voting (Permitted).....	3.1
Websites	
Committee Website.....	4.1
Content (see “Campaign Speech”)	
Fund-Raising.....	4.1
Links.....	5.1
“Window Period,” Defined.....	2.2.3

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RULES

Administrative Rules of the Unified Court System & Uniform Rules of the Trial Courts

Rules of the Chief Administrative Judge

PART 100. Judicial Conduct

Preamble

100.0 Terminology

100.1 A judge shall uphold the integrity and independence . . .

100.2 A judge shall avoid impropriety and the appearance . . .

100.3 A judge shall perform the duties of judicial office . . .

100.4 A judge shall so conduct the judge's extra-judicial . . .

100.5 A judge or candidate for elective judicial office shall . . .

100.6 Application of the rules of judicial conduct



Preamble

The rules governing judicial conduct are rules of reason. They should be applied consistently with constitutional requirements, statutes, other court rules and decisional law and in the context of all relevant circumstances. The rules are to be construed so as not to impinge on the essential independence of judges in making judicial decisions.

The rules are designed to provide guidance to judges and candidates for elective judicial office and to provide a structure for regulating conduct through disciplinary agencies. They are not designed or intended as a basis for civil liability or criminal prosecution.

The text of the rules is intended to govern conduct of judges and candidates for elective judicial office and to be binding upon them. It is not intended, however, that every transgression will result in disciplinary action. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, should be determined through a reasonable and reasoned application of the text and should depend on such factors as the seriousness of the transgression, whether there is a pattern of improper activity and the effect of the improper activity on others or on the judicial system.

The rules are not intended as an exhaustive guide for conduct. Judges and judicial candidates also should be governed in their judicial and personal conduct by general ethical standards. The rules are intended, however, to state basic standards which should govern their conduct and to provide guidance to assist them in establishing and maintaining high standards of judicial and personal conduct.



Section 100.0 Terminology.

The following terms used in this Part are defined as follows:

(A) A "candidate" is a person seeking selection for or retention in public office by election. A person becomes a candidate for public office as soon as he or she makes a public announcement of candidacy, or authorizes solicitation or acceptance of contributions.

(B) "Court personnel" does not include the lawyers in a proceeding before a judge.

(C) The "degree of relationship" is calculated according to the civil law system. That is, where the judge and the party are in the same line of descent, degree is ascertained by ascending or descending from the judge to the party, counting a degree for each person, including the party but excluding the judge. Where the judge and the party are in different lines of descent, degree is ascertained by ascending from the judge to the common ancestor, and descending to the party, counting a degree for each person in both lines, including the common ancestor and the party but excluding the judge. The following persons are relatives within the fourth degree of relationship: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, first cousin, child, grandchild, great-grandchild, nephew or niece. The sixth degree of relationship includes second cousins.

(D) "Economic interest" denotes ownership of a more than de minimis legal or equitable interest, or a relationship as officer, director, advisor or other active participant in the affairs of a party, except that

(1) ownership of an interest in a mutual or common investment fund that holds securities is not an economic interest in such securities unless the judge participates in the management of the fund or a proceeding pending or impending before the judge could substantially affect the value of the interest;

(2) service by a judge as an officer, director, advisor or other active participant in an educational, religious, charitable, cultural, fraternal or civic organization, or service by a judge's spouse or child as an officer, director, advisor or other active participant in any organization does not create an economic interest in securities held by that organization;

(3) a deposit in a financial institution, the proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association or of a member in a credit union, or a similar proprietary interest, is not an economic interest in the organization, unless a proceeding pending or impending before the judge could substantially affect the value of the interest;

(4) ownership of government securities is not an economic interest in the issuer unless a proceeding pending or impending before the judge could substantially affect the value of the securities.

(5) "De minimis" denotes an insignificant interest that could not raise reasonable questions as to a judge's impartiality.

(E) "Fiduciary" includes such relationships as executor, administrator, trustee, and guardian.

(F) "Knowingly", "knowledge", "known" or "knows" denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.

(G) "Law" denotes court rules as well as statutes, constitutional provisions and decisional law.

(H) "Member of the candidate's family" denotes a spouse, child, grandchild, parent, grandparent or other relative or person with whom the candidate maintains a close familial relationship.

(I) "Member of the judge's family" denotes a spouse, child, grandchild, parent, grandparent or other relative or person with whom the judge maintains a close familial relationship.

(J) "Member of the judge's family residing in the judge's household" denotes any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge's family, who resides in the judge's household.

(K) "Nonpublic information" denotes information that, by law, is not available to the public. Nonpublic

information may include but is not limited to: information that is sealed by statute or court order, impounded or communicated in camera; and information offered in grand jury proceedings, presentencing reports, dependency cases or psychiatric reports.

(L) A "part-time judge", including an acting part-time judge, is a judge who serves repeatedly on a part-time basis by election or under a continuing appointment.

(M) "Political organization" denotes a political party, political club or other group, the principal purpose of which is to further the election or appointment of candidates to political office.

(N) "Public election" includes primary and general elections; it includes partisan elections, nonpartisan elections and retention elections.

(O) "Require". The rules prescribing that a judge "require" certain conduct of others, like all of the rules in this Part, are rules of reason. The use of the term "require" in that context means a judge is to exercise reasonable direction and control over the conduct of those persons subject to the judge's direction and control.

(P) "Rules"; citation. Unless otherwise made clear by the citation in the text, references to individual components of the rules are cited as follows:

"Part"-refers to Part 100.

"Section"-refers to a provision consisting of 100 followed by a decimal (100.1).

"Subdivision"-refers to a provision designated by a capital letter (A).

"Paragraph"-refers to a provision designated by an arabic numeral (1).

"Subparagraph"-refers to a provision designated by a lower-case letter (a).

(Q) "Window Period" denotes a period beginning nine months before a primary election, judicial nominating convention, party caucus or other party meeting for nominating candidates for the elective judicial office for which a judge or non-judge is an announced candidate, or for which a committee or other organization has publicly solicited or supported the judge's or non-judge's candidacy, and ending, if the judge or non-judge is a candidate in the general election for that office, six months after the general election, or if he or she is not a candidate in the general election, six months after the date of the primary election, convention, caucus or meeting.

(R) "Impartiality" denotes absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintaining an open mind in considering issues that may come before the judge.

(S) An "independent" judiciary is one free of outside influences or control.

(T) "Integrity" denotes probity, fairness, honesty, uprightness and soundness of character. "Integrity" also includes a firm adherence to this Part or its standard of values.

(U) A "pending proceeding" is one that has begun but not yet reached its final disposition.

(V) An "impending proceeding" is one that is reasonably foreseeable but has not yet been commenced.

Historical Note

Sec. filed Feb. 1, 1996 eff. Jan. 1, 1996.

Amended (D) and (D)(5) on Sept. 9, 2004.

Added (R) - (V) on Feb. 14, 2006

Section 100.1 A judge shall uphold the integrity and independence of the judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should

participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Part 100 are to be construed and applied to further that objective.

Historical Note

Sec. filed Aug. 1, 1972; renum. 111.1, new added by renum. and amd. 33.1, filed Feb. 2, 1982; repealed, new filed Feb. 1, 1996 eff. Jan. 1, 1996.

Section 100.2 A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.

(A) A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

(B) A judge shall not allow family, social, political or other relationships to influence the judge's judicial conduct or judgment.

(C) A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness.

(D) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of age, race, creed, color, sex, sexual orientation, religion, national origin, disability or marital status. This provision does not prohibit a judge from holding membership in an organization that is dedicated to the preservation of religious, ethnic, cultural or other values of legitimate common interest to its members.

Historical Note

Sec. filed Aug. 1, 1972; renum. 111.2, new added by renum. and amd. 33.2, filed Feb. 2, 1982; repealed, new filed Feb. 1, 1996 eff. Jan. 1, 1996.

Section 100.3 A judge shall perform the duties of judicial office impartially and diligently.

(A) **Judicial Duties in General.** The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law. In the performance of these duties, the following standards apply.

(B) Adjudicative Responsibilities.

(1) A judge shall be faithful to the law and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor or fear of criticism.

(2) A judge shall require order and decorum in proceedings before the judge.

(3) A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, and of staff, court officials and others subject to the judge's direction and control.

(4) A judge shall perform judicial duties without bias or prejudice against or in favor of any person. A judge in the performance of judicial duties shall not, by words or conduct, manifest bias or prejudice, including but not limited to bias or prejudice based upon age, race, creed, color, sex, sexual orientation, religion, national origin, disability, marital status or socioeconomic status, and shall require staff, court officials and others subject to the judge's direction and control to refrain from such words or conduct.

(5) A judge shall require lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon age, race, creed, color, sex, sexual orientation, religion, national

origin, disability, marital status or socioeconomic status, against parties, witnesses, counsel or others. This paragraph does not preclude legitimate advocacy when age, race, creed, color, sex, sexual orientation, religion, national origin, disability, marital status or socioeconomic status, or other similar factors are issues in the proceeding.

(6) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers concerning a pending or impending proceeding, except:

(a) Ex parte communications that are made for scheduling or administrative purposes and that do not affect a substantial right of any party are authorized, provided the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication, and the judge, insofar as practical and appropriate, makes provision for prompt notification of other parties or their lawyers of the substance of the ex parte communication and allows an opportunity to respond.

(b) A judge may obtain the advice of a disinterested expert on the law applicable to a proceeding before the judge if the judge gives notice to the parties of the person consulted and a copy of such advice if the advice is given in writing and the substance of the advice if it is given orally, and affords the parties reasonable opportunity to respond.

(c) A judge may consult with court personnel whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges.

(d) A judge, with the consent of the parties, may confer separately with the parties and their lawyers on agreed-upon matters.

(e) A judge may initiate or consider any ex parte communications when authorized by law to do so.

(7) A judge shall dispose of all judicial matters promptly, efficiently and fairly.

(8) A judge shall not make any public comment about a pending or impending proceeding in any court within the United States or its territories. The judge shall require similar abstention on the part of court personnel subject to the judge's direction and control. This paragraph does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court. This paragraph does not apply to proceedings in which the judge is a litigant in a personal capacity.

(9) A judge shall not:

(a) make pledges or promises of conduct in office that are inconsistent with the impartial performance of the adjudicative duties of the office;

(b) with respect to cases, controversies or issues that are likely to come before the court, make commitments that are inconsistent with the impartial performance of the adjudicative duties of the office.

(10) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding, but may express appreciation to jurors for their service to the judicial system and the community.

(11) A judge shall not disclose or use, for any purpose unrelated to judicial duties, nonpublic information acquired in a judicial capacity.

(12) It is not a violation of this Rule for a judge to make reasonable efforts to facilitate the ability of unrepresented litigants to have their matters fairly heard.

(C) Administrative Responsibilities.

(1) A judge shall diligently discharge the judge's administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration, and should cooperate with other judges and court officials in the administration of court business.

(2) A judge shall require staff, court officials and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge and to refrain from manifesting bias or prejudice in the performance of their official duties.

(3) A judge shall not make unnecessary appointments. A judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism and favoritism. A judge shall not approve compensation of appointees beyond the fair value of services rendered. A judge shall not appoint or vote for the appointment of any person as a member of the judge's staff or that of the court of which the judge is a member, or as an appointee in a judicial proceeding, who is a relative within the fourth degree of relationship of either the judge or the judge's spouse or the spouse of such a person. A judge shall refrain from recommending a relative within the fourth degree of relationship of either the judge or the judge's spouse or the spouse of such person for appointment or employment to another judge serving in the same court. A judge also shall comply with the requirements of Part 8 of the Rules of the Chief Judge (22 NYCRR Part 8) relating to the Appointment of relatives of judges. Nothing in this paragraph shall prohibit appointment of the spouse of the town or village justice, or other member of such justice's household, as clerk of the town or village court in which such justice sits, provided that the justice obtains the prior approval of the Chief Administrator of the Courts, which may be given upon a showing of good cause.

(D) Disciplinary Responsibilities.

(1) A judge who receives information indicating a substantial likelihood that another judge has committed a substantial violation of this Part shall take appropriate action.

(2) A judge who receives information indicating a substantial likelihood that a lawyer has committed a substantial violation of the Code of Professional Responsibility shall take appropriate action.

(3) Acts of a judge in the discharge of disciplinary responsibilities are part of a judge's judicial duties.

(E) Disqualification.

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

(a) (i) the judge has a personal bias or prejudice concerning a party or (ii) the judge has personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) the judge knows that (i) the judge served as a lawyer in the matter in controversy, or (ii) a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or (iii) the judge has been a material witness concerning it;

(c) the judge knows that he or she, individually or as a fiduciary, or the judge's spouse or minor child residing in the judge's household has an economic interest in the subject matter in controversy or in a party to the proceeding or has any other interest that could be substantially affected by the proceeding;

(d) the judge knows that the judge or the judge's spouse, or a person known by the judge to be within the sixth degree of relationship to either of them, or the spouse of such a person:

(i) is a party to the proceeding;

(ii) is an officer, director or trustee of a party;

(iii) has an interest that could be substantially affected by the proceeding;

(e) The judge knows that the judge or the judge's spouse, or a person known by the judge to be within the fourth degree of relationship to either of them, or the spouse of such a person, is acting as a lawyer in the proceeding or is likely to be a material witness in the proceeding.

(f) the judge, while a judge or while a candidate for judicial office, has made a pledge or promise of conduct in office that is inconsistent with the impartial performance of the adjudicative duties of the office or has made a public statement not in the judge's adjudicative capacity that commits the judge with respect to

(i) an issue in the proceeding; or

(ii) the parties or controversy in the proceeding.

(g) notwithstanding the provisions of subparagraphs (c) and (d) above, if a judge would be disqualified because of the appearance or discovery, after the matter was assigned to the judge, that the judge individually or as fiduciary, the judge's spouse, or a minor child residing in his or her household has an economic interest in a party to the proceeding, disqualification is not required if the judge, spouse or minor child, as the case may be, divests himself or herself of the interest that provides the grounds for the disqualification.

(2) A judge shall keep informed about the judge's personal and fiduciary economic interests, and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse and minor children residing in the judge's household.

(F) Remittal of Disqualification. A judge disqualified by the terms of subdivision (E), except subparagraph (1)(a)(i), subparagraph (1)(b)(i) or (iii) or subparagraph (1)(d)(i) of this section, may disclose on the record the basis of the judge's disqualification. If, following such disclosure of any basis for disqualification, the parties who have appeared and not defaulted and their lawyers, without participation by the judge, all agree that the judge should not be disqualified, and the judge believes that he or she will be impartial and is willing to participate, the judge may participate in the proceeding. The agreement shall be incorporated in the record of the proceeding.

Amended 100.3 (B)(9)-(11) & (E)(f)-(E)(g) Feb. 14, 2006

Amended 100.3 (B)(9)-(11) & (E)(f)-(E)(g) Feb. 14, 2006

Added 100.3(b)(12) effective Mar. 26, 2015



Section 100.4 A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations

(A) Extra-Judicial Activities in General. A judge shall conduct all of the judge's extra-judicial activities so that they do not:

(1) cast reasonable doubt on the judge's capacity to act impartially as a judge;

(2) detract from the dignity of judicial office; or

(3) interfere with the proper performance of judicial duties and are not incompatible with judicial office.

(B) Avocational Activities. A judge may speak, write, lecture, teach and participate in extra-judicial activities subject to the requirements of this Part.

(C) Governmental, Civic, or Charitable Activities.

(1) A full-time judge shall not appear at a public hearing before an executive or legislative body or official except on matters concerning the law, the legal system or the administration of justice or except when acting pro se in a matter involving the judge or the judge's interests.

(2)(a) A full-time judge shall not accept appointment to a governmental committee or commission or other governmental position that is concerned with issues of fact or policy in matters other than the improvement of the law, the legal system or the administration of justice. A judge may, however, represent a country, state or locality on ceremonial occasions or in connection with historical, educational or cultural activities.

(b) A judge shall not accept appointment or employment as a peace officer or police officer as those terms are defined in section 1.20 of the Criminal Procedure Law.

(3) A judge may be a member or serve as an officer, director, trustee or non-legal advisor of an organization or governmental agency devoted to the improvement of the law, the legal system or the administration of justice or of an educational, religious, charitable, cultural, fraternal or civic organization not conducted for profit, subject to the following limitations and the other requirements of this Part.

(a) A judge shall not serve as an officer, director, trustee or non-legal advisor if it is likely that the organization

(i) will be engaged in proceedings that ordinarily would come before the judge, or

(ii) if the judge is a full-time judge, will be engaged regularly in adversary proceedings in any court.

(b) A judge as an officer, director, trustee or non-legal advisor, or a member or otherwise:

(i) may assist such an organization in planning fund-raising and may participate in the management and investment of the organization's funds, but shall not personally participate in the solicitation of funds or other fund-raising activities;

(ii) may not be a speaker or the guest of honor at an organization's fund-raising events, but the judge may attend such events. Nothing in this subparagraph shall prohibit a judge from being a speaker or guest of honor at a court employee organization, bar association or law school function or from accepting at another organization's fund-raising event an unadvertised award ancillary to such event;

(iii) may make recommendations to public and private fund-granting organizations on projects and programs concerning the law, the legal system or the administration of justice; and

(iv) shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation, but may be listed as an officer, director or trustee of such an organization. Use of an organization's regular letterhead for fund-raising or membership solicitation does not violate this provision, provided the letterhead lists only the judge's name and office or other position in the organization, and, if comparable designations are listed for other persons, the judge's judicial designation.

(D) Financial Activities.

(1) A judge shall not engage in financial and business dealings that:

(a) may reasonably be perceived to exploit the judge's judicial position;

(b) involve the judge with any business, organization or activity that ordinarily will come before the judge; or

(c) involve the judge in frequent transactions or continuing business relationships with those lawyers or

other persons likely to come before the court on which the judge serves.

(2) A judge, subject to the requirements of this Part, may hold and manage investments of the judge and members of the judge's family, including real estate.

(3) A full-time judge shall not serve as an officer, director, manager, general partner, advisor, employee or other active participant of any business entity, except that:

(a) the foregoing restriction shall not be applicable to a judge who assumed judicial office prior to July 1, 1965, and maintained such position or activity continuously since that date; and

(b) a judge, subject to the requirements of this Part, may manage and participate in a business entity engaged solely in investment of the financial resources of the judge or members of the judge's family; and

(c) any person who may be appointed to fill a full-time judicial vacancy on an interim or temporary basis pending an election to fill such vacancy may apply to the Chief Administrator of the Courts for exemption from this paragraph during the period of such interim or temporary appointment.

(4) A judge shall manage the judge's investments and other financial interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, the judge shall divest himself or herself of investments and other financial interests that might require frequent disqualification.

(5) A judge shall not accept, and shall urge members of the judge's family residing in the judge's household not to accept, a gift, bequest, favor or loan from anyone except:

(a) a gift incident to a public testimonial, books, tapes and other resource materials supplied by publishers on a complimentary basis for official use, or an invitation to the judge and the judge's spouse or guest to attend a bar-related function or an activity devoted to the improvement of the law, the legal system or the administration of justice;

(b) a gift, award or benefit incident to the business, profession or other separate activity of a spouse or other family member of a judge residing in the judge's household, including gifts, awards and benefits for the use of both the spouse or other family member and the judge (as spouse or family member), provided the gift, award or benefit could not reasonably be perceived as intended to influence the judge in the performance of judicial duties;

(c) ordinary social hospitality;

(d) a gift from a relative or friend, for a special occasion such as a wedding, anniversary or birthday, if the gift is fairly commensurate with the occasion and the relationship;

(e) a gift, bequest, favor or loan from a relative or close personal friend whose appearance or interest in a case would in any event require disqualification under section 100.3(E);

(f) a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges;

(g) a scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants; or

(h) any other gift, bequest, favor or loan, only if: the donor is not a party or other person who has come or is likely to come or whose interests have come or are likely to come before the judge; and if its value exceeds \$150.00, the judge reports it in the same manner as the judge reports compensation in Section 100.4(H).

(E) Fiduciary Activities.

(1) A full-time judge shall not serve as executor, administrator or other personal representative, trustee,

guardian, attorney in fact or other fiduciary, designated by an instrument executed after January 1, 1974, except for the estate, trust or person of a member of the judge's family, or, with the approval of the Chief Administrator of the Courts, a person not a member of the judge's family with whom the judge has maintained a longstanding personal relationship of trust and confidence, and then only if such services will not interfere with the proper performance of judicial duties.

(2) The same restrictions on financial activities that apply to a judge personally also apply to the judge while acting in a fiduciary capacity.

(3) Any person who may be appointed to fill a full-time judicial vacancy on an interim or temporary basis pending an election to fill such vacancy may apply to the Chief Administrator of the Courts for exemption from paragraphs (1) and (2) during the period of such interim or temporary appointment.

(F) Service as Arbitrator or Mediator. A full-time judge shall not act as an arbitrator or mediator or otherwise perform judicial functions in a private capacity unless expressly authorized by law.

(G) Practice of Law. A full-time judge shall not practice law. Notwithstanding this prohibition, a judge may act pro se and may, without compensation, give legal advice to a member of the judge's family.

(H) Compensation, Reimbursement and Reporting.

(1) *Compensation and Reimbursement.* A full-time judge may receive compensation and reimbursement of expenses for the extra-judicial activities permitted by this Part, if the source of such payments does not give the appearance of influencing the judge's performance of judicial duties or otherwise give the appearance of impropriety, subject to the following restrictions:

(a) Compensation shall not exceed a reasonable amount nor shall it exceed what a person who is not a judge would receive for the same activity.

(b) Expense reimbursement shall be limited to the actual cost of travel, food and lodging reasonably incurred by the judge and, where appropriate to the occasion, by the judge's spouse or guest. Any payment in excess of such an amount is compensation.

(c) No full-time judge shall solicit or receive compensation for extra-judicial activities performed for or on behalf of: (1) New York State, its political subdivisions or any office or agency thereof; (2) a school, college or university that is financially supported primarily by New York State or any of its political subdivisions, or any officially recognized body of students thereof, except that a judge may receive the ordinary compensation for a lecture or for teaching a regular course of study at any college or university if the teaching does not conflict with the proper performance of judicial duties; or (3) any private legal aid bureau or society designated to represent indigents in accordance with article 18-B of the County Law.

(2) *Public Reports.* A full-time judge shall report the date, place and nature of any activity for which the judge received compensation in excess of \$150, and the name of the payor and the amount of compensation so received. Compensation or income of a spouse attributed to the judge by operation of a community property law is not extra-judicial compensation to the judge. The judge's report shall be made at least annually and shall be filed as a public document in the office of the clerk of the court on which the judge serves or other office designated by law.

(I) Financial Disclosure. Disclosure of a judge's income, debts, investments or other assets is required only to the extent provided in this section and in section 100.3(F), or as required by Part 40 of the Rules of the Chief Judge (22 NYCRR Part 40), or as otherwise required by law.

Historical Note

Sec. filed Aug. 1, 1972; amd. filed Nov. 26, 1976; renum. 111.4, new added by renum. and amd. 33.4, filed Feb. 2, 1982; repealed, new filed Feb. 1, 1996; amds. filed: Feb. 27, 1996; Feb. 9, 1998 eff. Jan. 23, 1998. Amended (C)(3)(b)(ii).

Section 100.5 A judge or candidate for elective judicial office shall refrain from inappropriate political activity.

(A) Incumbent Judges and Others Running for Public Election to Judicial Office.

(1) Neither a sitting judge nor a candidate for public election to judicial office shall directly or indirectly engage in any political activity except (i) as otherwise authorized by this section or by law, (ii) to vote and to identify himself or herself as a member of a political party, and (iii) on behalf of measures to improve the law, the legal system or the administration of justice. Prohibited political activity shall include:

- (a) acting as a leader or holding an office in a political organization;
- (b) except as provided in Section 100.5(A)(3), being a member of a political organization other than enrollment and membership in a political party;
- (c) engaging in any partisan political activity, provided that nothing in this section shall prohibit a judge or candidate from participating in his or her own campaign for elective judicial office or shall restrict a non-judge holder of public office in the exercise of the functions of that office;
- (d) participating in any political campaign for any office or permitting his or her name to be used in connection with any activity of a political organization;
- (e) publicly endorsing or publicly opposing (other than by running against) another candidate for public office;
- (f) making speeches on behalf of a political organization or another candidate;
- (g) attending political gatherings;
- (h) soliciting funds for, paying an assessment to, or making a contribution to a political organization or candidate; or
- (i) purchasing tickets for politically sponsored dinners or other functions, including any such function for a non-political purpose.

(2) A judge or non-judge who is a candidate for public election to judicial office may participate in his or her own campaign for judicial office as provided in this section and may contribute to his or her own campaign as permitted under the Election Law. During the Window Period as defined in subdivision (Q) of section 100.0 of this Part, a judge or non-judge who is a candidate for public election to judicial office, except as prohibited by law, may:

- (i) attend and speak to gatherings on his or her own behalf, provided that the candidate does not personally solicit contributions;
- (ii) appear in newspaper, television and other media advertisements supporting his or her candidacy, and distribute pamphlets and other promotional campaign literature supporting his or her candidacy;
- (iii) appear at gatherings, and in newspaper, television and other media advertisements with the candidates who make up the slate of which the judge or candidate is a part;
- (iv) permit the candidate's name to be listed on election materials along with the names of other candidates for elective public office;
- (v) purchase two tickets to, and attend, politically sponsored dinners and other functions, provided that the cost of the ticket to such dinner or other function shall not exceed the proportionate cost of the dinner or function. The cost of the ticket shall be deemed to constitute the proportionate cost of the dinner or function if the cost of the ticket is \$250 or less. A candidate may not pay more than \$250 for a ticket unless

he or she obtains a statement from the sponsor of the dinner or function that the amount paid represents the proportionate cost of the dinner or function.

(3) A non-judge who is a candidate for public election to judicial office may also be a member of a political organization and continue to pay ordinary assessments and ordinary contributions to such organization.

(4) A judge or a non-judge who is a candidate for public election to judicial office:

(a) shall maintain the dignity appropriate to judicial office and act in a manner consistent with the impartiality, integrity and independence of the judiciary, and shall encourage members of the candidate's family to adhere to the same standards of political conduct in support of the candidate as apply to the candidate;

(b) shall prohibit employees and officials who serve at the pleasure of the candidate, and shall discourage other employees and officials subject to the candidate's direction and control, from doing on the candidate's behalf what the candidate is prohibited from doing under this Part;

(c) except to the extent permitted by Section 100.5(A)(5), shall not authorize or knowingly permit any person to do for the candidate what the candidate is prohibited from doing under this Part;

(d) shall not:

(i) make pledges or promises of conduct in office that are inconsistent with the impartial performance of the adjudicative duties of the office;

(ii) with respect to cases, controversies or issues that are likely to come before the court, make commitments that are inconsistent with the impartial performance of the adjudicative duties of the office;

(iii) knowingly make any false statement or misrepresent the identity, qualifications, current position or other fact concerning the candidate or an opponent; but

(e) may respond to personal attacks or attacks on the candidate's record as long as the response does not violate subparagraphs 100.5(A)(4)(a) and (d).

(f) shall complete an education program, either in person or by videotape or by internet correspondence course, developed or approved by the Chief Administrator or his or her designee any time after the candidate makes a public announcement of candidacy or authorizes solicitation or acceptance of contributions for a known judicial vacancy, but no later than 30 days after receiving the nomination for judicial office. The date of nomination for candidates running in a primary election shall be the date upon which the candidate files a designating petition with the Board of Elections. This provision shall apply to all candidates for elective judicial office in the Unified Court System except for town and village justices.

(g) shall file with the Ethics Commission for the Unified Court System a financial disclosure statement containing the information and in the form set forth in the Annual Statement of Financial Disclosure adopted by the Chief Judge of the State of New York. Such statement shall be filed within 20 days following the date on which the judge or non-judge becomes such a candidate; provided, however, that the Ethics Commission for the Unified Court System may grant an additional period of time within which to file such statement in accordance with rules promulgated pursuant to section 40.1(i)(3) of the Rules of the Chief Judge of the State of New York (22 NYCRR). Notwithstanding the foregoing, compliance with this subparagraph shall not be necessary where a judge or non-judge already is or was required to file a financial disclosure statement for the preceding calendar year pursuant to Part 40 of the Rules of the Chief Judge. This requirement shall not apply to candidates for election to town and village courts.

(5) A judge or candidate for public election to judicial office shall not personally solicit or accept campaign contributions, but may establish committees of responsible persons to conduct campaigns for the

candidate through media advertisements, brochures, mailings, candidate forums and other means not

prohibited by law. Such committees may solicit and accept reasonable campaign contributions and support from the public, including lawyers, manage the expenditure of funds for the candidate's campaign and obtain public statements of support for his or her candidacy. Such committees may solicit and accept such contributions and support only during the Window Period. A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate or others.

(6) A judge or a non-judge who is a candidate for public election to judicial office may not permit the use of campaign contributions or personal funds to pay for campaign-related goods or services for which fair value was not received.

(7) Independent Judicial Election Qualifications Commissions, created pursuant to Part 150 of the Rules of the Chief Administrator of the Courts, shall evaluate candidates for elected judicial office, other than justice of a town or village court.

(B) Judge as Candidate for Nonjudicial Office. A judge shall resign from judicial office upon becoming a candidate for elective nonjudicial office either in a primary or in a general election, except that the judge may continue to hold judicial office while being a candidate for election to or serving as a delegate in a state constitutional convention if the judge is otherwise permitted by law to do so.

(C) Judge's Staff. A judge shall prohibit members of the judge's staff who are the judge's personal appointees from engaging in the following political activity:

(1) holding an elective office in a political organization, except as a delegate to a judicial nominating convention or a member of a county committee other than the executive committee of a county committee;

(2) contributing, directly or indirectly, money or other valuable consideration in amounts exceeding \$500 in the aggregate during any calendar year to all political campaigns for political office, and other partisan political activity including, but not limited to, the purchasing of tickets to political functions, except that this \$500 limitation shall not apply to an appointee's contributions to his or her own campaign. Where an appointee is a candidate for judicial office, reference also shall be made to appropriate sections of the Election Law;

(3) personally soliciting funds in connection with a partisan political purpose, or personally selling tickets to or promoting a fund-raising activity of a political candidate, political party, or partisan political club; or

(4) political conduct prohibited by section 50.5 of the Rules of the Chief Judge (22 NYCRR 50.5).

Historical Note

Sec. filed Aug. 1, 1972; renum. 111.5, new added by renum. and amd. 33.5, filed Feb. 2, 1982; amds. filed: Dec. 21, 1983; May 8, 1985; March 2, 1989; April 11, 1989; Oct. 30, 1989; Oct. 31, 1990; repealed, new filed; amd. filed March 25, 1996 eff. March 21, 1996. Amended (A)(2)(v).

Amended 100.5 (A)(2)(v), (A)(4)(a), (A)(4)(d)(i)-(ii), (A)(4)(f), (A)(6), (A)(7) on Feb. 14, 2006

Added 100.5 (A)(4)(g) on Sept. 1, 2006

Amended 100.5 (A)(4)(g) on Sept. 1, 2006

Amended 100.5 (A)(4)(f) on Oct. 24, 2007 [previous version]



Section 100.6 Application of the rules of judicial conduct.

(A) General Application. All judges in the unified court system and all other persons to whom by their terms these rules apply, e.g., candidates for elective judicial office, shall comply with these rules of judicial conduct, except as provided below. All other persons, including judicial hearing officers, who perform

judicial functions within the judicial system shall comply with such rules in the performance of their judicial functions and otherwise shall so far as practical and appropriate use such rules as guides to their conduct.

(B) Part-Time Judge. A part-time judge:

(1) is not required to comply with sections 100.4(C)(1), 100.4(C)(2)(a), 100.4(C)(3)(a)(ii), 100.4(E)(1), 100.4(F), 100.4(G), and 100.4(H);

(2) shall not practice law in the court on which the judge serves, or in any other court in the county in which his or her court is located, before a judge who is permitted to practice law, and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto;

(3) shall not permit his or her partners or associates to practice law in the court in which he or she is a judge, and shall not permit the practice of law in his or her court by the law partners or associates of another judge of the same court who is permitted to practice law, but may permit the practice of law in his or her court by the partners or associates of a judge of a court in another town, village or city who is permitted to practice law;

(4) may accept private employment or public employment in a federal, state or municipal department or agency, provided that such employment is not incompatible with judicial office and does not conflict or interfere with the proper performance of the judge's duties.

(5) Nothing in this rule shall further limit the practice of law by the partners or associates of a part-time judge in any court to which such part-time judge is temporarily assigned to serve pursuant to section 106(2) of the Uniform Justice Court Act or Section 107 of the Uniform City Court Act in front of another judge serving in that court before whom the partners or associates are permitted to appear absent such temporary assignment.

(C) Administrative Law Judges. The provisions of this Part are not applicable to administrative law judges unless adopted by the rules of the employing agency.

(D) Time for Compliance. A person to whom these rules become applicable shall comply immediately with all provisions of this Part, except that, with respect to sections 100.4(D)(3) and 100.4(E), such person may make application to the Chief Administrator for additional time to comply, in no event to exceed one year, which the Chief Administrator may grant for good cause shown.

(E) Relationship to Code of Judicial Conduct. To the extent that any provision of the Code of Judicial Conduct as adopted by the New York State Bar Association is inconsistent with any of these rules, these rules shall prevail.

Historical Note

Sec. filed Aug. 1, 1972; repealed, new added by renum. 100.7, filed Nov. 26, 1976; renum. 111.6, new added by renum. and amd. 33.6, filed Feb. 2, 1982; repealed, new filed Feb. 1, 1996 eff. Jan. 1, 1996.

Amended 100.6(E) Feb. 14, 2006

Added 100.6(B)5 on Mar. 24, 2010

Web page updated: April 14, 2015

121 A.D.3d 1283

Supreme Court, Appellate Division,
Third Department, New York.

In the Matter of Dawn DIAMOND, Appellant,
v.

Brian F. DeJOSEPH, as Candidate for the
Office of Justice of the Supreme Court for the
Fifth Judicial District, et al., Respondents,
et al., Respondents. (Proceeding No. 1.)

In the Matter of Philip Annutto, Appellant,
v.

Brian F. DeJoseph, as Candidate for the
Office of Justice of the Supreme Court for the
Fifth Judicial District, et al., Respondents,
et al., Respondents. (Proceeding No. 2.).

Oct. 16, 2014.

Synopsis

Background: Voter and registered Democratic Party member and voter and registered Conservative Party member petitioned to invalidate certificate of nomination for public office of Justice of the Supreme Court. The Supreme Court, Albany County, McDonough, J., dismissed the petitions. Petitioners appealed. Cases were joined together for consideration by the Supreme Court, Appellate Division.

Holdings: The Supreme Court, Appellate Division, held that:

[1] selection of delegates was substantially in accordance with the proportional representation requirement, and

[2] information regarding current composition of assembly districts comprising judicial district or total number of votes attributable to counties or parts thereof that were contained within such districts was required to determine whether there was compliance with proportional representation requirement.

Affirmed.

West Headnotes (3)

[1] **Election Law**

⚡ Election and qualification of delegates

Purpose of the proportional representation requirement set forth in Election Law is to ensure that the districts from which the delegates to judicial nominating convention are elected are properly represented in proportion to their voting strength. McKinney's Election Law § 6-124.

Cases that cite this headnote

[2] **Election Law**

⚡ Election and qualification of delegates

Selection of delegates to judicial nominating convention was substantially in accordance with the proportional representation requirement set forth in Election Law, where 10 delegates were elected out of total of 13 potential delegates. McKinney's Election Law § 6-124.

Cases that cite this headnote

[3] **Election Law**

⚡ Election and qualification of delegates

Without information regarding current composition of assembly districts comprising judicial district or total number of votes attributable to counties or parts thereof that were contained within such districts determination could not be made as to whether there was compliance with proportional representation requirement, since compliance required comparison of percentage of votes cast to percentage of delegates to judicial nominating convention elected in each assembly district. McKinney's Election Law § 6-124.

Cases that cite this headnote

Attorneys and Law Firms

****264** Law Office of John Hoggan, PLLC, Albany (John D. Hoggan Jr. of counsel), for appellants.

Featherstonhaugh, Wiley & Clyne, LLP (Frank G. Hoare of counsel), for Brian F. DeJoseph and others, respondents.

Before: LAHTINEN, J.P., GARRY, EGAN JR., LYNCH and DEVINE, JJ.

Opinion

PER CURIAM.

***1283** Appeals (1) from a judgment of the Supreme Court (McDonough, J.), entered October 7, 2014 in Albany County, which dismissed petitioner's application, in a proceeding pursuant to Election Law § 16-102, to declare invalid the certificate of nomination naming respondent Brian F. DeJoseph as the Democratic Party candidate for the public office of Justice of the Supreme Court for the Fifth Judicial District in the November 4, 2014 general election, and (2) from a judgment of said court, entered October 7, 2014 in Albany County, which dismissed petitioner's application, in a proceeding pursuant to Election Law § 16-102, to declare invalid the certificate of nomination naming respondent Brian F. DeJoseph as the Conservative Party candidate for the public office of Justice of the Supreme Court for the Fifth Judicial District in the November 4, 2014 general election.

These proceedings deal with the judicial nominating conventions that were held by the Democratic and Conservative Parties to select each party's candidate for the public office of Justice of the Supreme Court for the Fifth Judicial District in the November 4, 2014 general election. Respondent Brian F. DeJoseph was selected as a candidate by both parties and separate certificates of nomination were filed with respondent State Board of Elections. Thereafter, petitioner Dawn Diamond, a registered Democratic Party member, and petitioner Philip Annutto, a registered Conservative Party member, filed general and specific objections to the certificate of nomination naming DeJoseph as the Democratic and Conservative Party candidate, respectively; both petitioners are eligible to vote for the public office at issue. Based upon these objections, Diamond and Annutto commenced proceeding Nos. 1 and 2, respectively, seeking ***1284** to invalidate the relevant certificate of nomination and to restrain the State Board from certifying the ballots at issue. Each petitioner challenged the

legitimacy of the respective judicial nominating conventions, claiming that such convention was not in compliance with the proportional representation requirement of Election Law § 6-124. Supreme Court rejected this argument and dismissed the respective petitions. Petitioners separately appeal, and these cases have been joined together for consideration by this Court.

[1] Initially, the proportional representation requirement is set forth in Election Law § 6-124, which provides that the number of delegates at a judicial convention "shall be determined by party rules, but the number of delegates shall be substantially in accordance with the ratio, which the number of votes cast for the party candidate for the office of governor, on the line or column of the party at the last preceding election for such office, in any unit of representation, bears to the total vote cast at such election for such candidate on such line or column in the ****265** entire state." The purpose of this requirement is to ensure that the districts from which the delegates are elected are "properly represented in proportion to their voting strength" (*Matter of Azria v. Salerno*, 68 N.Y.2d 887, 889, 508 N.Y.S.2d 933, 501 N.E.2d 582 [1986]; see *Matter of Consuello v. McGrath*, 21 Misc.3d 1112[A], 2008 N.Y. Slip Op. 52057[U], *2, 2008 WL 4595026 [Sup.Ct., Albany County 2008], *affd. for reasons stated below* 55 A.D.3d 1453, 864 N.Y.S.2d 925 [2008], *lv. denied* 11 N.Y.3d 709, 868 N.Y.S.2d 602, 897 N.E.2d 1086 [2008]). It has been recognized, however, that "the statute does not require strict compliance but more generally provides that delegates be chosen 'substantially in accordance with the ratio' " (*Matter of Azria v. Salerno*, 68 N.Y.2d at 889, 508 N.Y.S.2d 933, 501 N.E.2d 582, quoting Election Law § 6-124).

[2] With respect to the Conservative Party challenge (proceeding No. 2), the Fifth Judicial District is comprised of 12 Assembly Districts and, out of a total of 13 potential delegates, 10 were elected.¹ Annutto contends that the proportional representation requirement was not met because no delegates were elected from the 101st, 116th and 121st Assembly Districts and only one delegate was elected from the 120th Asscmbly District, resulting in an underrepresentation. Annutto further asserts that the one delegate elected from the 118th Assembly District resulted in an overrepresentation. Notwithstanding this disparity, we cannot say that the composition of the delegates elected to the Conservative Party judicial nominating convention did ***1285** not substantially comply with the proportional representation requirement set forth in Election Law § 6-

124. Notably, “most districts [nonetheless] were properly represented in proportion to their voting strength” (*Matter of Azria v. Salerno*, 68 N.Y.2d at 889, 508 N.Y.S.2d 933, 501 N.E.2d 582). In view of this, and recognizing the practical difficulties of achieving perfect representation, we conclude that the selection of delegates was substantially in accordance with the statutory requirement (*compare Matter of Snell v. Young*, 88 A.D.3d 1149, 1151–1152, 931 N.Y.S.2d 201 [2011], *lv. denied* 17 N.Y.3d 715, 2011 WL 5142048 [2011]). We reach the same conclusion with regard to the overrepresentation in the 118th Assembly District. To the extent that Annutto further asserts that Election Law § 6–126(2) was violated because the delegates did not vote on another judicial candidate, this argument is not properly before us as it was not raised in the petition or before Supreme Court (*see Matter of Fotopoulos v. Berman*, 298 A.D.2d 698, 699 n., 749 N.Y.S.2d 577 [2002], *lv. denied* 98 N.Y.2d 616, 752 N.Y.S.2d 2, 781 N.E.2d 914 [2002]; *Matter of Di Lucia v. New York State Bd. of Elections*, 122 A.D.2d 968, 969, 505 N.Y.S.2d 972 [1986], *lv. denied* 68 N.Y.2d 605, 506 N.Y.S.2d 1028, 497 N.E.2d 967 [1986]).² Therefore, we conclude that Supreme Court properly dismissed Annutto's petition.

[3] Turning to the Democratic Party challenge (proceeding No. 1), Diamond similarly contends that the proportional representation requirement of Election Law § 6–124 was

not satisfied in the election of delegates to the Democratic Party **266 judicial nominating convention because certain Assembly Districts were underrepresented and others were overrepresented. However, the 2010 gubernatorial election data upon which Diamond relies does not accurately reflect the current composition of the Assembly Districts comprising the Fifth Judicial District or the total number of votes attributable to the counties or parts thereof that are now contained within such districts. Without this information, a proper comparison of the percentage of votes cast to the percentage of delegates elected in each Assembly District cannot be conducted. Given this absence of proof, there is no basis for concluding that there was a lack of compliance with the proportional representation requirement. Consequently, Supreme Court properly dismissed Diamond's petition as well.

ORDERED that the judgments are affirmed, without costs.

LAHTINEN, J.P., GARRY, EGAN JR., LYNCH and DEVINE, JJ., concur.

All Citations

121 A.D.3d 1283, 995 N.Y.S.2d 263, 2014 N.Y. Slip Op. 07082

Footnotes

- 1 One elected delegate, from the 127th Assembly District, abstained from voting at the convention, and it does not appear that the delegate from the 118th Assembly District—although duly elected—attended the convention.
- 2 We note that, inasmuch as Annutto withdrew a number of his other objections during oral argument before Supreme Court, we decline to address them.

121 A.D.3d 1283, 995 N.Y.S.2d
263, 2014 N.Y. Slip Op. 07082

**1 In the Matter of Dawn Diamond, Appellant

v

BRIAN F. DeJOSEPH, as Candidate for the Office of
Justice of the Supreme Court for the Fifth Judicial
District, et al., Respondents, et al., Respondents.
(Proceeding No. 1.) In the Matter of Philip Annutto,
Appellant, v Brian F. DeJoseph, as Candidate for
the Office of Justice of the Supreme Court for
the Fifth Judicial District, et al., Respondents,
et al., Respondents. (Proceeding No. 2.)

Supreme Court, Appellate Division,
Third Department, New York
October 17, 2014

CITE TITLE AS: Matter of Diamond v DeJoseph

HEADNOTE

Elections
Certificate of Nomination
Judicial Nominating Convention—Selection of Delegates
Substantially in Accordance with Statutory Requirement of
Proportional Representation

Law Office of John Hoggan, PLLC, Albany (John D. Hoggan Jr. of counsel), for appellants.
Featherstonhaugh, Wiley & Clyne, LLP (Frank G. Hoare of counsel), for Brian F. DeJoseph and others, respondents.
Per Curiam. Appeals (1) from a judgment of the Supreme Court (McDonough, J.), entered October 7, 2014 in Albany County, which dismissed petitioner's application, in a proceeding pursuant to Election Law § 16-102, to declare invalid the certificate of nomination naming respondent Brian F. DeJoseph as the Democratic Party candidate for the public office of Justice of the Supreme Court for the Fifth Judicial District in the November 4, 2014 general election, and (2) from a judgment of said court, entered October 7, 2014 in Albany County, which dismissed petitioner's application, in a proceeding pursuant to Election Law § 16-102, to declare invalid the certificate of nomination naming respondent Brian F. DeJoseph as the Conservative Party candidate for the public office of Justice of the Supreme Court for the Fifth Judicial District in the November 4, 2014 general election.

These proceedings deal with the judicial nominating conventions that were held by the Democratic and Conservative Parties to select each party's candidate for the public office of Justice of the Supreme Court for the Fifth Judicial District in the November 4, 2014 general election. Respondent Brian F. DeJoseph was selected as a candidate by both parties and separate certificates of nomination were filed with respondent State Board of Elections. Thereafter, petitioner Dawn Diamond, a registered Democratic Party member, and petitioner Philip Annutto, a registered Conservative Party member, filed general and specific objections to the certificate of nomination naming DeJoseph as the Democratic and Conservative Party candidate, respectively; both petitioners are eligible to vote for the public office at issue. Based upon these objections, Diamond and Annutto commenced proceeding Nos. 1 and 2, respectively, seeking *1284 to invalidate the relevant certificate of nomination and to restrain the State Board from certifying the ballots at issue. Each petitioner challenged the legitimacy of the respective judicial nominating conventions, claiming that such convention was not in compliance with the proportional representation requirement of Election Law § 6-124. Supreme Court rejected this argument and dismissed the respective petitions. Petitioners separately appeal, and these cases have been joined together for consideration by this Court.

Initially, the proportional representation requirement is set forth in Election Law § 6-124, which provides that the number of delegates at a judicial convention "shall be determined by party rules, but the number of delegates shall be substantially in accordance with the ratio, which the number of votes cast for the party candidate for the office of governor, on the line or column of the party at the last preceding election for such office, in any unit of representation, bears to the total vote cast at such election for such candidate on such line or column in the entire state." The purpose of this requirement is to ensure that the districts from which the delegates are elected are "properly represented in proportion to their voting strength" (*Matter of Azria v Salerno*, 68 NY2d 887, 889 [1986]; see *Matter of Consuello v McGrath*, 21 Misc 3d 1112[A], 2008 NY Slip Op 52057[U], *2 [Sup Ct, Albany County 2008], *aff'd for reasons stated below* 55 AD3d 1453 [2008], *lv denied* 11 NY3d 709 [2008]). It has been recognized, however, that "the statute does not require strict compliance but more generally provides that delegates be chosen 'substantially in accordance with the ratio' " (*Matter*

of *Azria v Salerno*, 68 NY2d at 889, quoting **2 Election Law § 6-124).

With respect to the Conservative Party challenge (proceeding No. 2), the Fifth Judicial District is comprised of 12 Assembly Districts and, out of a total of 13 potential delegates, 10 were elected.¹ Annutto contends that the proportional representation requirement was not met because no delegates were elected from the 101st, 116th and 121st Assembly Districts and only one delegate was elected from the 120th Assembly District, resulting in an underrepresentation. Annutto further asserts that the one delegate elected from the 118th Assembly District resulted in an overrepresentation. Notwithstanding this disparity, we cannot say that the composition of the delegates elected to the Conservative Party judicial nominating convention did *1285 not substantially comply with the proportional representation requirement set forth in Election Law § 6-124. Notably, “most districts [nonetheless] were properly represented in proportion to their voting strength” (*Matter of Azria v Salerno*, 68 NY2d at 889). In view of this, and recognizing the practical difficulties of achieving perfect representation, we conclude that the selection of delegates was substantially in accordance with the statutory requirement (*compare Matter of Snell v Young*, 88 AD3d 1149, 1151-1152 [2011], *lv denied* 17 NY3d 715 [2011]). We reach the same conclusion with regard to the overrepresentation in the 118th Assembly District. To the extent that Annutto further asserts that Election Law § 6-126 (2) was violated because the delegates did not vote on another judicial candidate, this argument is not properly before us as it was not raised in the petition or before Supreme Court (*see Matter of Fotopoulos v Berman*, 298 AD2d 698, 699 n [2002], *lv denied* 98 NY2d 616 [2002]; *Matter of Di Lucia v New*

York State Bd. of Elections, 122 AD2d 968, 969 [1986], *lv denied* 68 NY2d 605 [1986]).² Therefore, we conclude that Supreme Court properly dismissed Annutto's petition.

Turning to the Democratic Party challenge (proceeding No. 1), Diamond similarly contends that the proportional representation requirement of Election Law § 6-124 was not satisfied in the election of delegates to the Democratic Party judicial nominating convention because certain Assembly Districts were underrepresented and others were overrepresented. However, the 2010 gubernatorial election data upon which Diamond relies does not accurately reflect the current composition of the Assembly Districts comprising the Fifth Judicial District or the total number of votes attributable to the counties or parts thereof that are now contained within such districts. Without this information, a proper comparison of the percentage of votes cast to the percentage of delegates elected in each Assembly District cannot be conducted. Given this absence of proof, there is no basis for concluding that there was a lack of compliance with the proportional representation requirement. Consequently, Supreme Court properly dismissed Diamond's petition as well.

Lahtinen, J.P., Garry, Egan Jr., Lynch and Devine, JJ., concur. Ordered that the judgments are affirmed, without costs. *1286

FOOTNOTES

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Footnotes

- 1 One elected delegate, from the 127th Assembly District, abstained from voting at the convention, and it does not appear that the delegate from the 118th Assembly District—although duly elected—attended the convention.
- 2 We note that, inasmuch as Annutto withdrew a number of his other objections during oral argument before Supreme Court, we decline to address them.



Everything You Need to Know About Becoming a Judge

PART TWO: Securing a Nomination in Supreme Court

Thursday, October 22, 2015
CNY Philanthropy Center
431 East Fayette St.
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New York Election Law, 2015

Excerpts from Article 6

§ 6–106. Party nominations; justice of the supreme court

Party nominations for the office of justice of the supreme court shall be made by the judicial district convention. (L.1976, c. 233, § 1.)

§ 6–124. Conventions; judicial

A judicial district convention shall be constituted by the election at the preceding primary of delegates and alternate delegates, if any, from each assembly district or, if an assembly district shall contain all or part of two or more counties and if the rules of the party shall so provide, separately from the part of such assembly district contained within each such county. The number of delegates and alternates, if any, shall be determined by party rules, but the number of delegates shall be substantially in accordance with the ratio, which the number of votes cast for the party candidate for the office of governor, on the line or column of the party at the last preceding election for such office, in any unit of representation, bears to the total vote cast at such election for such candidate on such line or column in the entire state. The number of alternates from any district shall not exceed the number of delegates therefrom. The delegates certified to have been elected as such, in the manner provided in this chapter, shall be conclusively entitled to their seats, rights and votes as delegates to such convention. When a duly elected delegate does not attend the convention, his place shall be taken by one of the alternates, if any, to be substituted in his place, in the order of the vote received by each such alternate as such vote appears upon the certified list and if an equal number of votes were cast for two or more such alternates; the order in which such alternates shall be substituted shall be determined by lot forthwith upon the convening of the convention. If there shall have been no contested election for alternate, substitution shall be in the order in which the name of such alternate appears upon the certified list, and if no alternates shall have been elected or if no alternates appear at such convention, then the delegates present from the same district shall elect a person to fill the vacancy.

(L.1976, c. 233, § 1. Amended L.1977, c. 876, § 1.)

§ 6–126. Conventions; rules for holding

1. The time and place of meeting of a convention shall be fixed, within the times prescribed herein, by a committee appointed pursuant to the rules of the state committee. The room designated for the meeting place of a convention shall have ample seating capacity for all delegates and alternates. Every convention shall be called to order by the chairman of the committee from which the call originates or by a person designated in writing for that purpose by such chairman, or, if he fails to make such designation, then, by a person designated in such manner as the rules of the party shall prescribe. Such chairman or person designated shall have the custody of the roll of the convention until it shall have been organized. No such convention shall proceed to the election of a temporary

chairman or transact any business until the time fixed for the opening thereof nor until a majority of the delegates or respective alternates named in the official roll shall be present. The roll call upon the election of a temporary chairman shall not be delayed more than one hour after the time specified in the call for the opening of the convention, provided a majority of delegates, including alternates sufficient to make up such majority by substitution, are present. The person who calls the convention to order shall exercise no other function than that of calling the official roll of the delegates upon the vote for temporary chairman and declaring the result thereof.

2. The temporary chairman shall be chosen upon a call of the official roll. The committees of the convention shall be appointed by the convention, or by the temporary chairman, as the convention may order. Where only one candidate is placed in nomination for any office, the vote may be taken viva voce. When more than one candidate is placed in nomination for an office the roll of the delegates shall be called and each delegate when his name is called shall arise in his place and announce his choice, except that the chairman of a delegation from any unit of representation provided for by party rules, unless a member of such delegation objects, may announce the vote of such delegation. The convention may appoint a committee to nominate candidates to fill vacancies in nominations made by the convention and caused by the death, declination or disqualification of a candidate. The permanent officer shall keep the records of the convention.

3. *Repealed.*

(L.1976, c. 233, § 1. Amended L.1983, c. 29, § 1; L.1986, c. 378, § 1.)

WestlawNext

Snell v. Young

Supreme Court, Appellate Division, Third Department, New York. October 21, 2011. 88 A.D.3d 1149. 931 N.Y.S.2d 201. 2011 N.Y. Slip Op. 07471. **SELECTED TOPICS**

View New York Official Reports version

88 A.D.3d 1149

Supreme Court, Appellate Division, Third Department, New York.

In the Matter of Maleta SNELL, Respondent,

v.

Michael F. YOUNG et al., as Candidates for the Office of Justice of the Supreme Court in the 5th Judicial District, et al., Appellants, et al., Respondents.

Oct. 21, 2011.

Synopsis

Background: Duty-registered member of political party petitioned to declare invalid the certificate of nomination naming candidates for judicial office. The Supreme Court, Albany County, McNamara, J., granted petition. Respondents appealed.

Holdings: The Supreme Court, Appellate Division, held that:

- 1 failure to name political party's executive committee as respondents did not require dismissal of petition;
- 2 petitioner had standing; and
- 3 petition was properly granted.

Affirmed.

West Headnotes (3)

Change View

1 Election Law Parties

Where petition to declare invalid a political party's certificate of nomination naming candidates for judicial office individually named as respondents the permanent chair and permanent secretary of the judicial nominating convention, the party's executive committee were adequately represented, such that the failure to name executive committee as respondents did not require dismissal of petition. McKinney's CPLR 1001.

1 Case that cites this headnote

2 Election Law Persons entitled to bring contest

Petitioner, who was a duly-registered member of political party who filed objections to party's nominations for judicial office, had standing to petition to declare invalid the party's certificate of nomination. McKinney's Election Law § 16-102(1).

3 Election Law Election and qualification of delegates

Petition to declare invalid a political party's certificate of nomination naming candidates for judicial office was properly granted, where party did not comply with statutory requirements of substantial proportionality in selection of delegates to judicial nominating convention. McKinney's Election Law § 6-124.

Attorneys and Law Firms

**201 James E. Walsh, Schenectady, for Michael F. Young and others, appellants.

John R. Mertz, Albany, for New York State Committee of the Independence Party and others, appellants.

James E. Long, Albany, for Maleta Snell, respondent.

Nominations and Primary Elections

Nominating Conventions
Validity of Primary Election Contest Appeal
Petition Verification

Secondary Sources

§ 280. Conduct of business

49 N.Y. Jur. 2d Elections § 280
...The committees of the convention may be appointed by the convention, or by the temporary chairperson, as the convention may order. Where only one candidate is placed in nomination for any office, the v...

§ 272. Supreme Court justices

49 N.Y. Jur. 2d Elections § 272
...Party nominations of candidates for the office of Justice of the Supreme Court of New York are made by the judicial district convention. Petitioners did not receive a majority of the votes of those par...

§ 277. Generally; delegates and alternates

49 N.Y. Jur. 2d Elections § 277
...Party nominations of candidates for the office of Justice of the Supreme Court are made by the judicial district convention. A judicial district convention is constituted by the election at the precedi...

See More Secondary Sources

Briefs

Brief for Petitioner Attorney General of the State of New York as Statutory Intervenor

2007 WL 1361703
New York State Board of Elections v. Lopez Torres
Supreme Court of the United States.
May 07, 2007

...FN* Counsel of Record The opinion of the Court of Appeals (Pet. App. 1-92) is reported at 462 F.3d 181. The opinion of the District Court (Pet. App. 93-185) is reported at 411 F. Supp. 2d 212. The judg...

Brief Amici Curiae of Thomas Mann, Norman Ornstein, the Reform Institute and Campaign Legal Center in Support of Respondents

2007 WL 2047542
New York State Board of Elections v. Lopez Torres
Supreme Court of the United States.
July 13, 2007

...FN1. The parties, with the exception of Petitioner New York County Democratic Committee and Statutory Intervenor the Attorney General of the State of New York, have filed letters with the Court consent...

Brief for Respondents

2007 WL 3223220
New York State Board of Elections v. Lopez Torres
Supreme Court of the United States.
July 13, 2007

...FN* Counsel of Record When political party members join together to support a prospective nominee for elective office, they share a crucial moment in the democratic process, a point at which an appeal...

See More Briefs

Trial Court Documents

Before: MERCURE, J.P., PETERS, KAVANAGH and STEIN, JJ.

Opinion

PER CURIAM.

***1149** Appeal from a judgment of the Supreme Court (McNamara, J.), entered October 17, 2011 in Albany County, which granted petitioner's application, in a proceeding pursuant ***1150** to Election Law § 16-102, to declare invalid the certificate of nomination naming respondents Michael F. Young, Erin P. Gall, James P. McClusky and Prescott E. Klosner as the Independence Party candidates for the public office of Justice of the Supreme Court for the 5th Judicial District in the November 8, 2011 general election.

Following a judicial nominating convention held by the Independence Party on September 25, 2011, a certificate of nomination ****202** naming respondents Michael F. Young, Erin P. Gall, James P. McClusky and Prescott E. Klosner (hereinafter collectively referred to as the candidates) as that party's candidates for the public office of Justice of the Supreme Court for the 5th Judicial District in the November 8, 2011 general election was filed the next day, along with the minutes of the convention, with respondent State Board of Elections. Petitioner, an enrolled member of the Independence Party, filed general and specific objections to the certificate with the State Board, which deemed the certificate to be presumptively valid. Subsequently, petitioner commenced this proceeding in accordance with Election Law § 16-102 seeking to invalidate the certificate of nomination. Supreme Court thereafter granted the petition and invalidated the certificate, concluding, among other things, that the convention was not properly convened because the composition of the certified delegates and alternates did not comply with the proportional representation requirements set forth in the Election Law and Independence Party rules. This appeal by the candidates, respondent State Committee of the Independence Party and certain of its officers (hereinafter collectively referred to as appellants) ensued.

1 Initially, appellants maintain that the proceeding should have been dismissed due to petitioner's failure to name as a party the Executive Committee of the State Independence Party. We disagree.¹ While there is no question that the subject convention was authorized to convene by a vote of the State Executive Committee, here, as noted by Supreme Court, petitioner joined the State Committee of the Independence Party. Under party rules (art. II, § 2), the officers of the State Committee constitute the Executive Committee. Inasmuch as the petition herein also individually names as respondents the permanent chair and permanent secretary of the judicial nominating convention, we find that the interests of the Executive Committee are "adequately represented" (***1151 Matter of New York State Comm. of the Independence Party v. New York State Bd. of Elections**, 87 A.D.3d 806, 811, 928 N.Y.S.2d 399 [2011], *lv. denied* 17 N.Y.3d 706, 2011 WL 4357220 [2011]), and dismissal pursuant to CPLR 1001 was properly denied.

2 We are similarly unpersuaded that petitioner lacked standing to bring this proceeding. Petitioner is a duly-registered member of the Independence Party who filed objections to the nominations (see generally Election Law § 16-102 [1]). Accordingly, inasmuch as issues such as those presented herein involving proportionality requirements and the proper conduct of judicial nominating conventions are of particular concern to party members (see *Matter of Nicolai v. Kelleher*, 45 A.D.3d 960, 963, 844 N.Y.S.2d 504 [2007]), we find no basis to dismiss the proceeding on standing grounds.

Turning to the merits, petitioner maintains that the composition of the delegates elected to the subject judicial nominating convention did not substantially comply with the proportional representation requirement set forth in Election Law § 6-124, which states, in relevant part:

"The number of delegates and alternates, if any, shall be determined by party rules, but the number of delegates shall be substantially in accordance with the ratio, which the number of votes cast for the party candidate for the office of governor, on the line or column of the ****203** party at the last preceding election for such office, in any unit of representation, bears to the total vote cast at such election for such candidate on such line or column in the entire state."

The Independence Party rule regarding the selection of delegates and alternate delegates for the nomination of a Supreme Court Justice in the 5th Judicial District provides for "the election of one delegate and one alternate delegate from each assembly district in the judicial district for each [750] votes or major fraction thereof cast in such assembly district or portion" (art. XI, § 1[a]). Here, the party call for the 12 Assembly Districts in the 5th Judicial

Korniczky v. Sunderland

1998 WL 35397726
Korniczky v. Sunderland
Supreme Court, New York, Westchester
County
February 18, 1998

...To commence the statutory time for appeals as right (CPLR 5513[a]), you are advised to serve a copy of this order, with notice of entry, upon all parties. Motion Date: 2/17/98 in this special proceedin...

Thomas v. New York State Bd. of Elections

2007 WL 5850101
Thomas v. New York State Bd. of Elections
Supreme Court, New York, Albany County
October 15, 2007

...In this proceeding brought pursuant to Article 16 of the Election Law, petitioners seek an order: (1) declaring valid the nominating certificate filed with respondent State Board of Elections, purport...

MacKay v. Johnson

2008 WL 3889335
MacKay v. Johnson
Supreme Court, New York, Nassau County
August 11, 2008

...[This opinion is uncorrected and not selected for official publication.] MOTION DATE: 8/4/08 MOTION SEQUENCE NO: 1,2,3 The following papers read on this motion: Upon the foregoing papers, it is ordered...

See More Trial Court Documents

District allowed for a total of 18 delegates, while Supreme Court ultimately determined that the appropriate number of delegates allowed should have been 20 (only 12 delegates were ultimately elected). Even assuming the party's 18-delegate figure to be correct, there was insufficient compliance with the statutory requirement of substantial proportionality.

3 Specifically, we note that four of the largest Assembly Districts (namely the 115th, 119th, 121st and 124th) had a combined total of 6,762 votes in the 2010 gubernatorial election, which constitutes 56% of the total 11,887 votes cast in the 5th Judicial District. This 56% was represented by a total of four elected delegates, which, in turn, was only 30% of the 12 delegates ultimately elected (see generally *Matter of Bruno v. New York "1152 State Bd. of Elections*, 208 A.D.2d 877, 87B, 618 N.Y.S.2d 75 [1994]). In contrast, for example, two of the smallest Assembly Districts such as the 111th and the 129th (with 207 and 168 votes, respectively) constitute 3% of the total votes in 2010. These Assembly Districts each had one delegate elected, the same number of delegates elected for each of the largest Assembly Districts such as the 115th (1,544 votes in the 2010 election), the 119th (1,323 votes), the 121st (2,022 votes) and the 124th (1,873 votes). While there is no question that the statute does not require strict proportional representation, we simply cannot say that, in this case, "most districts were properly represented in proportion to their voting strength" (*Matter of Azria v. Salerno*, 68 N.Y.2d 867, 889, 508 N.Y.S.2d 933, 501 N.E.2d 582 [1986]). Accordingly, we are constrained to conclude that the petition was properly granted.

All remaining arguments not specifically addressed above have been considered and found to be unpersuasive.

ORDERED that the judgment is affirmed, without costs.

All Citations

88 A.D.3d 1149, 931 N.Y.S.2d 201, 2011 N.Y. Slip Op. 07471

Footnotes

- 1 The appellants' contention that the delegates were necessary parties within the meaning of CPLR 1001(a) is not persuasive.

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Matter of Diamond v DeJoseph
(121 A.D.3d 1283) [3d Dept 2014]

WestlawNext

Diamond v. DeJoseph

Supreme Court, Appellate Division, Third Department, New York. October 16, 2014. 121 A.D.3d 1283. 995 N.Y.S.2d 263. 2014 N.Y. Slip Op. 0708

View New York Official Reports version

121 A.D.3d 1283

Supreme Court, Appellate Division, Third Department, New York.

In the Matter of Dawn DIAMOND, Appellant,

v.

Brian F. DeJOSEPH, as Candidate for the Office of Justice of the Supreme Court for the Fifth Judicial District, et al., Respondents, et al., Respondents. (Proceeding No. 1.)

In the Matter of Philip Annutto, Appellant,

v.

Brian F. DeJoseph, as Candidate for the Office of Justice of the Supreme Court for the Fifth Judicial District, et al., Respondents, et al., Respondents. (Proceeding No. 2.).

Oct. 16, 2014.

Synopsis

Background: Voter and registered Democratic Party member and voter and registered Conservative Party member petitioned to invalidate certificate of nomination for public office of Justice of the Supreme Court. The Supreme Court, Albany County, McDonough, J., dismissed the petitions. Petitioners appealed. Cases were joined together for consideration by the Supreme Court, Appellate Division.

Holdings: The Supreme Court, Appellate Division, held that:

- 1 selection of delegates was substantially in accordance with the proportional representation requirement, and
- 2 information regarding current composition of assembly districts comprising judicial district or total number of votes attributable to counties or parts thereof that were contained within such districts was required to determine whether there was compliance with proportional representation requirement.

Affirmed.

West Headnotes (3)

Change View

- 1 Election Law Election and qualification of delegates Purpose of the proportional representation requirement set forth in Election Law is to ensure that the districts from which the delegates to judicial nominating convention are elected are properly represented in proportion to their voting strength. McKinney's Election Law § 6-124.
- 2 Election Law Election and qualification of delegates Selection of delegates to judicial nominating convention was substantially in accordance with the proportional representation requirement set forth in Election Law, where 10 delegates were elected out of total of 13 potential delegates. McKinney's Election Law § 6-124.
- 3 Election Law Election and qualification of delegates Without information regarding current composition of assembly districts comprising judicial district or total number of votes attributable to counties or parts thereof that were contained within such districts determination could not be made as to whether there was compliance with proportional representation requirement, since compliance required comparison of percentage of votes cast to percentage of delegates to judicial nominating convention elected in each assembly district. McKinney's Election Law § 6-124.

SELECTED TOPICS

Nominations and Primary Elections
Convention of Party Delegates

Secondary Sources

§ 13. National party convention; delegates and alternates

49 N.Y. Jur. 2d Elections § 13

...Delegates and alternates to a national convention of a party must be elected from congressional districts, or partly from the State at large and partly from congressional districts, as the rules of the...

PROTECTING PARTY PURITY IN THE SELECTION OF NOMINEES FOR PUBLIC OFFICE: THE SUPREMES STRIKE DOWN CALIFORNIA'S BLANKET PRIMARIES AND ENDANGER THE OPEN PRIMARIES OF MANY STATES

36 Tulsa L.J. 59

...The true principle of a republic is, that the people should choose whom they please to govern them. Representation is imperfect in proportion as the current of popular favor is checked. This great sour...

CANDIDATES v. PARTIES: THE CONSTITUTIONAL CONSTRAINTS ON PRIMARY BALLOT ACCESS LAWS

89 Geo. L.J. 2161

...The 2000 presidential election broke records in the amount of litigation it produced. The forty or so lawsuits filed during the Florida recount controversy, while remarkable standing alone, also repres...

See More Secondary Sources

Briefs

Brief for Petitioner Attorney General of the State of New York as Statutory Intervenor

2007 WL 1361703
New York State Board of Elections v. Lopez Torres
Supreme Court of the United States.
May 07, 2007

...FN* Counsel of Record The opinion of the Court of Appeals (Pet. App. 1-62) is reported at 462 F.3d 161. The opinion of the District Court (Pet. App. 93-185) is reported at 411 F. Supp. 2d 212. The judg...

Brief for Petitioners New York County Democratic Committee, New York Republican State Committee, Associations of New York State Supreme Court Justices in the City and State of New York, Honorable David Demarest, J.S.C.

2007 WL 1361705
New York State Board of Elections v. Lopez Torres
Supreme Court of the United States.
May 07, 2007

...FN* Counsel of Record Petitioners are the New York State Board of Elections, Douglas Kellner, Neil W. Kellner, Helena Moses Donohue, Evelyn J. Aquila, the New York County Democratic Committee, the New ...

BRIEF OF APPELLEES

1995 WL 217840
Morse v. Republican Party of Virginia
United States Supreme Court Appellee's Brief.
April 10, 1995

Attorneys and Law Firms

**264 Law Office of John Hoggan, PLLC, Albany (John D. Hoggan Jr. of counsel), for appellants.

Featherstonhaugh, Wiley & Clyne, LLP (Frank G. Hoare of counsel), for Brian F. DeJoseph and others, respondents.

Before: LAHTINEN, J.P., GARRY, EGAN JR., LYNCH and DEVINE, JJ.

Opinion

PER CURIAM.

*1283 Appeals (1) from a judgment of the Supreme Court (McDonough, J.), entered October 7, 2014 in Albany County, which dismissed petitioner's application, in a proceeding pursuant to Election Law § 16-102, to declare invalid the certificate of nomination naming respondent Brian F. DeJoseph as the Democratic Party candidate for the public office of Justice of the Supreme Court for the Fifth Judicial District in the November 4, 2014 general election, and (2) from a judgment of said court, entered October 7, 2014 in Albany County, which dismissed petitioner's application, in a proceeding pursuant to Election Law § 16-102, to declare invalid the certificate of nomination naming respondent Brian F. DeJoseph as the Conservative Party candidate for the public office of Justice of the Supreme Court for the Fifth Judicial District in the November 4, 2014 general election.

These proceedings deal with the judicial nominating conventions that were held by the Democratic and Conservative Parties to select each party's candidate for the public office of Justice of the Supreme Court for the Fifth Judicial District in the November 4, 2014 general election. Respondent Brian F. DeJoseph was selected as a candidate by both parties and separate certificates of nomination were filed with respondent State Board of Elections. Thereafter, petitioner Dawn Diamond, a registered Democratic Party member, and petitioner Philip Annutto, a registered Conservative Party member, filed general and specific objections to the certificate of nomination naming DeJoseph as the Democratic and Conservative Party candidate, respectively; both petitioners are eligible to vote for the public office at issue. Based upon these objections, Diamond and Annutto commenced proceeding Nos. 1 and 2, respectively, seeking *1284 to invalidate the relevant certificate of nomination and to restrain the State Board from certifying the ballots at issue. Each petitioner challenged the legitimacy of the respective judicial nominating conventions, claiming that such convention was not in compliance with the proportional representation requirement of Election Law § 6-124. Supreme Court rejected this argument and dismissed the respective petitions. Petitioners separately appeal, and these cases have been joined together for consideration by this Court.

1 Initially, the proportional representation requirement is set forth in Election Law § 6-124, which provides that the number of delegates at a judicial convention "shall be determined by party rules, but the number of delegates shall be substantially in accordance with the ratio, which the number of votes cast for the party candidate for the office of governor, on the line or column of the party at the last preceding election for such office, in any unit of representation, bears to the total vote cast at such election for such candidate on such line or column in the **265 entire state." The purpose of this requirement is to ensure that the districts from which the delegates are elected are "properly represented in proportion to their voting strength" (*Matter of Azria v. Salerno*, 68 N.Y.2d 887, 889, 508 N.Y.S.2d 933, 501 N.E.2d 582 [1986]; see *Matter of Consuello v. McGrath*, 21 Misc.3d 1112 [A], 2008 N.Y. Slip Op. 52057[U], *2, 2008 WL 4595026 [Sup.Ct., Albany County 2008], *aff'd*, for reasons stated below 55 A.D.3d 1453, 864 N.Y.S.2d 925 [2008], *lv. denied* 11 N.Y.3d 709, 868 N.Y.S.2d 602, 897 N.E.2d 1086 [2008]). It has been recognized, however, that "the statute does not require strict compliance but more generally provides that delegates be chosen 'substantially in accordance with the ratio'" (*Matter of Azria v. Salerno*, 68 N.Y.2d at 889, 508 N.Y.S.2d 933, 501 N.E.2d 582, quoting Election Law § 6-124).

2 With respect to the Conservative Party challenge (proceeding No. 2), the Fifth Judicial District is comprised of 12 Assembly Districts and, out of a total of 13 potential delegates, 10 were elected.¹ Annutto contends that the proportional representation requirement was not met because no delegates were elected from the 101st, 116th and 121st Assembly Districts and only one delegate was elected from the 120th Assembly District, resulting in an underrepresentation. Annutto further asserts that the one delegate elected from the 116th

...On December 16, 1993, the Republican Party of Virginia ("the Party") issued a call for a state convention to be held on June 3, 1994, to nominate the Party's candidate for United States Senator. Joint ...

See More Briefs

Trial Court Documents**Korniczky v. Sunderland**

1998 WL 35397726
Korniczky v. Sunderland
Supreme Court, New York, Westchester County
February 18, 1998

...To commence the statutory time for appeals as of right (CPLR 5513[a]), you are advised to serve a copy of this order, with notice of entry, upon all parties. Motion Date: 2/17/98 in this special proceedin...

Thomas v. New York State Bd. of Elections

2007 WL 5650104
Thomas v. New York State Bd. of Elections
Supreme Court, New York, Albany County
October 15, 2007

...In this proceeding brought pursuant to Article 16 of the Election Law, petitioners seek an order: (1) declaring valid the nominating certificate filed with respondent State Board of Elections, purporti...

Assembly District resulted in an overrepresentation. Notwithstanding this disparity, we cannot say that the composition of the delegates elected to the Conservative Party judicial nominating convention did ****1285** not substantially comply with the proportional representation requirement set forth in Election Law § 6-124. Notably, "most districts [nonetheless] were properly represented in proportion to their voting strength" (*Matter of Azria v. Salerno*, 68 N.Y.2d at 889, 508 N.Y.S.2d 933, 501 N.E.2d 582). In view of this, and recognizing the practical difficulties of achieving perfect representation, we conclude that the selection of delegates was substantially in accordance with the statutory requirement (compare *Matter of Snell v. Young*, 88 A.D.3d 1148, 1151-1152, 931 N.Y.S.2d 201 [2011], *lv. denied* 17 N.Y.3d 715, 2011 WL 5142048 [2011]). We reach the same conclusion with regard to the overrepresentation in the 118th Assembly District. To the extent that Annutto further asserts that Election Law § 6-126(2) was violated because the delegates did not vote on another judicial candidate, this argument is not properly before us as it was not raised in the petition or before Supreme Court (see *Matter of Fotopoulos v. Berman*, 298 A.D.2d 696, 699 n., 749 N.Y.S.2d 577 [2002], *lv. denied* 98 N.Y.2d 616, 752 N.Y.S.2d 2, 781 N.E.2d 914 [2002]; *Matter of Di Lucia v. New York State Bd. of Elections*, 122 A.D.2d 968, 969, 505 N.Y.S.2d 972 [1986], *lv. denied* 68 N.Y.2d 805, 506 N.Y.S.2d 1028, 497 N.E.2d 967 [1986]).² Therefore, we conclude that Supreme Court properly dismissed Annutto's petition.

3 Turning to the Democratic Party challenge (proceeding No. 1), Diamond similarly contends that the proportional representation requirement of Election Law § 6-124 was not satisfied in the election of delegates to the Democratic Party ****266** judicial nominating convention because certain Assembly Districts were underrepresented and others were overrepresented. However, the 2010 gubernatorial election data upon which Diamond relies does not accurately reflect the current composition of the Assembly Districts comprising the Fifth Judicial District or the total number of votes attributable to the counties or parts thereof that are now contained within such districts. Without this information, a proper comparison of the percentage of votes cast to the percentage of delegates elected in each Assembly District cannot be conducted. Given this absence of proof, there is no basis for concluding that there was a lack of compliance with the proportional representation requirement. Consequently, Supreme Court properly dismissed Diamond's petition as well.

ORDERED that the judgments are affirmed, without costs.

LAHTINEN, J.P., GARRY, EGAN JR., LYNCH and DEVINE, JJ., concur.

All Citations

121 A.D.3d 1283, 995 N.Y.S.2d 263, 2014 N.Y. Slip Op. 07082

Footnotes

- 1 One elected delegate, from the 127th Assembly District, abstained from voting at the convention, and it does not appear that the delegate from the 118th Assembly District—although duly elected—attended the convention.
- 2 We note that, inasmuch as Annutto withdrew a number of his other objections during oral argument before Supreme Court, we decline to address them.

End of Document

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Everything You Need to Know About Becoming a Judge

PART THREE: Making the Ballot in Town, City, County and Family Courts

Thursday, October 22, 2015
CNY Philanthropy Center
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[Judges and justices; qualifications; eligibility for other office or service; restrictions]

§20. a. No person, other than one who holds such office at the effective date of this article, may assume the office of judge of the court of appeals, justice of the supreme court, or judge of the court of claims unless he or she has been admitted to practice law in this state at least ten years. No person, other than one who holds such office at the effective date of this article, may assume the office of judge of the county court, surrogate's court, family court, a court for the city of New York established pursuant to section fifteen of this article, district court or city court outside the city of New York unless he or she has been admitted to practice law in this state at least five years or such greater number of years as the legislature may determine.

b. A judge of the court of appeals, justice of the supreme court, judge of the court of claims, judge of a county court, judge of the surrogate's court, judge of the family court or judge of a court for the city of New York established pursuant to section fifteen of this article who is elected or appointed after the effective date of this article may not:

(1) hold any other public office or trust except an office in relation to the administration of the courts, member of a constitutional convention or member of the armed forces of the United States or of the state of New York

in which latter event the legislature may enact such legislation as it deems

appropriate to provide for a temporary judge or justice to serve during the period of the absence of such judge or justice in the armed forces;

(2) be eligible to be a candidate for any public office other than judicial office or member of a constitutional convention, unless he or she resigns from judicial office; in the event a judge or justice does not so resign from judicial office within ten days after his or her acceptance of the nomination of such other office, his or her judicial office shall become vacant and the vacancy shall be filled in the manner provided in this article;

(3) hold any office or assume the duties or exercise the powers of any office of any political organization or be a member of any governing or executive agency thereof;

(4) engage in the practice of law, act as an arbitrator, referee or compensated mediator in any action or proceeding or matter or engage in the conduct of any other profession or business which interferes with the performance of his or her judicial duties.

Judges and justices of the courts specified in this subdivision shall also be subject to such rules of conduct as may be promulgated by the chief administrator of the courts with the approval of the court of appeals.

c. Qualifications for and restrictions upon the judges of district, town, village or city courts outside the city of New York, other than such qualifications and restrictions specifically set forth in subdivision a of this section, shall be prescribed by the legislature, provided, however, that the legislature shall require a course of training and education to be completed by justices of town and village courts selected after the effective date of this article who have not been admitted to practice law in this state. Judges of such courts shall also be subject to such rules of conduct not inconsistent with laws as may be promulgated by the chief administrator of the courts with the approval of the court of appeals. (Amended by vote of the people November 8, 1977; November 6, 2001.)

PETITIONS, CERTIFICATES OF NOMINATION

Petitions and certificates of nomination are used to designate/nominate candidates.

Designating petitions are used for:

- Congress
- State Senate
- State Assembly
- County Offices
- City Offices
- Party Positions
- Some Town Offices (varies by party/by town – see list below)
 1. Republican petitions – (EXCEPT Otisco & Spafford – caucus)
 2. Democrat petitions – Marcellus, Salina & Spafford only (ALL other towns caucus)
 3. Independence petitions – ALL
 4. Conservative petitions – Camillus, Cicero, Dewitt, Elbridge, Geddes, Lysander, Manlius, Pompey, Salina & Van Buren (ALL others caucus)
 5. Green petitions
 6. Working Families petitions
 7. Reform – Certification of Nomination
 8. Women’s Equality – Certification of Nomination

Any town not covered above selects candidates by caucus

Caucuses may not be held before the first day to sign a designating petition. (Normally early June.) The chairman of the party calling the caucus must publish in a local newspaper or post 10 notices in the town AND file a notice with the town clerk and the County Board of Elections. These notices of caucus are posted in the counter area for the public to see them.

Nomination Petitions are used by candidates seeking an independent line and are for all offices including town.

The number of signatures needed to qualify is determined by NYS Election Law. The signatures of 5% of the enrolled members of the party making the designation are required unless the statutory numbers are less. Independent nominating petitions are determined by the number of votes cast at the last gubernatorial election.

Petitions and certificates are filed with the Board of Elections during time frames established by election law. (check political calendar for each year)

All materials received during this process are secured in a room located within the Board of Elections with a double key bipartisan lock. (See Office Security Procedure)

OBJECTIONS AND SPECIFICATIONS

Any voter qualified to vote for a particular office may file a general objection within 3 days after the document is filed. Also, any party member living in the particular political subdivision may file a general objection to a party position. A general objection must contain the name, address and office of the candidate being objected to. The Objector then has 6 days to file specific objections to the document listing item by item what they feel is wrong about the document. These documents must also be recorded in the log book.

The specific objections are reviewed by a bipartisan team and their findings are reported to the Commissioners. The Commissioners notify the objector and the candidate objected to of their findings. Either party can request a hearing. The hearing will be held as soon as possible.

At the hearing, either side may present evidence as to why or why not a signature should be validated or invalidated. A secretary will be present to make a record of the proceedings.

At the conclusion of the hearing, the commissioners will make a final determination and notify the parties involved. A secretary types the appropriate letter. It takes a unanimous decision of the Commissioners to invalidate a document. The ruling of the Commissioners should also be noted in the log book.

ONONDAGA COUNTY BOARD OF ELECTIONS

2015 PETITION SIGNATURE REQUIREMENTS

DISTRICT	DEM PARTY	REP PARTY	CONS PARTY	GRE PARTY	WOR PARTY	IND PARTY			INDEPENDENT
COUNTY -WIDE OFFICES	2000	2000	240	46	64	713			1500
City of Syracuse CITY-WIDE OFFICES	1000	517	34	21	26	140			1349
ASSEMBLY DISTRICT									
128	500	500	53	16	21	166			1500
COUNTY LEG									
1	241	332	16	3	4	48			437
2	278	270	17	2	4	48			417
3	242	277	20	2	4	48			413
4	253	234	15	3	5	42			373
5	266	228	19	2	6	42			377
6	258	388	17	3	3	59			566
7	316	203	14	3	4	42			396
8	258	107	8	3	5	27			206
9	309	123	9	4	5	32			242
10	306	338	15	4	2	52			562
11	257	303	17	3	3	46			485
12	241	322	17	3	3	46			495
13	247	326	24	2	4	52			466
14	264	269	17	2	4	47			404
15	379	234	15	3	5	43			479
16	472	52	4	3	7	18			218
17	374	91	4	9	4	27			338
City of Syracuse COMMON COUNCIL									
1 District	299	133	10	4	6	32			273
2 District	273	88	7	3	6	26			179
3 District	412	126	9	3	6	29			346
4 District	406	52	3	7	5	23			210
5 District	405	121	6	6	5	32			343

DISTRICT	DEM	REP	CONS	GRE	WOR	IND			INDEPENDENT
TOWN OFFICES									
CAMILLUS	NA	298	17	2	3	45			482
Ward 1	NA	57	3	1	1	9			86
Ward 2	NA	49	3	1	1	9			73
Ward 3	NA	39	4	1	1	7			63
Ward 4	NA	46	3	1	1	7			80
Ward 5	NA	56	4	1	1	8			95
Ward 6	NA	52	3	1	1	7			87
CICERO									
CICERO	NA	327	26	2	5	56			494
CLAY									
CLAY	NA	578	NA	4	8	103			880
DEWITT									
DEWITT	NA	235	13	3	3	38			445
ELBRIDGE									
ELBRIDGE	NA	70	7	1	1	12			91
FABIUS									
FABIUS	NA	27	NA	1	1	5			38
GEDDES									
GEDDES	NA	185	11	2	3	31			305
LAFAYETTE									
LAFAYETTE	NA	67	NA	1	1	11			97
LYSANDER									
LYSANDER	NA	292	14	2	3	40			377
MANLIUS									
MANLIUS	NA	382	18	4	3	60			638
MARCELLUS									
MARCELLUS	54	84	NA	2	1	19			131
ONONDAGA									
ONONDAGA	NA	261	NA	3	3	40			416
OTISCO									
OTISCO	NA	NA	NA	1	1	5			48
POMPEY									
POMPEY	NA	102	5	1	1	14			138

DISTRICT	DEM	REP	CONS	GRE	WOR	IND			INDEPENDENT
SALINA	335	301	20	3	6	55			490
Ward 1	89	87	6	1	1	15			145
Ward 2	83	79	5	1	1	13			126
Ward 3	84	64	5	1	3	13			108
Ward 4	81	72	6	1	2	16			111
SKANEATELES	NA	116	NA	1	1	16			158
SPAFFORD	17	NA	NA	1	1	3			38
TULLY	NA	37	NA	1	1	5			54
VAN BUREN	NA	148	12	2	2	24			207
VILLAGE OF CAMILLUS	NA	NA	NA	NA	NA	NA			50
*Currently No Voters Registered in this party in this jurisdiction.									



Designating Petition Sec. 6-132, ELECTION LAW

I, the undersigned, do hereby state that I am a duly enrolled voter of the _____ Party and entitled to vote at the next primary election of such party, to be held on _____, 20____; that my place of residence is truly stated opposite my signature hereto, and I do hereby designate the following named person (or persons) as a candidate (or candidates) for the nomination of such party for public office or for election to a party position of such party.

Name(s) of Candidate(s) Public Office or Party Position Place of Residence (also Post Office address if not identical)

--

I do hereby appoint (here insert the names and addresses of at least three persons, all of whom shall be enrolled voters of said party),

--

as a committee to fill vacancies in accordance with the provisions of the election law.

IN WITNESS WHEREOF, I have hereunto set my hand, the day and year placed opposite my signature.

Date	Name of Signer (signature required) (printed name may be added)	Residence	Enter Town or City Except in NYC enter County
1. / / Printed Name			
2. / / Printed Name			
3. / / Printed Name			
4. / / Printed Name			
5. / / Printed Name			
6. / / Printed Name			
7. / / Printed Name			
8. / / Printed Name			
9. / / Printed Name			
10. / / Printed Name			

(You may use fewer or more signature lines - this is only to show format.)

Complete ONE of the following

1) STATEMENT OF WITNESS

I (name of witness) _____ state: I am a duly qualified voter of the State of New York and am an enrolled voter of the _____ Party.

I now reside at (residence address) _____.

Each of the individuals whose names are subscribed to this petition sheet containing (fill in number) _____ signatures, subscribed the same in my presence on the dates above indicated and identified himself or herself to be the individual who signed this sheet.

I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement,, shall subject me to the same penalties as if I had been duly sworn.

Date Signature of Witness

WITNESS IDENTIFICATION INFORMATION: The following information for the witness named above must be completed prior to filing with the board of elections in order for this petition to be valid.

Town or City _____ County _____

2) NOTARY PUBLIC OR COMMISSIONER OF DEEDS

On the dates above indicated before me personally came each of the voters whose signatures appear on this petition sheet containing (fill in number) _____ signatures, who signed same in my presence and who, being by me duly sworn, each for himself or herself, said that the foregoing statement made and subscribed by him or her was true.

Date Signature and Official Title of Officer Administering Oath

Village Independent Nominating Petition Sec. 15-108, ELECTION LAW

I, the undersigned, do hereby state that I am a registered voter of the Village of _____, that my present place of residence is truly stated opposite my signature hereto, and that I do hereby nominate the following named person (or persons) as a candidate (or candidates) for election to public office (or public offices) to be voted for at the election to be held on the ____ day of _____, 20____, and that I select the name (fill in name) _____ as the name of the independent body making the nomination (or nominations) and (fill in emblem) _____ as the emblem of such body.

Name(s) of Candidate(s)	Public Office	Term	Residence

I do hereby appoint (here insert the names and addresses of at least three persons, all of whom shall be enrolled voters of such political unit),

as a committee to fill vacancies in accordance with the provisions of the election law.

IN WITNESS WHEREOF, I have hereunto set my hand, the day and year placed opposite my signature.

Date	Name of Signer (signature required) <small>(printed name may be added)</small>	Residence	Enter Town or City <small>Except in NYC enter County</small>
1. / / <small>Printed Name</small>			
2. / / <small>Printed Name</small>			
3. / / <small>Printed Name</small>			
4. / / <small>Printed Name</small>			
5. / / <small>Printed Name</small>			
6. / / <small>Printed Name</small>			
7. / / <small>Printed Name</small>			
8. / / <small>Printed Name</small>			
9. / / <small>Printed Name</small>			
10. / / <small>Printed Name</small>			

(You may use fewer or more signature lines - this is only to show format.)

STATEMENT OF WITNESS

I, _____ state that I am a duly qualified voter and now reside at _____ (Residence Address), in the Village of _____ in the State of New York in the County of _____. Each of the voters whose names are subscribed to this petition sheet, containing _____ (fill in number) signatures, subscribed bis or ber name in my presence.

I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.

Date

Signature of Witness

Everything You Need to Know About Becoming a Judge

PART FOUR: Evaluation Processes and Judicial Screening

Thursday, October 22, 2015
CNY Philanthropy Center
431 East Fayette St.
Syracuse, New York 13202



New York's IJEQCs - <http://www.ny-ijeqc.org/index.shtml>

The Independent Judicial Election Qualification Commissions (IJEQCs) are a statewide network of independent screening panels for judicial candidates. The screening process is designed to ensure that voters are provided with as much information as possible about the qualifications of candidates for judicial office. In accordance with Part 150 of the Rules of the Chief Administrative Judge establishing the IJEQCs and Opinion 07-91 of the Advisory Committee on Judicial Ethics, participation in the screening process is voluntary.

The Commissions were established in February 2007, by the Chief Administrative Judge, in each New York State judicial district. Each IJEQC is responsible for reviewing the qualifications of candidates within its respective judicial district who are seeking public election to New York State Supreme Court, County Court, Surrogate's Court, Family Court, New York City Civil Court, District Court or City Court.

There is an office for the IJEQCs in each of the four Judicial Departments which provides information and accepts applications. Contact and general information about the Commissions is available in a brochure.

For biographical information about judicial candidates, consult the Voter Guide, available about 2 weeks before the general election.

Applicant Name:

Independent Judicial Election Qualification Commission

Questionnaire For Candidates For Elected Judicial Office

1. Have you ever been known by any other name (other than a recognizable nickname)?

Yes No

If yes, specify the name(s) and year(s) of name change and/or the years during which the other name or names were used:

2. Identify the Court and, where applicable, Judicial District, County, or City for which you are a candidate:

3. Date and Place of Birth:

4. Country of Citizenship:

5. (a) Current Home Address (Street, Apt, City, State, Zip):

(b) Current Home Telephone:

(c) Cell Phone Number:

(d) Number of years at current address:

If less than one year, previous address(es) during the past year:

6. (a) Current Business Address (Street, Apt, City, State, Zip):

(b) Current Business Telephone:

(c) Preferred E-Mail Address:

Applicant Name:

7. Did you serve in the armed forces? Yes No

If yes, give the following information: (Multiple lines allowed in each field)

Date(s) of Service	Branch of Service	Nature of Discharge
---------------------------	--------------------------	----------------------------

8. List in **reverse** chronological order (Most Recent Job First) all employment and periods of unemployment since graduation from law school. (If law school attendance did not commence within a few months following completion of undergraduate course study, list also employment and periods of unemployment between college and law school.):

Name of Firm or Employer	Address	Name of Supervisor	Dates of Employment (month/year)	Nature of Employment
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Reason for Leaving

Reason for Leaving

Reason for Leaving

Reason for Leaving

Reason for Leaving

Applicant Name:

9. Have you ever held public office, elected or appointed, other than those listed in answer to Question 8 above? Yes No

If yes, state position held, dates of service, and whether the office was attained by election or appointment:

10. Have you ever been engaged, on your own account or with others, in any business or profession, part-time or full-time, other than those listed in your answer to Question 8 above? Yes No

If yes, list below:

Type of Business or Profession	Name of Employer	Address	Position Held	Dates (mo./yr.)
---------------------------------------	-------------------------	----------------	----------------------	------------------------

Reason for Termination of Business

Reason for Termination of Business

Reason for Termination of Business

Reason for Termination of Business

11. (a) In addition to either a marriage, law, notary public, and/or driver's license, have you ever been issued any other license? Yes No

If yes, describe the license and list the initial issue and last renewal date(s).

(b) Has any license, including a license to practice law, a license as a notary public, or a driver's license, ever been revoked or suspended? Yes No

If yes, describe the circumstances:

Applicant Name:

12. College and professional schools (other than law schools) attended:

School	Location	Degree	Honors	Dates Attended	Date of Graduation
---------------	-----------------	---------------	---------------	-----------------------	---------------------------

13. Law school(s) attended:

School	Location	Degree	Honors	Dates Attended	Date of Graduation
---------------	-----------------	---------------	---------------	-----------------------	---------------------------

14. (a) For Attorneys: For your most recent biennial registration period, did you satisfy New York State's mandatory continuing legal education requirement ? Yes No

If no, describe the circumstances:

(b) For Judges: For your most recent biennial registration period, did you satisfy the requirement of attendance at training and education courses [22 NYCRR §17.3]? Yes No

If no, describe the circumstances:

15. For Attorneys: Have you complied with all registration requirements for lawyers in the state of New York and any other jurisdiction in which you are licensed to practice law? Yes No

If no, describe the circumstances:

Applicant Name:

16. Have you completed, or are you enrolled in, the education program on judicial campaign ethics required of all candidates for elected judicial office [22 NYCRR §100.5(A)(4)(f)]? Yes No

If no, explain why:

17. Have you filed a financial disclosure statement with the Ethics Commission for the Unified Court System [22 NYCRR §100.5(A)(4)(g)]? Yes No

If no, explain why:

18. List all courts in which you are admitted or have ever been admitted to practice, together with dates of admission:

(a) New York (give Judicial Department):

Date of Admission:

(b) All other Federal and State Courts:

Date of Admission:

19. List all areas of law in which you have concentrated or have substantial experience for any sustained period of time:

20.(a) Have you ever resigned from a position as, or for other reasons ceased to be, a member of the bar or bench of any state or court in any jurisdiction? Yes No

If yes, describe the circumstances:

(b) Have you ever resigned from a position as, or for other reasons ceased to be, a member of a governmental body, a hearing officer or magistrate, or an occupant of any other similar position?

If yes, describe the circumstances: Yes No

Applicant Name:

21. Have you ever been the subject of a complaint filed with, or are there any charges pending against you, before any disciplinary committee, commission, or government agency, arising from your official or professional responsibilities? Yes No

If yes, describe the circumstances and provide a copy of any disposition. (Do not include complaints or charges subsequently dismissed as unproven or unmeritorious:

22. (a) Have you ever been found by a court to have committed legal malpractice, or are there any claims of legal malpractice currently pending against you in any court? Yes No

If yes, describe the circumstances:

(b) If you are or were a member of a firm or organization that was found to have committed legal malpractice, or that has claims currently pending against it that it had committed legal malpractice, describe the nature of the finding or claim if it related to a case or matter on which you worked and state whether your conduct was the subject of the finding or claim:

(c) Have you, or your firm or organization, ever settled a case alleging the commission of acts constituting legal malpractice where your conduct was the subject of the allegations? Yes No

If yes, describe the circumstances:

23. Have you, your firm, your employer or any of your clients ever been cited for contempt or otherwise had a sanction imposed upon you (or them), as a result of conduct in any judicial or administrative proceeding? Yes No

If yes, describe:

24. Have you ever been convicted of, or are there current charges pending against you of, any offense or crime other than a non-moving traffic violation (including proceedings in the armed forces)? Yes No

If yes, describe the nature and outcome of each case:

Applicant Name:

25. In relation to any conduct, act or omission on your part or done with your knowledge, has any Federal, State, City or other governmental agency, or a grand jury initiated or completed an investigation of you or of any law firm, corporation, business, partnership, joint venture, governmental agency or other similar entity with which you are, or were at the relevant time, affiliated? Yes No

If yes, describe each investigation and its outcome:

26. In the past ten years, have you been involved as a party to any litigation (criminal, civil, or administrative), other than an action you have identified in answer to any previous question? Yes No

If yes, describe, including the disposition of the matter:

27. Have you ever had an order of protection issued against you, or have you ever been listed in the Domestic Violence Registry, or the Sex Offender Registry? Yes No

If yes, explain:

28. Are there any unsatisfied judgments, tax warrants, tax liens or mechanics' liens outstanding against you, or property you own or have an interest in? Yes No

If yes, describe:

29. Are you in default of any court order, including maintenance or child support decrees? Yes No

If yes, describe:

30. Has any petition in bankruptcy ever been filed by or against you? Yes No

If yes, describe:

31. Have you timely filed all required Federal, State, and City income tax returns appropriate to your place of residence? Yes No

If no, explain:

Applicant Name:

32. Has any Federal, State, City or other taxing authority found that you failed to pay adequate taxes, penalties, and/or other charges for any tax year? Yes No

If yes, describe:

33. A judge is expected to be on the bench or otherwise handling legal matters for at least seven hours per day, five days per week. At times, a judge's responsibilities may require him/her to be on the bench or at work into the evenings and on weekends. Are you able to perform these tasks on your own, or with reasonable accommodation? Yes No

If no, describe the circumstances:

34. A judge may be required to handle emergency applications, cope with media scrutiny, issue quick decisions, deal with fractious litigants, recall significant amounts of information, and otherwise respond to extremely stressful situations. Are you able to perform these tasks on your own, or with reasonable accommodation? Yes No

If no, describe the circumstances:

35. Do you currently use any illegal drugs, abuse alcohol, or abuse any prescription drugs? Yes No

If yes, describe:

36. Has an employer or supervisor ever counseled you regarding, or expressed concern about, your absenteeism? Yes No

a. If yes, describe the frequency of the absenteeism complained of:

b. Was the situation rectified? Yes No

If yes, explain how:

37. Do you know of any factors that would adversely affect your ability to competently serve as a judge, to comply with a judge's ethical responsibilities, or to complete the day-to-day responsibilities that a judge is required to assume? Yes No

If yes, describe:

Applicant Name:

38. Are you a member of any bar association or professional organization?
If yes, give the following information for each association or organization:

Yes No

Name of Association	Dates of Membership	Committee Service
----------------------------	----------------------------	--------------------------

39. Describe any significant community activities in which you have engaged:

40. Have you written articles for publication? Yes No

If yes, give the name and date of the publication and the title of each article published in the past five years, and list any other publications that you deem significant:

41. Have you had any teaching experience in law or related fields? Yes No

If yes, describe:

42. Have your qualifications for public office previously been reviewed by any bar or other professional association? Yes No

If yes, identify the organization, state the date of the review, and detail all findings by the organization:

Applicant Name:

ATTACH THE FOLLOWING SCHEDULES TO THIS QUESTIONNAIRE. AS TO EACH SCHEDULE, SPECIFY THE QUESTION NUMBER TO WHICH IT APPLIES

In answering questions about your litigation experience, you may include adversarial proceedings before a court, an administrative tribunal or an arbitrator or other forum for alternate dispute resolution. In addition, you should count as "trials" all adversarial evidentiary hearings involving presentation of witness testimony.

43. **For attorneys:** Attach a statement specifying [If you are unable to give the exact number for a category, provide your best estimate]:

- (a) the types (i.e., civil, criminal or administrative) and number of each type of trials you have conducted in the past ten years;
- (b) the number of the cases in category (a) of this question that ended in a verdict or judgment or ruling by the trier of fact;
- (c) the number of cases listed in category (a) of this question that were tried before a jury;
- (d) the courts or other tribunals in which the cases were tried;
- (e) the number and types of appeals briefed in the past ten years;
- (f) the number of appeals argued and the courts in which the arguments were heard;
- (g) the number and types of dispositive motions you have litigated in the past ten years;
- (h) the number of dispositive motions you have argued and the courts or other tribunals in which the arguments were heard;
- (i) the title and citation of reported cases in the last ten years in which you conducted the trial, wrote the brief and/or argued the appeal, or wrote the papers on the dispositive motion.

44. **For attorneys:** Submit a list of the last ten trials, dispositive motions, or appeals in which you have actively and substantially participated in any state or federal court at the trial or appellate level, including the title of the case, the index, docket or indictment number, the court in which the case was heard, a concise description of the nature of the case, the date of the trial or oral argument, the name, address and telephone number of each adversary and co-counsel, and the name(s) of the judge(s) who presided at trial or sat on the appellate panel.

45. (a) **For attorneys:** Attach a statement describing your legal experience other than litigation. Include in that statement a general description of the last ten matters you handled and the names, addresses and telephone numbers of the lawyers, other than your associates, employees, partners, co-tenants, supervisors or employers, with whom you worked on each of those ten matters. For example, judicial law clerks should list the attorneys with whom they have had substantial contact. Similarly, law professors should list attorneys, judges and/or other law professors who are familiar with their work.

(b) **For attorneys:** Submit a minimum of three recent examples of your legal writing, and if you are not the sole author of the example, please explain your role in its preparation.

Applicant Name:

46. **For judges:** Submit a list of your ten most recent opinions with the citation to each or a copy thereof if not published.

47. **For judges:** Submit a list of the last ten trials or appeals over which you have presided, including the title and dates of each case, a brief description of the nature of each case, and the names, addresses and telephone numbers of the attorneys involved.

48. **For judges:** Approximately how many judicial decisions, opinions or orders have you issued over the last ten years? Approximately how many of those decisions/opinions/orders were appealed? Affirmed? Reversed? Modified?

Provide full citations to any of your decisions/opinions/orders that were reversed or modified on appeal. Please provide copies of any unreported decisions/opinions/orders that were subsequently reversed or modified

49. For all candidates: Submit a list of the names, addresses and telephone numbers of any judges, public officials, attorneys or any other persons whom you suggest the Commission contact with respect to your candidacy.

50. **For all candidates:** Please specify any additional information that is reasonable to expect that the Commission would want to know when it considers your qualifications for the office you seek.

51. **For all candidates:** Please complete and submit to the Commission an original, signed release for the Grievance Committees and, as appropriate, The Commission on Judicial Conduct. These releases are included as Appendices "A" and "B" (respectively) to the Questionnaire.

#####

I ACKNOWLEDGE BY MY SIGNATURE THAT THE ANSWERS I HAVE GIVEN ARE TRUE AND COMPLETE AND RECOGNIZE MY CONTINUING OBLIGATION DURING THE EVALUATION PROCESS TO CORRECT AND SUPPLEMENT MY ANSWERS IN ORDER TO ENSURE THAT THEY REMAIN TRUE AND COMPLETE.

_____ Date

_____ Signature

A Chapter of the
WOMEN'S
BAR ASSOCIATION
OF THE STATE OF
NEW YORK

Central New York Women's Bar Association

P.O. Box 1842, Downtown Station, Syracuse, New York 13201-1842

GUIDELINES
JUDICIAL SCREENING COMMITTEE

Purpose: The Committee shall endeavor to elevate the quality of the judiciary, among other ways, by recommending for judicial office only those individuals who have demonstrated remarkable qualifications, by encouraging political parties to endorse for election and re-election well qualified lawyers and judges, and by discouraging the candidacy of persons not qualified.

The Committee shall evaluate all candidates from Onondaga County and may evaluate all candidates within the Fifth Judicial District, except for Town and Village justices, whether or not timely endorsed by a political party.

The failure of a lawyer to achieve the Committee's recommendation should not reflect upon the lawyer in the practice of her or his profession. The qualities requisite for strong advocacy and for excellence in judicial performance do not fully coincide. The vigor and partisanship of the lawyer in superior performance as an advocate in the best interest of her or his client may disclose qualities of temperament not ideal for the judiciary. A lawyer's area of practice in which she/he has capably performed may be so circumscribed as to preclude a judgment of her/his qualifications for judicial office. Finally, the Committee recognizes that most lawyers practicing in this community have the capacity to fulfill judicial office at least adequately. The Committee's goal is judicial excellence.

Since members of the Board of Directors shall make determinations regarding the composition of the Committee and may make determinations concerning the ultimate work and determinations of the Committee, any Board member running for Judicial office must recuse herself/himself from any meetings and/or proceedings and/or voting of the Board on any issues whatsoever pertaining to judicial screening.

A. Composition of the Committee

1. Each Committee member should have at least three years of active practice of law prior to serving as a member on the Committee and shall be a member of the Women's Bar Association of the State of New York, Central New York Chapter (hereinafter CNYWBA). The Committee shall be composed of a majority of members who have at least five years of active practice of law and meaningful courtroom experience.

2. The Committee shall be comprised of at least twelve (12) members. Each Committee member shall be familiar with the Judicial Screening Guidelines and attend a training session with the Committee Chair prior to actively serving on the Committee.

3. The members of the Committee shall serve at the discretion of the Board of the CNYWBA for a three year term and shall convene in January of each calendar year.

4. Each Committee member shall authorize the Board of CNYWBA to remove her/him from the Committee, at any time at the Board's discretion. Each Committee member shall agree to waive the right of explanation or redress concerning any such removal.

5. Each member of the Committee shall disclose to the Board whether she/he holds office in a political party, either by election or by appointment, or holds any public office or is a candidate for public office on the local, county, state or national level during the time of Committee membership, or has held any such office or been a candidate for such office during the one year prior to Committee membership.

6. Each member of the Committee shall disclose to the Board whether she/he has served as a delegate to a judicial conference or convention of any political party during the time of Committee membership, or has served in any such capacity during the one year prior to Committee membership.

7. No member of the Committee shall be a public official including a judge or acting judge, or a candidate for public office in the local, county, state or national government during the time of Committee membership, nor have been such a candidate or held any such office during the one year prior to Committee membership.

8. Each Committee member shall disclose membership and/or positions held on governmental boards or entities.

9. Each Committee member shall disclose to the board her/his participation in any judicial or non-judicial campaign during the calendar year of such judicial election for which she/he is a member or Committee. Based on such disclosure the Board shall decide

whether any member shall be disqualified from screening procedures and voting on any particular candidate.

10. Each Committee member shall agree not to contribute funds to any judicial campaign for those seats subject to evaluation by the Committee in any amount during the calendar year of such judicial election for which she/he is a member of the Committee.

11. Each Committee member shall agree not to personally participate in any decision and/or decision making process of her/his law firm to contribute to any judicial campaign in the Fifth Judicial District during the calendar year of such judicial election for which she/he is a member of the Committee.

12. Each Committee member shall disclose to the Board, in detail, any past or present special kinship or professional or close personal association with any judicial candidate. Based on such disclosure the Board shall decide whether any member shall be disqualified from screening procedures and voting on any particular candidate.

13. Each Committee member shall disclose to the Board, in detail, any past or present conflict with a particular candidate. Based on such disclosure the Board shall decide whether any member shall be disqualified from screening procedures and voting on any particular candidate.

14. Each Committee member shall disclose to the Board the nature of any complaint against such member which is pending in any Grievance Committee of any Judicial District. Each Committee member shall assist the Board in obtaining material regarding the complaint, if so requested.

15. In the event that a Committee member has a political identification and/or involvement with the campaign of a particular judicial candidate, such relationship shall be disclosed. Based on such disclosure the Board shall decide whether any member shall be disqualified from screening procedures and voting on any particular candidate.

16. No Committee member shall disclose to anyone the deliberations and proceedings of the Committee, or its votes, at any time. All Committee members shall keep all information received in the course of the Committee's screening proceedings confidential.

17. All candidates shall receive a list of names of the Committee members prior to the commencement of the screening process of that candidate. Any candidate may ask that any member of the Committee be disqualified from participating in the screening of that candidate or any other candidate by submitting a written request for same to the Board. The Board shall be the ultimate arbiter as to whether any member shall be disqualified from

participating in the screening process. Disqualification of a member shall not affect the existence of a quorum for conducting the screening.

18. All disclosure made to the Board shall be confidential and shall not be further disclosed to any other person or entity outside of Board meetings.

B. Criteria and Ratings

1. The ratings for the candidates will be "commended", "qualified", "not qualified" and "not rated".

2. The factors or criteria, which will be used to rate the various candidates which will be given equal weight, with no single factor being determinative or preclusive of any particular rating, are:

- a. judicial temperament;
- b. legal ability and experience;
- c. legal writing ability;
- d. general reputation, character and fitness;
- e. industriousness, diligence and promptness;
- f. impartiality, freedom from bias and prejudice;
- g. attitudes toward gender neutrality and sensitivity to gender issues and contributions to the promotion of gender equality in the practice of law.

A candidate that received an average score in all categories of 4.25 or higher, and a score of 4.5 or higher in category "g" above, may receive a rating of "commended." The "commended" rating shall not be an endorsement of any candidate. It may be given to more than one candidate for any particular judicial office.

C. Evaluation Process

1. It shall be the responsibility of the committee chair to ensure applications are complete prior conducting the interviews. Each candidate shall be scheduled for a personal interview with the Committee. In addition, each candidate shall be provided with a copy of these guidelines, a list of names of the Committee members and a questionnaire prepared by the Committee and each candidate shall be asked to return the completed questionnaire, together with writing samples, five references, and waivers for the Grievance Committee for the Fifth Judicial District and the State Commission on Judicial Conduct prior to the personal interview date at such time and in such manner proscribed by the Committee. For a sitting judge, the five references shall include: two attorneys who have appeared before the judge, two professional colleagues, and one personal reference. For an attorney candidate who is not a sitting judge, the five references shall include: two opposing counsel, two professional colleagues, and one personal reference. Each candidate will be advised that there may be more than one interview and that further documentation may be required of the candidate.

2. The Chair shall assign Committee members to contact and check all references provided by each candidate prior to interviewing the candidate. All references of any candidate must be contacted prior to the Committee interviewing and voting on such candidate; and the Committee member responsible for checking the reference(s) of any candidate shall report the results of the reference checks to the entire Committee prior to the interview and the vote. The Chair shall be responsible for making sure the references of each candidate have been contacted and the results of such contacts have been discussed with the Committee prior to the interview and the vote.

3. All members of CNYWBA must be invited to provide the Committee with input regarding the qualifications of the candidates for judicial office. All input shall be accompanied by the name of the member submitting the input, but the identity of the member shall remain confidential to the Committee. Input will be solicited at least two (2) weeks prior to any candidate's interview through a mailing to CNYWBA membership. A comment form will be distributed so as to give structure for members to file their comments.

4. Prior to interviewing the candidates, the members of the Committee shall have read the written material submitted by the candidate, and shall have discussed all input received from other members of CNYWBA or other members of the community at large including the references provided by the candidates. Any negative comments received in any fashion about any candidate shall be discussed with said candidate during the interview process.

5. Candidates who fail to present complete applications or fail to appear for a personal interview or who have otherwise not contacted the Committee to make other arrangements will receive a rating of "not rated because declined to participate." All candidates shall be advised of this fact at the time they are invited to participate in the screening process.

D. Proceedings and Deliberations

1. The Chair shall be responsible for maintaining order and dignity throughout the proceedings.

2. At least a three-fourths of its members of the Committee shall be present at the interviewing of and voting on any candidate. Only the Committee members present at the interview of every candidate interviewed for each judicial race shall vote on and rate the candidates for that judicial race.

3. A member may abstain from voting, but abstention should be avoided except for lack of sufficient information or other situations which do not bear upon the qualifications of the candidate for judicial office.

4. Each member of the Committee shall have full and equal voting rights.
However,

- a. each member of the Committee shall be present for the personal interview of any particular candidate in order to vote on such candidate;
- b. no member of the Committee shall vote by proxy; and
- c. a member of the Committee may attend the personal interview telephonically and participate in deliberations in the same manner.

5. Each member of the Committee shall have the right to pose appropriate questions to the candidates during the personal interview for the purposes of determining the qualifications of such candidates. The Committee shall be responsible for drafting at least one question for each of the seven factors and criteria set forth in paragraph B.2.a. through B.2.g. above such that each candidate for the same judicial office will be asked at least seven identical questions and be given an opportunity to respond. However,

- a. hypothetical questions that would require a candidate to draw a conclusion in the abstract are inappropriate and shall not be permitted;
- b. questions that would require a candidate to specify the ruling she/he would make on a particular issue are inappropriate and shall not be permitted; and
- c. a candidate may decline to answer a question they deem to be inappropriate and will be notified in advance of the interview of their right to do so.

6. Whenever possible, final votes will be taken on each candidate on the date of the personal interview with such vote subject to change only in the event of the unexpected discovery of adverse information not previously available to the Committee.

7. Voting shall be by secret ballot. A majority vote is required unless there is a tie. There shall be further discussion and a revote in the event that neither a tie nor a majority vote is determined.

8. In the event that a candidate receives a tie vote as between the categories of "commended" and "qualified", such candidate will receive a rating of "qualified" from the Committee.

9. In the event that a candidate receives a tie vote as between the categories of "qualified" and "not qualified" such candidate will receive a rating of "not qualified" from the Committee.

10. The Committee shall notify the President of the Board and the Board of its determination on each candidate. In the event that a candidate received a tie vote as set forth in paragraphs D.8. and D.9. above, the President and the Board shall be notified of same and receive an in depth report from the Chair regarding the screening process and deliberations on that candidate.

11. Within 48 hours after the Committee has reported its recommendations to the President and the Board, the Board will have the opportunity to request the Committee to reconsider the action of the Committee on any individual candidate. The request for reconsideration shall be made by a majority vote of the Board, but no Committee member shall participate in such vote. If a request for reconsideration is made, the Committee shall promptly meet (within 48 hours, if possible) to determine whether to reconsider. If the Committee decides to reconsider a candidate's rating, it must do so without delay, and then immediately report the result of the reconsideration to the Board President. Where a candidate is found "not qualified" after reconsideration or after a request for reconsideration has been denied, said candidate shall immediately be notified of the rating to allow that candidate an opportunity to invoke the appeal process. A request for reconsideration may be made in regard to any rating or recommendation. The reconsideration procedure has no impact on the availability of an appeal to a candidate who was rated "not qualified."

12. After the Committee reports its recommendations to the President and the Board, the Board shall publish the results. However, the ratings shall not be published until such time as all appeals have been concluded. All candidates shall be advised of her/his rating in writing prior to publication by letter signed by the Board President or the Chair of the Committee or both. Candidates who receive a rating of "not qualified" will be advised of the rating in writing prior to publication and the letter must specify the reasons for the "not qualified" rating, so that the candidate may formulate the basis for an appeal. If the candidate actually withdraws from the race and so notifies the Chair or the President, the Board will not publish that candidate's rating. For purposes of publishing the results, a candidate will not be considered to have withdrawn from the race for the judicial office sought if the candidate, or anyone on the candidate's behalf, makes substantial efforts to renew or continue the candidacy.

E. Appeals Process

1. Candidates must be advised of the appeals process when they are initially advised of the interviewing process.

2. Only a candidate who has received a "not qualified" rating may file an appeal. The candidate may file an appeal to the appeals panel by so notifying the Board President within 48 hours after she/he has been notified of such a rating. The appeals panel will convene and decide all appeals within 48 hours of filing.

3. The Board of Directors (except for any members of the Committee or the appellant-candidate) will appoint a panel of five Board members to hear appeals filed by candidates receiving the "not qualified" rating. The appeals panel will consist of the officers and immediate past president of the Board, and the President has the authority to appoint a substitute from the Board of Directors if any of the officers or past president cannot serve for any reason including but not limited to a conflict of interest. A quorum of all five members of the appeals panel is required before any appeal may be heard. All decisions must be made by majority vote.

4. The appeals panel is charged with the responsibility of determining whether the Committee's rating was erroneous in light of the evidence presented to it and, if so, what the proper rating should be. Within 24 hours after the appeal is concluded, the appeals panel shall notify the candidate and the Chair in writing of its determination, but it shall not be required to specify the reasons underlying the determination. The appeals panel's determination shall become the candidate's rating.

5. The candidate will make a presentation and the representative of the Committee will make a presentation on behalf of the Committee to the appeals panel. The Committee's representative's role is not that of an advocate; the representative should impart the information considered by the Committee in recommending the "not qualified" rating. The Committee's representative may not present any reason that the Committee used to rate a candidate "not qualified" unless that reason was contained in the candidate's notice. The candidate shall not be present during the Committee's representative's presentation, and the Committee's representative shall not attend the candidate's presentation. The appeals panel may question the candidate and the Committee representative.

6. On appeal, a candidate may present any evidence or information, oral or written, that she/he is qualified for the judicial position sought. No confidential information presented to the Committee may be revealed to the candidate in the appeals process. However, confidential information presented to the Committee may be revealed to the candidate in the appeals process if such information was a reason used by the Committee to rate a candidate "not qualified" (and it must be contained in the candidate's notice), but the identity of the person giving such information to the Committee shall always remain confidential and the vote of the Committee shall always remain confidential. Confidential information includes, but is not limited to comments from the membership, comments from the Committee, comments from references and the vote of the Committee. Any candidate whose rating remains "not qualified" after appeal may notify the President of the Board within 48 hours of notification of the appeals decision, that she/he withdraws as a candidate for that judicial office. In such a case, the ratings

will not be released.

Approved by Board, August 8, 1995

Amended by Board, May 11, 2000

Amended by Board, May 9, 2002

Amended by Board, May 11, 2004

Amended by Board, March 9, 2012

EMPLOYMENT EXPERIENCE

List relevant non-legal employment history with dates in chronological order beginning with the most recent:

PROFESSIONAL BACKGROUND

Year of Admission to practice in New York: _____

Other States in which you are admitted to practice and years of admission: _____

Courts before which you are admitted to practice and years of admission: _____

List all *prior* affiliations as an Attorney:

Name	Address	Years of Affiliation
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Name	Address	Years of Affiliation
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Name	Address	Years of Affiliation
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Name	Address	Years of Affiliation
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Current Practice: _____

Name	Address	Years of Affiliation
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Type of Practice: (a) Solo Practitioner (b) Law Firm (c) Government (d) Agency
(e) Corporation Law Department (f) Judiciary (g) Other

If you practice law in association with others (b, c, d, e, or f above), please state the name of the association, position(s) held, and duration of relationship: _____

State the nature of your experience in the law, including general areas of legal practice (i.e. corporate, contracts, torts, matrimonial): _____

What percentage of your professional practice in the last ten (10) years involved litigation?
____%

- What percentage of the litigation was in:
 - Supreme Court ____% County Court ____% City Court ____%
 - Surrogate's Court ____% Family Court ____% Federal ____%
 - Court of Claims ____% Administrative ____% Other ____%
 - What percentage of the litigation was Civil ____% Criminal ____% Administrative ____%
 - What percentage of the litigation was Jury ____% Non-Jury ____% Administrative ____%
 - Number of Jury Trials to Verdict: _____ Non-Jury Trials to Verdict: _____
 - Of the cases you tried to conclusion, set forth (on a percentage basis) whether you were sole, associate or chief counsel: _____

What percentage of your representation of clients in civil/criminal Court has been for:

- Civil: Plaintiffs: _____
Defendants: _____
- Criminal: Plaintiffs: _____
Defendants: _____

What percentage of your representative of clients in court has been for:

- Individuals: _____ Corporations/Businesses: _____ Insurance Carriers: _____
- Government: _____ Not-for-profit: _____ Other: _____

Describe your experience as an advocate in other forums (e.g. administrative hearings, arbitrations):

State the number of Appeals in which you have participated, the name(s) of the Appellate Court(s), number of Appeals briefed, number of Appeals argued and general description of the litigating experience:

Have you ever served as an arbitrator? If so, identify the forum in which you served and whether you were paid or served voluntarily.

Have you held any judicial, quasi-judicial or other public office, elected or appointed and, if yes, what position(s) did you hold, when did you hold the position(s), were you appointed or elected, and how long did you hold the position: _____

If you are a member of the Judiciary:

- Of Appeals taken from your decisions, set forth the percentage of cases where you were affirmed and name three (3) cases: _____

- Of Appeals taken from your decisions, set forth the percentage of cases where you were reversed and name three (3) cases, and comment if you wish: _____

- Which cases do you consider to have been your major cases or major decisions during the past five years and why: _____

Have you engaged in the teaching of law, if so, set forth where, when, position held, and subjects taught: _____

List any articles or other writings which you have published, giving title, subject matter, time and place of publication: _____



List all organizations or clubs of which you are a member or officer, including civic, public service, social, fraternal, community, charitable, political, professional, and special interest organizations: _____

List all Bar Association and professional societies of which you are a member or officer, and give titles and dates of positions held: _____

List any honors, prizes, awards, publications or other forms of recognition you have received which you feel may be pertinent: _____

Have you ever been subject of a complaint charging you with a breach of ethics or with unprofessional or illegal conduct by, or made to, any court, administrative body, bar association, disciplinary committee, or other professional group. If yes, please state the nature of the complaint, when it occurred, the person or panel that reviewed the complaint, and the outcome. Include names of relevant parties and your permission for us to review, including but not limited to, interviewing the parties. If additional space is needed, please attach separate sheets to this form.

Have you ever plead guilty to or been convicted of a crime in any capacity? If so, please explain the charges, when it occurred, and the outcome. Include names of relevant parties and your permission for us to review, including but not limited to, interviewing the parties. If additional space is needed, please attach separate sheets to this form.

Have you ever been a party to a civil proceeding? If yes, please state the nature of the proceeding, when it occurred, the subject matter and the outcome. Include names of relevant parties and your permission for us to review, including but not limited to interviewing the parties. If additional space is needed, please attached separate sheets to this form.

Have you ever filed a petition in bankruptcy or had such a petition filed against you? If so, provide details.

Have you ever had a judgment taken or liens filed against you? If so, provide details, including whether said judgment or lien has been satisfied.



Please describe any work which you have done pro bono and/or representing minority clients and/or as assigned counsel.

If you are an owner, officer or director of any business or organization or otherwise engaged in the management of a business, please furnish details.

In your past and present position as an attorney/judge, describe any experiences you have had or observed involving issues of gender and/or racial bias:

State any other information which you may regard as pertinent.

Why do you seek judicial office?

Please attach two recent samples of your legal writing. If you are a sitting judge, please attach a copy of two recent decisions.

REFERENCES

Please give the names, addresses and telephone numbers of six (6) persons we may contact concerning your qualifications for judicial office. Of the six (6) references, only one (1) may be a character reference; the other five (5) must be attorneys who appear frequently before you, or, (if you are not a sitting judge) attorneys who were your opposing counsel in matters before the court within the past five (5) years.

Name	Address	Telephone
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Name	Address	Telephone
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Name	Address	Telephone
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Name	Address	Telephone
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Name	Address	Telephone
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Name	Address	Telephone
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CERTIFICATION

I hereby certify that the information provided herein is true, accurate, and complete, to the best of my knowledge and ability.

Sworn to before me this ____ day of
_____, 2011

Notary Public

RULES FOR THE RECOMMENDATION OF JUDICIAL CANDIDATES BY THE
ONONDAGA COUNTY BAR ASSOCIATION

ARTICLE I
Judiciary Committee Meetings

Section 1. Organization meeting. The Judiciary Committee ("the Committee") shall meet annually within a reasonable time after the Committee has been elected by the Board of Directors of the Onondaga County Bar Association (the "Board") for the purpose of appointing officers other than the Chairperson, hereinafter referred to as the "Chair", and for other organizational purposes.

Section 2. Membership Requirements. The Committee shall consist of thirty-nine (39) members of the Onondaga County Bar Association who shall serve one year terms. A proposed Committee member must have been admitted to practice a minimum of five (5) years and be approved by the majority vote of the Board. In so far as possible the membership of the Committee shall be representative of the membership of the Bar Association as a whole. Any member who shall be absent from two consecutive meetings of the Committee without being excused therefrom by the Chair shall be removed from the Committee, and a replacement for such member shall be chosen by the Board. No candidate for judicial office shall be a member of the Judiciary Committee during the period of that member's candidacy. The replacement for such member shall be chosen by the Board.

Section 3. Special meetings. Special meetings shall be called by the Chair at his or her direction or upon the request of the Board, or upon the written request, stating the purpose of the meeting, of at least ten (10) members of the Committee.

Section 4. Place of meetings. Meetings shall be held within the City of Syracuse or at a reasonably convenient place within Onondaga County, at a place, date and hour fixed by the Chair.

Section 5. Notice of meeting. Written notice stating the place, date, hour and purpose of the meeting is preferred, but meetings may be called upon oral notice if in the Chair's opinion the circumstances require. Notice shall be by such method or means as are reasonably likely to effect delivery to the member.

Section 6. Quorum. Twenty (20) members present in person shall constitute a quorum of the Committee for balloting on the

qualifications of candidates for judicial office. For all other business, sixteen (16) members present in person shall constitute a quorum.

Section 7. Voting. Except as otherwise specifically provided in Sections 18 and 19 of in these rules, all matters shall be determined by a majority of the votes cast, and all voting shall be oral, unless at least five members request a secret written ballot.

ARTICLE II
Judiciary Committee Officers

Section 8. Officers. The officers shall be the Chair, two vice-chairs, a secretary, and assistant secretary. The Chair shall be appointed by the president of the Association with the approval of the Board; the other officers shall be appointed by the Chair, subject to the approval of the Committee.

Section 9. Chair. The Chair shall preside at all meetings of the Committee, shall be a member ex officio of each subcommittee, shall designate the priority of vice-chairs, and shall appoint a secretary, assistant secretary, and members of subcommittees.

Section 10. Vice-Chair. The vice-chairs in the designated priority shall perform the functions of the Chair in the Chair's absence, disability or refusal to act.

Section 11. Secretary and Assistant Secretary. The secretary shall record the proceedings of the Committee. The assistant secretary shall perform the secretary's duties in the secretary's absence or disability.

Section 12. Subcommittees. The Chair of the Committee shall designate the members and the chair of all subcommittees. Subcommittees shall have such duties as the Chair of the Committee shall prescribe.

ARTICLE III
Recommendations for Judicial Office

Section 13. Definition and Principles. The word candidate shall mean a person who seeks appointment, certification, recertification, election, re-election or nomination for judicial office. The best interests of the state, community and the bar

require an able judiciary. The Committee shall endeavor to elevate the quality of the judiciary, among other ways, by recommending for judicial office only those individuals who have demonstrated excellent qualifications, by encouraging political parties to endorse for election and re-election well qualified lawyers and judges, and by discouraging the candidacy of persons not qualified.

The Committee will attempt to evaluate all candidates for the following judicial positions: Court of Appeals Judge, Appellate Division Justice - Fourth Department; New York State Supreme Court Justice - Fifth Judicial District; United States District Court Judge - Northern District of New York; Onondaga County Judge; Onondaga County Surrogate; Onondaga County Family Court Judge; Hearing Examiner - Onondaga County Family Court; Syracuse City Court Judge; and candidates for other judicial positions within the Fifth Judicial District. The Committee shall not evaluate candidates for Town and Village Justice Court. The Committee may evaluate a candidate at the candidate's request or at the request of any member of the Onondaga County Bar Association, whether or not timely endorsed by a political party and whether or not the candidate makes timely application to the Committee for such evaluation.

The failure of a lawyer to obtain the Committee's recommendation as qualified should not reflect upon the lawyer in the practice of the profession. The qualities requisite for able advocacy and for excellence in judicial performance do not fully coincide. The vigor and partisanship of the lawyer in superior performance as an advocate in the best interest of a client may disclose qualities or temperament not ideal for the judiciary. A lawyer's area of practice in which he or she has capably performed may be so circumscribed as to preclude a judgment of his or her qualifications for judicial office. Finally, the Committee recognizes that most lawyers practicing in this community have the capacity to fulfill judicial office at least adequately. The Committee's goal is judicial excellence.

Section 14. Members' Conduct. In acting upon the qualifications of each candidate, the Committee members shall be mindful of the principles of the Committee and shall act with the qualities of temperament, judgment and fairness which the Committee seeks in the judiciary. Political affiliation shall not be a consideration.

Section 15. Confidentiality. To fulfill the purposes of the Committee in accordance with its principles, full and frank discussion is mandated. The discussions and proceedings of the Committee concerning candidates shall be held in strictest confidence by each member, and no less than that shown a client in an attorney-client relationship. Any member of the Committee charged with a breach of this requirement of confidentiality may be suspended by the Chair pending an investigation, hearing and recommendation by a subcommittee of three members of the Committee appointed by the Chair. After the subcommittee members have made their recommendation to the Board, final action shall be taken by the Board which may in its discretion remove such Committee member, choose a replacement for such member, and/or refer the matter to the Onondaga County Bar Association Grievance Committee.

Section 16. Submission Procedure.

a. Candidates. Each proposed candidate shall be submitted for prompt consideration by the Committee and prompt final determination by the Board. Any candidate who does not submit his or her name for evaluation by the Committee may nevertheless be submitted by any member of the Onondaga County Bar Association.

b. Waiver and Questionnaire. Each candidate shall be asked to submit a written waiver of confidentiality authorizing the release of records, including records of any grievance proceedings or complaints concerning the candidate, for the use of the Judiciary Committee and the Board. Each candidate shall also be asked to submit thirty-nine (39) copies of a complete Questionnaire on a form provided for such purpose by the Bar Association. The contents of the Questionnaire shall be confidential unless the candidate agrees that the contents thereof may be made public. Any candidate who does not submit a written waiver or Questionnaire may be evaluated on such information as the Committee shall acquire prior to the date of such evaluation.

c. Publication of Candidates' Names. The names of candidates under consideration by the Committee shall be published in the Bar Association's monthly announcements, the Onondaga County BAR REPORTER, or similar written communications to members. Members of the Bar Association are invited to submit comments on candidates.

A summary of comments submitted by Bar Association members shall be made by the Chair, and this summary shall be announced to the members of the Committee at the meeting at which the qualifications of the candidate are considered. The summary and these comments shall be confidential.

d. Grievance Information. The Grievance Committee of the Fifth Judicial District and/or the Commission on Judicial Conduct in the case of sitting judges shall be furnished the names of the prospective candidates and invited to furnish information concerning former and pending disciplinary proceedings against the prospective candidates.

e. Destruction of Questionnaires, Evaluations, and Ballots. All Questionnaires, evaluations, and ballots shall be destroyed immediately following their consideration by the Committee and/or the Board.

Section 17. Committee Meeting Procedure.

a. Subcommittees. The Chair shall appoint a Subcommittee of three Committee members to investigate the qualifications of each candidate. The Subcommittee shall report its findings and recommendations to the full Committee at the meeting to consider the qualifications of the candidate.

b. Questionnaires. At the meeting to consider the judicial qualifications of a candidate, copies of the Questionnaire completed by the candidate shall be distributed by the Chair to all Committee members for their review. The Questionnaires shall be returned to the Chair by the end of the meeting.

c. Invitations to Candidates. All candidates shall be invited to appear before the Committee.

d. Additional Information. The Chair and/or the Subcommittee shall relay to the Committee additional information received from the Grievance Committee, from the Commission on Judicial Conduct, from Bar Association Members, or from any other sources. The Committee may request additional information concerning any candidate.

Section 18. Qualifications and Ballots.

a. Qualifications. In evaluating each candidate, the Committee members shall consider whether the candidate has the following qualifications: COMPETENCE, COURTEOUSNESS, DIGNITY, DILIGENCE, FAIRNESS, FREEDOM FROM PREJUDICE, IMPARTIALITY, INTEGRITY, PROMPTNESS, AND TEMPERAMENT.

b. Ballots. The ballot form shall recite Sections 18 and 19 of these Rules and provide spaces for the Committee member to mark either "RECOMMENDED AS QUALIFIED" or "NOT RECOMMENDED." All ballots shall be secret and written, notwithstanding the provisions of Section 7 of the Rules. A specimen ballot form is attached.

Section 19. Two-Thirds Requirement for "Recommended as Qualified".

a. "Recommended as Qualified." A candidate must receive "Recommended as Qualified" ballots from at least two-thirds of the Committee members present and voting to be "Recommended as Qualified" by the Committee.

b. "Not Recommended." A candidate who does not receive the necessary two-thirds "Recommended as Qualified" ballots shall be "Not Recommended" by the Committee.

c. Ballot Count. The secretary (or assistant secretary) and another committee member assigned by the Chair shall count the ballots and report the ballot count as to each candidate to the members of the Committee at the meeting. The Secretary (or assistant secretary) shall record the ballot count as to each candidate in the minutes of the meeting.

Section 20. Mandatory Non-Participation. A Committee member who is a partner or associate in the law practice of the candidate under consideration or who is a member of the candidate's immediate family shall be excused from the meeting and not participate during the discussion and balloting on that candidate.

A Committee member who has previously become or is actively engaged in the campaign of a candidate for a particular judicial office shall be excused from the meeting and not participate during the discussion and balloting on that candidate.

Section 21. Notification of Committee Recommendation and Appeal-Review Procedure. Immediately subsequent to the meeting during which a candidate was finally considered by the Committee, the Chair shall notify the candidate of the recommendation of the Committee as either "recommended as qualified" or "not recommended" and that the Board will be so notified immediately. Each candidate shall be further informed that the recommendation of the Committee must be reviewed by the Board before it is final. Candidates found "not recommended" by the Committee shall be informed of the right to appeal the recommendation of the Committee to the Board in the manner set forth below.

Section 22. Appeal and Review Procedures at the Board.

a. Chair Report. The Chair shall promptly report to the president of the Bar Association the Committee's recommendation as to each candidate as "recommended as qualified" or "not recommended" for review by the Board.

b. Board Meetings and Voting. The president shall call meetings of the Board to review the reports of the Committee and to hear any appeals as soon as practicable following each Committee report. A copy of the Questionnaire submitted by the candidate shall be available for distribution to each member of the Board at these meetings. The Chair may discuss the substance of the Committee's deliberations and recommendations with the Board without disclosure of the source of any individual comments within the Committee. All Board deliberations shall be strictly confidential to the members of the Board, the Chair, and any invited members of the Committee. A two-thirds vote of a quorum of the Board shall be required to reverse any recommendation of the Committee. Committee members who are also Board members may vote on a review or an appeal of the Committee's recommendations at the Board. Voting by the Board shall be by secret, written ballot in the form described in Section 18 above and attached.

c. Appeal Procedure. A candidate who is "not recommended" by the committee shall have the right to appeal to the Board from the Committee's recommendation as follows:

(1) the written appeal must be in writing and personally served upon the President or a Vice President or the

Chair within five(5) days of receipt of written notification of the recommendation of "not recommended";

(2) each appeal shall be considered separately by the Board provided, however, more than one appeal may be heard at the same Board meetings; and

(3) on an appeal, a candidate and/or a representative may appear before the Board to be heard and discuss the candidate's qualifications and to answer such other inquiries as may be required by the Board.

d. Final Determination by Board. On an appeal or review, the Board shall either affirm or reverse the recommendation of the Committee, subject however to the requirement that a two-thirds vote of a quorum of the Board shall be required to reverse the recommendation of the Committee. In addition, if the Board initially votes to reverse a recommendation by the Committee that a particular candidate is "Recommended as Qualified," The President Board or the Chair shall notify the candidate of this initial vote by the Board and provide the candidate an opportunity to appear and be heard by the Board pursuant to th Appeal Procedure set forth in subdivision c above. The Board shall revote after the candidate has had an opportunity to appear and be heard. The Board's final determination that the candidate is either "recommended as qualified" or "not recommended" shall be the final determination of the Onondaga County Bar Association.

e. Notification to Candidate. The President shall notify the candidate of the final determination of the Board immediately in writing by mail.

f. Candidacy Withdrawal Option. If after an appeal or review, the Board's final determination is that a candidate is "not recommended", the candidate shall be given an opportunity to have his or her name withdrawn. If the candidate withdraws his or her name as a candidate for the judicial office by written notice delivered to the President of the Bar Association within 10 days of the Board's notification to the candidate, all deliberations, all determinations, and recommendations shall be considered sealed, strictly confidential, and not disseminated beyond the Board and the Committee, unless the candidacy of that candidate is continued.

Section 23. Notice and Dissemination of Final Determination by Board.

In the event the candidate in fact becomes or continues as a candidate for the judicial office involved, the final determination of the Board that the candidate was either "recommended as qualified" or "not recommended" shall be disseminated by the President to the members of the Bar Association, the news media, the public generally, and any other interested persons.

Section 24. Effective Period. The Board's final determination on appeal or review of a candidate for a specific judicial office shall be limited to that office and shall remain effective for a period of two years from the date of the final determination, unless information subsequently available to the Committee requires a reconsideration before the end of two years. A candidate who fails to receive a "recommendation as qualified" for a specific judicial office shall be eligible for reconsideration upon each subsequent vacancy in that specific office or any other judicial office.

ARTICLE IV
Amendment

Section 25. These rules may be amended from time to time by a two-thirds vote of the Board, either with or without the Committee's deliberations and recommendations with the Board without disclosure of the source of any individual comments within the Committee. All Board deliberations shall be strictly confidential to the members of the Board, the Chair, and any invited members of the Committee. A two-thirds vote of a quorum of the Board shall be required to reverse any recommendation of the Committee. Committee members who are also Board members may vote on a review or an appeal of the Committee's recommendation at the Board. Voting by the Board shall be by secret, written ballot in the form described in Section 18 above and attached.

c. Appeal Procedure. A candidate who is "not recommended" by the Committee shall have the right to appeal to the Board from the Committee's recommendation as follows:

(1) the written appeal must be in writing and personally served upon the President or a Vice President or the Chair within five (5) days of receipt of written notification of the recommendation of "not recommended";

(2) each appeal shall be considered separately by the Board provided, however, more than one appeal may be heard at the same Board meeting; and

(3) on an appeal, a candidate and/or a representative may appear before the Board to be heard and discuss the candidate's qualifications and to answer such other inquiries as may be required by the Board.

d. Final Determination by Board. On an appeal or review, the Board shall either affirm or reverse the recommendation of the Committee, subject however to the requirement that a two-thirds vote of a quorum of the Board shall be required to reverse the recommendation of the Committee. In addition, if the Board initially votes to reverse a recommendation by the Committee that a particular candidate is "Recommended as Qualified," The President or the Chair shall notify the candidate of this initial vote by the Board and provide the candidate an opportunity to appear and be heard by the Board pursuant to the Appeal Procedure set forth in

subdivision c above. The Board shall revote after the candidate has had an opportunity to appear and be heard. The Board's final determination that the candidate is either "recommended as qualified" or "not recommended" shall be the final determination of the Onondaga County Bar Association.

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BALLOT FORM
ONONDAGA COUNTY BAR ASSOCIATION

Candidate Name _____

RECOMMENDED AS QUALIFIED	NOT RECOMMENDED

Sections 18 and 19 of the "Rules for the Recommendation of Judicial Candidates by the Onondaga County Bar Association" provide as follows:

Section 18. Qualifications and Ballots.

a. Qualifications

In evaluating each candidate, the Committee members shall consider whether the candidate has the following qualifications: COURTEOUSNESS, DIGNITY, DILIGENCE, FAIRNESS, FREEDOM FROM PREJUDICE, IMPARTIALITY, INTEGRITY, PROFESSIONAL COMPETENCE, PROMPTNESS, AND TEMPERAMENT.

b. Ballots

The ballot form shall recite Sections 18 and 19 of these Rules and provide spaces for the Committee member to mark either "RECOMMENDED AS QUALIFIED" or "NOT RECOMMENDED." All ballots shall be secret and written, notwithstanding the provisions of Section 7 of the Rules.

Section 19. Two-Thirds Requirement for "Recommended as Qualified".

a. "Recommended as Qualified"

A candidate must receive "Recommended as Qualified" ballots from at least two-thirds of the Committee members present and voting to be "Recommended as Qualified" by the Committee.

b. "Not Recommended"

A candidate who does not receive the necessary two-thirds "Recommended as Qualified" ballots shall be "Not Recommended" by the Committee.

c. Ballot Count.

The Secretary (or assistant secretary) and another committee member assigned by the Chair shall count the ballots and report the ballot count as to each candidate to the members of the Committee at the meeting. The Secretary (or assistant secretary) shall record the ballot count as to each candidate in the minutes of the meeting.

JUDICIAL EVALUATION QUESTIONNAIRE

CONFIDENTIAL

I hereby apply to the Onondaga County Bar Association for a judicial rating pursuant to the Rules for the Recommendation of Judicial Candidates by the Onondaga County Bar Association (hereinafter "Rules"). I consent to an investigation relating to my character, personal and professional reputation, and any other matter referred to or relating to my application. I have executed the attached waiver and I authorize the Association to transmit the waiver to the New York State Grievance Committee with a request for any records held by it regarding my conduct. If I now hold or have in the past held any judicial office, I have executed the attached Request to the State Commission on Judicial Conduct and I authorize the Association to transmit the Request to the Commission.

I have received and read all the Association's Rules relating to Judicial Rating, and I recognize the authority vested in the Board of Directors to interpret the Rules and action taken thereunder in a final, conclusive and binding manner. I authorize the publication of my rating unless I receive a rating of "Not Recommended" for this Judicial Office" and withdraw my candidacy within five (5) days after notification of such rating. I understand the Rule that the Judiciary Committee's recommendation of a lawyer and the review by the Board of Directors of the Association for a specific judicial office shall be limited to that office and shall remain effective for a period of twelve months unless information subsequently available to the Committee requires a reconsideration of the recommendation.

If the answer to any question requires additional space, please continue the answer using additional sheets as necessary. Every question must be answered. If a question is inapplicable, write "N/A" in the answer space provided.

Full Name	
Address	
Home Telephone Number	
Business Telephone Number	
Fax Number	
Beeper or Cellular Phone Number	
Position for Which You Wish to Apply	

INDEX

- I Biographical Information
- II Family
- III Employment
- IV Government Service
- V Educational Background
- VI Professional Certifications
- VII Military Service
- VIII Organizational Affiliations
- IX Published Works, Speeches & Awards
- X References
- XI Conflict of Interest Inquiries
- XII Financial Matters
- XIII General Matters
- XIV Future Intentions
- XV For Those Who Currently Hold Judicial Office
- XVI Miscellaneous Disclosures

SECTION I
BIOGRAPHICAL INFORMATION

A. Date of Birth:

Response:

B. Mother's name:

Response:

C. Father's name:

Response:

D. Have you changed your name other than through marriage?

Response:

E. Have you used a name other than the one given above? If yes, please set forth the name(s) and explain why.

Response:

F. Are you a U.S. citizen?

Response:

G. If you are not a U.S. citizen, do you have a permanent resident alien status?

Response:

SECTION II
FAMILY

A. If you are currently married, provide the following:

Spouse's Name	
Occupation	
Employer Name and Address	

B. If you were formerly married, provide the following for each marriage:

Spouse's Name	
Occupation	

Spouse's Name	
Occupation	

C. Child Support and/or Maintenance Obligations:

1. Are you current in all of your child support and/or maintenance obligations, if any?

Response:

2. Are there any legal proceedings in any court pending against you for non-payment of child support and/or maintenance obligations?

Response:

3. Are there any judgments against you in any court for non-payment of child support and/or maintenance obligations?

Response:

D. Have you ever had an order of protection entered against you? If yes, please explain.

Response:

E. Identify your children and provide their respective dates of birth, current address, current occupation and current employer:

1.

Name	
Date of Birth	
Address	
Occupation/Employer	

2.

Name	
Date of Birth	
Address	
Occupation/Employer	

3.

Name	
Date of Birth	
Address	
Occupation/Employer	

- F. Please identify all persons, other than your children identified above, for whom you are legally responsible or whom you deduct as a dependent on your federal income tax return. Response:

Response:

**SECTION III
EMPLOYMENT**

- A.

Name of present employer	
Address	
Date Employment commenced	
Position or Title	

Name of present employer	
Address	
Date Employment commenced	
Position or Title	

- B. If you are self-employed and/or the owner of a business, please provide the following information for yourself and/or your business(es):

Name	
Address	
Date Commenced	
Position or Title	

Name	
Address	
Date Commenced	
Position or Title	

- C. Please provide the following information with respect to your employers over the last twenty (20) years:

Name	
Address	
Dates Employed (from/to)	
Final Position or Title	

Name	
Address	
Dates Employed (from/to)	
Final Position or Title	

Name	
Address	
Dates Employed (from/to)	
Final Position or Title	

Name	
Address	
Dates Employed (from/to)	
Final Position or Title	

D. Have you engaged in teaching law? If so, state when, where, and the subjects taught.

Response:

E. Involuntary Terminations:

1. Have you ever been fired from any job for any reason? If yes, please explain.

Response:

2. Have you ever resigned from any job after being informed that your employment would be terminated? If yes, please explain.

Response:

SECTION IV
GOVERNMENT SERVICE

A. Identify any experience in or association with any local, state or federal government entity (including advisory, consultative, honorary or other part-time service or position). Specify the dates of such service.

Response:

B. Identify all elective public offices which you have sought and/or held. Specify the dates of such service.

Response:

C. Have you ever been removed from public employment or asked to resign for disciplinary reasons? If yes, set forth the circumstances.

Response:

SECTION V
EDUCATIONAL BACKGROUND

A. College:

1.	Name and address of last college attended	
2.	Dates attended	
3.	Did you graduate?	
3.a.	Type of degree received	
3.b.	Major or field	
3.c.	Approximate rank in class	
4.	List any scholarships, fellowships, honorary degrees or any other awards that you received	
5.	Please identify all other colleges that you attended. Specify the date of attendance and any degrees obtained	

B. Graduate and/or Law School:

1.	Name and address of school attended	
2.	Dates attended	
3.	Did you graduate?	
3.a.	Type of degree received	
3.b.	Major or field	
3.c.	Approximate rank in class	
4.	List any scholarships, fellowships, honorary degrees or any other awards that you received	
5.	Please identify all other colleges that you attended. Specify the date of attendance and any degrees obtained	

C. Were you ever expelled, suspended, placed on probation, or subject to any other disciplinary action while attending any of the colleges, professional schools or other institutions that you listed in sections "A" and "B" above? If yes, please explain the circumstances.

Response:

SECTION VI
PROFESSIONAL CERTIFICATIONS

A. Please identify all professional licenses and certifications that you hold or have ever held and all courts in which you have been admitted to practice. Specify the dates and the conferring authorities.

Response:

- B. Has any professional license or certification ever been revoked? If yes please explain the circumstances.

Response:

- C. Have you ever been the subject of any proceeding, inquiry or investigation by any professional association, including any bar association, of which you are a member? If yes, please explain the circumstances.

Response:

- D. Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, bar association, disciplinary committee, or other professional group? If so, please give the particulars.

Response:

- E. Have you ever been sued by a client? If so, specify details.

Response:

- F. Summarize the nature of your personal appearances in court in the last five years.

- a. What percentage of your appearances in the last five years was in:

1. Supreme Court?	
2. County Court?	
3. Family Court?	
4. District Court?	
5. Federal Court?	
6. Other Courts?	

- b. What percentage of your litigation in the last five years was:

1. Civil?	
2. Criminal?	
3. Other?	

- c. What percentage of your trials in the last five years was:

1. Jury?	
2. Non-Jury?	

- d. State the number of cases you have tried to conclusion in courts of record during each of

the past five years, indicating whether you were sole, associate, or chief counsel.

Response:

- e. State the number of appeals in which you have participated during each of the past five years, giving the names of the appellate courts and a general description of subject matter.

Response:

- f. Have you lectured or participated as a panelist at any schools or seminars conducted by any bar association or other organization of the legal profession? If so, specify dates and details.

Response:

SECTION VII **MILITARY SERVICE**

- A. Please list highest rank, branch of service, dates of service and type of discharge:

Response:

- B. Are you a member of Reserves or the National Guard? If yes, when does your obligation end?

Response:

SECTION VIII **ORGANIZATIONAL AFFILIATIONS**

- A. Identify all professional/business organizations of which you are a member. Specify the name and address of the organization, the dates of your membership and any title that you held in the organization.

Response:

- B. List, any office, trusteeship, directorship, partnership, or position of any nature, whether or not compensated, held by you with any firm, corporation, association, partnership, or other organization. Include compensated honorary positions; do NOT list membership or uncompensated honorary positions. If the listed entity was licensed or regulated by any federal, state or local agency, or, if you did business with, or had other than ministerial matters before any federal, state or local agency, as a regular and significant part of the business or activity or said entity, list the name of any such agency. If you received compensation, please provide the particulars.

Response:

- C. List any office, trusteeship, directorship, partnership, or position of any nature, whether or not compensated, held by your spouse with any firm, corporation, association, partnership, or other organization. Include compensated honorary positions; do NOT list membership or uncompensated honorary positions. If the listed entity was licensed or regulated by any federal, state or local agency, or, if your spouse did business with, or had other than ministerial matters before any federal, state or local agency, as a regular and significant part of the business or activity or said entity, list the name of any such agency. If your spouse received compensation, please provide the particulars.

Response:

- D. Identify all memberships and offices held in and services rendered to all political parties or election committees during the past ten years. If you received compensation, please provide the particulars.

Response:

- E. Identify any civic, educational or charitable organizations of which you are a member. Specify the name and address of the organization, the dates of your membership and any title that you held in the organization.

Response:

- F. Identify any fraternal organizations of which you are a member. Specify the name and address of the organization, the dates of your membership and any title that you held in the organization.

Response:

- G. Identify any recreational/leisure organizations (e.g. country club, yacht club, tennis club) of which you are a member. Specify the name and address of the organization, the dates of your membership and any title that you held in the organization.

Response:

- H. To your knowledge, are you or have you ever been a member of any organization that restricted admission on the basis of race, color, religion, age, sexual orientation, national origin, disability, or marital status? If yes, please describe.

Response:

- I. Have you ever been associated with any person, group or business venture that could be used to impugn or attack your character and qualifications for the position to which you seek to be

appointed? If so, please describe.

Response:

SECTION IX
PUBLISHED WORKS, SPEECHES & AWARDS

A. Published Works (if none, please submit other writing samples). Identify the titles, publishers and dates of books, articles, reports, addresses or other statements, including opinion statements, which you have written that have been published or otherwise distributed or presented. Please submit a copy of any book, article, report or other published, distributed or presented statement.

Response:

B. Speeches: Identify the title of any speech that addresses a topic related to the position for which you are applying and that you have delivered during the last four (4) years. Please include the date of delivery and the audience. If the speech has been reduced to writing or transcribed, please submit a copy.

Response:

C. Honors and Awards: Identify all honors and awards that you have received in the past ten (10) years. Please include the date you received the award and the conferring organization.

Response:

SECTION X
REFERENCES

A. Please identify three (3) individuals who know you well in your business and/or professional life over the last five or more years:

1.

Name	
Residence Address	
Home Telephone	
Employer or Business Name	
Business Address	
Business Telephone	
Years Known	

2.

Name	
Residence Address	
Home Telephone	
Employer or Business Name	

Business Address	
Business Telephone	
Years Known	

3.

Name	
Residence Address	
Home Telephone	
Employer or Business Name	
Business Address	
Business Telephone	
Years Known	

B. Please identify three (3) individuals who know you well in your personal life and who are not related to you:

1.

Name	
Residence Address	
Home Telephone	
Employer or Business Name	
Business Address	
Business Telephone	
Years Known	

2.

Name	
Residence Address	
Home Telephone	
Employer or Business Name	
Business Address	
Business Telephone	
Years Known	

3.

Name	
Residence Address	
Home Telephone	
Employer or Business Name	
Business Address	
Business Telephone	
Years Known	

SECTION XI
CONFLICT OF INTEREST INQUIRIES

A. Are you or any of your immediate family members related to any United States governmental official or employer, State of New York official or employee or any official or employee of a municipal subdivision of the State of New York? If yes, please provide details.

Response:

- B. During the past five (5) years, have you or any immediate family member received any compensation or been involved in any financial transactions with any federal, state or local agency, public authority, public corporation or official? If yes, please provide details.

Response:

- C. Describe any business relationship, dealing or financial transaction which you have had during the past five (5) years, whether for yourself, or on behalf of a client, or acting as an agent, which you believe may constitute an appearance or impropriety or may result in a potential conflict of interest in the position for which you seek appointment. If none, please so state.

Response:

- D. Describe any business relationship, dealing or financial transaction which any immediate family member has had during the past five (5) years, whether for himself/herself or on behalf of a client, or acting as an agent, which you believe may constitute an appearance of impropriety or may result in potential conflict of interest in the position for which you seek appointment. If none, please so state.

Response:

- E. Does any member of your immediate family hold an employment position that is related in any way to the position that you seek? If so, please identify the employer, the position and the length of time it has been held.

Response:

- F. Describe briefly any lobbying activity that you have engaged in during the past ten (10) years for the purpose of influencing any legislative or administrative action within the State of New York. *NOTE: "Lobbying activity" includes any activity performed as an individual or agent of another individual or of any organization that involves direct communication with an official in the executive branch, the legislative branch, or any public authority, agency or educational institution of New York State government.*

Response:

- G. Have you registered as a lobbyist with the Temporary Commission on Lobbying? If yes, please explain.

Response:

- H. Describe briefly any lobbying activities that any member of your immediate family has engaged in during the past ten (10) years for the purpose of influencing any legislative or administrative

action within the State of New York.

Response:

- I. Please describe any other matter in which you have been involved which may be incompatible or in conflict with the discharge of the duties of the position that you seek, or any matter which may impair or tend to impair your independence of judgment or action in the performance of your duties. If there is none, please so state.

Response:

J. Outside Employment:

1. Do you have any commitments or agreements to pursue outside employment, with or without compensation, while you sit in judicial office? If yes, please explain.

Response:

2. Do you intend to sever all connections with your present employer or business firm, association or organization if you are appointed to the position you seek? If no, please explain.

Response:

SECTION XII
FINANCIAL MATTERS

A. Liens or Judgments:

1. Are there any liens (other than attorney liens) or judgments against you or any business or property in which you are an owner, officer, director or partner? If yes, please explain.

Response:

2. Has a collection proceeding ever been institute against you or filed against or in relation to a property owned by you by any federal, state or local taxing authority? If yes, please explain.

Response:

B. Tax Liabilities:

1. Are you or any business in which you are owner, officer, director or partner in arrears with regard to any tax obligations to federal, state and local authorities? If yes, please explain.

Response:

2. Are there any tax liens currently assessed or pending against you, any business in which you are an owner, officer, director or partner, or any real property in which you have a beneficial or legal interest? If yes, please explain.

Response:

3. Have your state or federal income tax returns been the subject of any audit, investigation or inquiry resulting in the assessment of a penalty? If yes, please explain.

Response:

4. Have you filed all federal and state income tax returns timely? If no, please explain.

Response:

5. Within the last five (5) years, have you employed any domestic or household help?

Response:

- a. If you employed domestic or household help, did you file the appropriate reports with the taxing authorities and pay withholding taxes? If no, please explain.

Response:

- b. If you employed domestic or household help, have you verified that any domestic or household help that you employed are U.S. citizens or documented aliens? If no, please explain.

Response:

C. Student Loans:

1. Are you, your spouse or any of your unemancipated children in arrears on the repayment of any student loan? If yes, please provide the name of the lender, the amount that is currently overdue and the length of time of the delinquency.

Response:

2. Have you, your spouse or any of your unemancipated children ever defaulted on a student loan? If yes, please provide the name of the lender, the amount of the default and the disposition of the loan.

Response:

D. Gifts:

1. List each source of gifts, EXCLUDING campaign contributions, in EXCESS of \$1,000 received during the past five years by you or your spouse or unemancipated child from the same donor, EXCLUDING gifts from a relative. INCLUDE the name and address of the donor. The term "gifts" does not include reimbursements. Indicate the value and nature of each such gift

Self, Spouse or Child?	
Name of Donor	
Address of Donor	
Nature of Gift	
Value Amount/Category of Gift*	

* VALUE AMOUNT/CATEGORIES: A. under \$5,000; B. \$5,000 to under \$20,000; C. \$20,000 to under \$60,000; D. \$60,000 to under \$100,000; E. \$100,000 to under \$250,000; F. \$250,000 or over.

E. Agreements:

- a. Describe terms of, and the parties to any contract, promise, or other agreement between you and any person, firm, or corporation with respect to the employment of you after leaving your current office or position.

Response:

- b. Describe the parties to and the terms of any agreement providing for continuation of payments or benefits to you in EXCESS of \$1,000 from a prior employer to be paid to you during the term of office for the position you seek. (This includes interests in or contributions to a pension fund, profit-sharing plan, or life or health insurance, buy-out agreements, severance payments, etc.).

Response:

- F. Other Income (List the sources and amount of any annual deferred income (not retirement income) in EXCESS of \$1,000 from each source to be paid to you during the term of office for the position you seek. Deferred income derived from the practice of a profession shall be listed in the aggregate and shall identify as the source, the name of the firm, corporation, partnership or association through which the income was derived, but shall not identify individual clients.)

Source	
Category Amount*	

**VALUE CATEGORY AMOUNT: A. under \$5,000; B. \$5,000 to under \$20,000; C. \$20,000 to under \$60,000; D.\$60,000 to under \$100,000; E. \$100,000 to under \$250,000;F. \$250,000 or over.*

SECTION XIII
GENERAL MATTERS

- A. Criminal Convictions: Have you ever been convicted of or entered a plea of guilty or *nolo contendere* or forfeited collateral for any felony, misdemeanor or violation other than for minor traffic violations? If yes, please explain.

Response:

- B. Investigatory Actions: Have you ever been involved (including but not limited to, as a target, subject or witness) in any inquiry or investigation by a federal, state or local agency, (other than for routine background investigations for employment purposes) or by any grand jury? If yes, please explain.

Response:

- C. Contempt: Have you ever been cited for contempt of any court, legislative, civil or criminal investigative body or grand jury? If yes, please explain.

Response:

- D. Driver's License: Has your driver's license ever been suspended or revoked? If yes, please explain.

Response:

- E. Parking Tickets: Do you have outstanding parking tickets from any jurisdiction in New York which have remained unpaid for more than thirty (30) days? If yes, please explain.

Response:

- F. Civil Litigation:

1. Have you or any business in which you are an owner, officer, director or partner ever been a plaintiff or a defendant in a civil lawsuit? If yes, please specify the nature of action its title and index number or civil action number and the disposition or status of the case.

Response:

2. Is any person or entity currently threatening to sue you or any business in which you are an owner, officer, director or partner? If yes, please specify the name and address of the

claimant and explain any pertinent details.

Response:

- G. Do you, your spouse or immediate family member own, lease operate or have any interest in any real property which during the time of such ownership has been cited for health or environmental violations by federal, state or local authorities, has been condemned or closed or has been identified as containing hazardous materials? If yes, please explain.

Response:

- H. Are you registered to vote?

Response:

- I. Have you voted consistently over the past ten (10) years or since you graduated from high school?

Response:

- J. Do you currently possess the physical and mental ability to perform the essential functions of a judge, with or without accommodation?

Response:

SECTION XIV
FUTURE INTENTIONS

- A. Do you expect to serve the full term for which you may be appointed? If no, please explain.

Response:

- B. Has anyone offered to employ you after you complete the term of office for the position you seek? If yes, please explain.

Response:

- C. Have you ever been interviewed and/or rated as a candidate by any committee, bar association or other group for any judicial position, including the position you currently seek? If yes, state the position(s) for which you were rated, the name and address of the group before which you appeared or which issued the rating, and the rating which you were given or the result of the interview, if known:

Response:

SECTION XV
FOR THOSE WHO CURRENTLY HOLD JUDICIAL OFFICE

A. Trials/Hearings/Motions:

1. State the approximate number of jury trials over which you presided per year during your present term of office.

Response:

2. State the approximate number of non-jury trials over which you presided per year during your present term of office.

Response:

3. State the approximate number of miscellaneous hearings or in-court proceedings over which you presided per year during your present term of office.

Response:

4. State the approximate number of motions and applications determined by you per year during your present term of office.

Response:

B. Criminal Case Appeals:

1. State the approximate number of appeals taken after plea in criminal cases over which you presided during your present term of office.

Percentage affirmed	
Percentage reversed	

2. State the approximate number or appeals taken after judgment in non-jury criminal cases over which you presided during your present term of office.

Percentage affirmed	
Percentage reversed	

3. State the approximate number of appeals taken after judgment injury criminal cases over which you presided during your present term of office.

Percentage affirmed	
Percentage reversed	

C. Civil Case Appeals:

1. State the approximate number of appeals taken after judgment in non-jury civil cases over which you presided during your present term of office.

Percentage affirmed	
Percentage reversed	

2. State the approximate number of appeals taken after judgment in jury civil cases over which you presided during your present term of office.

Percentage affirmed	
Percentage reversed	

3. State the approximate number of interlocutory civil appeals taken in cases over which you presided during your present term of office.

Percentage affirmed	
Percentage reversed	

SECTION XVI
MISCELLANEOUS DISCLOSURES

- A. Is there any information not otherwise elicited by this Questionnaire which would affect favorably or unfavorably, your eligibility for the judiciary? If so, please set it forth.

Response:

- B. Candidates for judicial office may be subject to scrutiny by the public and the media. Accordingly, please set forth any additional disclosures that you believe should be considered with your application.

Response:

_____ [signature]

DATED: _____

ACKNOWLEDGEMENT

STATE OF NEW YORK)
) ss.:
COUNTY OF ONONDAGA)

On this ____ day of _____, 201__, before me personally came _____
_____, to me known to be the individual described in and who executed the
foregoing instrument, and he/she acknowledged to me that he/she executed the same as his/her free act
and deed.

Notary Public

WAIVER OF CONFIDENTIALITY
Committee on the Judiciary

I hereby waive the privilege of confidentiality with respect to any information which concerns me and is known to, recorded with, on file with or in the possession of a governmental, judicial, investigative or other official agency (including the State of New York Commission on Judicial Conduct), or an educational institution, and hereby authorize a representative of the Committee on the Judiciary to request and to receive any such information, in connection with the present investigation by the Committee on the Judiciary of my qualifications for office. I understand that any information obtained pursuant to this waiver will be used only in connection with the performance of the confidential work of the Committee on the Judiciary of the Onondaga County Bar Association.

Sworn to before me this _____
day of _____, 201__.

Notary Public



Everything You Need to Know About Becoming a Judge

PART FIVE: Appointment Processes

Thursday, October 22, 2015

CNY Philanthropy Center

431 East Fayette St.

Syracuse, New York 13202



Judges Administrative Manual

Chapter 8: Appointment of Judges

Part A: Appointment of Article III Judges

Part B: Appointment and Reappointment of Bankruptcy Judges

Part C: Appointment and Reappointment of Magistrate Judges

Part A: Appointment of Article III Judges

Section 1: Article III of the United States Constitution

Section 2: Appointment

Section 3: Steps in the Selection, Nomination, and Appointment Process

Section 4: Assistance Provided by the Judicial Services Office

Section 1: Article III of the United States Constitution

Article III of the United States Constitution vests the judicial power of the United States in the federal courts. Federal judges appointed under Article III hold their judicial offices during good behavior without diminution in pay. U.S. Const. art. III, § 1. As a result, the Constitutional provision essentially confers a lifetime appointment upon “Article III” judges.

Four types of judges are appointed under Article III:

- Supreme Court justices;
- circuit court judges;
- district court judges; and
- judges of the Court of International Trade.

Section 2: Appointment

The President appoints Article III judges with the advice and consent of the Senate. U.S. Const. art. II, § 2. Aside from the Constitutional nomination and confirmation process, there are no formal requirements for being an Article III judge.

Section 3: Steps in the Selection, Nomination, and Appointment Process

3.1 Consultation

Presidents historically consult with a state's U.S. senators about whom to nominate for district court vacancies within a state. The senators may develop a formal screening process to evaluate candidates before recommending one or several people for a nomination.

For vacancies in the courts of appeals, Presidents typically exercise more discretion in identifying candidates. Nonetheless, they frequently consult with elected officials in a bid to build support for a potential nominee. When building support for a circuit judge, presidents may confer with elected officials from each state within the circuit or in the state where the judicial vacancy originated.

The judiciary analyzes caseload statistics, judicial workloads and the case related activities of the courts to recommend new judgeships to Congress. Aside from this statistical analysis and reporting, the courts play no role in the selection, nomination, or appointment of Article III judges.

Individual federal judges may be asked to comment on the fitness of prospective judicial nominees. Judges should consider several provisions of the Code of Conduct for United States Judges as they determine an appropriate level of involvement in any selection process. The Committee on Codes of Conduct published Advisory Opinion No. 59, Providing Evaluation of Judicial Candidate to Screening or Appointing Authority, to provide judges with direction on some of the important considerations.

3.2 Background Investigation and Questionnaire

The Federal Bureau of Investigation prepares background investigations for potential nominees. The Department of Justice sends potential nominees a detailed questionnaire on their personal and professional history, the contents of which may be made public. The Department may also arrange to interview and advise a potential nominee during the selection process.

3.3 Initial Selection

When the background investigation, questionnaire, and interview are complete, the information is forwarded to the White House. At this point, the president makes a selection and the nominee is notified.

3.4 Senate Judiciary Committee

After the nomination is transmitted to the Senate, it is referred to the Senate Judiciary Committee. The committee requests its own detailed questionnaire on the nominee's personal and professional history, including disclosure of any speeches or written works the nominee has published. The Judiciary Committee will normally hold a hearing to directly question the nominee. Occasionally, other witnesses may also testify or submit statements in favor of or in opposition to the nomination. The Senate Judiciary Committee votes on whether to report the nomination to the full Senate for its consideration.

3.5 Action by the Senate and the President

The full Senate will typically consider a reported nomination and vote on whether to grant its advice and consent to the nomination. Once the Senate votes, and if the nominee is confirmed, the Senate notifies the President in writing.

After receiving the consent of the Senate, the President will sign a commission appointing the nominee as a judge on a specific court. The President may sign a judge's commission on the same day as the Senate confirmation vote or there may be a delay of days or weeks, depending on the President's schedule.

3.6 Oath of Office and Entry on Duty

Upon learning with certainty that the President has signed a nominee's commission, the judge may enter on duty as soon as the court administers the oath of office and completes the associated appointment papers (provided by the Department of Justice). The forms should then be delivered to Judges Compensation and Retirement Division in the Human Resources Office at the Administrative Office (AO).

3.7 Additional Information

Additional information on ethical considerations related to the nomination process is available from the judges on the Committee on Codes of Conduct, the AO's Office of General Counsel at 202-502-1100, or by contacting the AO's Judicial Services Office Duty Attorney at (202) 502-1800 or by sending an e-mail to the Duty Attorney Mailbox.

Additional guidance on the appointment of Article III judges, including a discussion of the paperwork to be completed by new Article III judges, can be found in the Guide, Vol. 3, Ch. 2.

Questions concerning the appointment forms may be directed to the AO's Judicial Services Office at 202-502-1800, or Judges Compensation and Retirement Division in the Human Resources Office at the Administrative Office (AO) at 202-502-1880.

Section 4: Assistance Provided by the Judicial Services Office

4.1 Judicial Nominee Program

The AO's Judicial Services Office works to address the needs of Article III judges and chambers staff. In that role, the division assists Article III judge-nominees with many administrative and procedural issues that they may encounter.

The Judicial Services Office sponsors a one-day Judicial Nominee Orientation Program for nominees once the Senate announces a date for their confirmation hearing. The orientation programs are scheduled to take advantage of the nominees' presence in Washington for the confirmation hearing and will typically be scheduled for the day following the hearing.

The Judicial Nominee Orientation Program allows subject matter experts to brief the nominees on issues they will likely encounter as new judges. The experts present material and answer the nominees' questions on court and judicial administration, chambers staffing, judges' pay and benefits (including health and life insurance plans, retirement, and survivor annuities), court and personal security issues, ethics rules and regulations, and other matters. The AO provides a package of frequently requested materials and references to the nominees and all materials are shipped to the nominees' offices following the orientation session. Included in the materials are the following booklets:

- *Getting Started as a Federal Judge* (Judges Information Series No. 1). This publication is intended to address questions and concerns often posed by new Article III judges.
- *Senior Status and Retirement for Article III Judges* (Judges Information Series No. 4). This publication analyzes the retirement and other benefits available to Article III judges, and explains the consequences of remaining in active service, taking senior status, retiring from office, or resigning from office.
- *Risk of Personal Liability for Federal Judges* (Judges Information Series No. 7). This monograph discusses the nature of the personal liability risk faced by justices and judges of the United States Courts.
- *Compendium of Chief Judge Authorities* (Judges Information Series No. 8). This publication provides a reference to the statutory and other

- sources of chief judge authority, including authorities derived from the court as a whole and the circuit judicial council.
- *Brief Guide to Judges' Travel* (Judges Information Series No. 9). A summary of the travel regulations applicable to judges of the United States Courts.

4.2 New Chief Judges

The Judicial Services Office offers a two-day Chief Judge Orientation Program to new appellate and district court chief judges. The program helps familiarize new chief judges with their administrative responsibilities and explains the management and program support services offered by the AO. It also allows new chief judges to meet the AO subject matter experts who work on the administrative issues that chief judges oversee. The program is designed to offer a flexible format and focus on issues of concern for the participants.

The Judicial Services Office offers a daylong follow-up session to the Chief Judge Orientation Program. A chief judge will typically schedule the follow-up program six months to a year after the initial program. During the follow-up program, chief judges can speak with AO staff about specific issues that have arisen during their tenure and further develop discussion on issues that arose during their initial chief judge programs.

4.3 Duty Attorney Service

A duty attorney is on-call during business hours to respond to inquiries from Article III judges, court staff, and the public. The duty attorney provides a single point of contact in the AO for a wide range of issues and can assist courts with questions on the appointment process, nominees, chief judge issues, or judiciary policy. Direct questions on these topics or other areas of concern should be directed to the Judicial Services Office at (202) 502-1800, or email sent to the Duty Attorney Mailbox.

Part B: Appointment and Reappointment of Bankruptcy Judges

<u>Section 5:</u>	<u>Designation and Appointment; Vacancies</u>
<u>Section 6:</u>	<u>Judicial Conference Regulations</u>
<u>Section 7:</u>	<u>Submitting Forms; Background Reports; Record of Appointment</u>
<u>Section 8:</u>	<u>Disposition of Records</u>
<u>Section 9:</u>	<u>Willingness to Accept Reappointment</u>
<u>Section 10:</u>	<u>Holdover Periods</u>
<u>Section 11:</u>	<u>Assistance Provided by the Judicial Services Office</u>
<u>Section 12:</u>	<u>Additional Information on Appointment and Reappointment</u>

Section 5: Designation and Appointment; Vacancies

5.1 Designation

Bankruptcy judges are judicial officers of the district courts. The active bankruptcy judges in each judicial district constitute a unit of the district court known as the bankruptcy court. 28 U.S.C. § 151.

5.2 Appointment

Bankruptcy judges are appointed to 14-year terms of office by the court of appeals in which the district court is located. 28 U.S.C. § 152. When a vacancy occurs in a bankruptcy judgeship before the end of the term, the successor bankruptcy judge is appointed for a new 14-year term.

5.3 Vacancies

The Judicial Conference policy requires notice to the Bankruptcy Committee and the AO's Director when a bankruptcy judge retires, resigns, or dies creating a vacancy. Guide, Vol 3, Ch 3 § 330 . Before the court of appeals begins the process to fill the vacancy and based upon this notice, the Judicial Services Office will provide relevant, up-to-date data to the circuit council to assist it in assessing whether to fill the vacancy.

Section 6: Judicial Conference Regulations

Judicial Conference regulations address the selection, appointment and reappointment of bankruptcy judges. The regulations are maintained in the *Guide to Judiciary Policy*, and include provisions that address:

- qualifications for appointment as a bankruptcy judge; Guide, Vol. 3, § 320.10;
- publishing notice of bankruptcy judgeship vacancies; Guide, Vol. 3, § 320.20;
- the role of judicial councils in assisting the courts of appeals in the appointment process by evaluating potential nominees and recommending qualified applicants, including the authority of councils to appoint “merit selection panels” to examine applicants and report on the qualifications of recommended nominees; Guide, Vol. 3, § 320.30;
- the court of appeals appointment of qualified nominees to bankruptcy judgeships; Guide, Vol. 3, § 320.40; and
- procedures for considering incumbent bankruptcy judges for reappointment; Guide, Vol. 3, § 320.50.

Section 7: Submitting Forms; Background Reports; Record of Appointment

7.1 Completing Forms Following Selection

Soon after notification of the selection, the nominee will receive the following forms from the Judicial Services Office:

- SF-86, Questionnaire for National Security positions, including any continuation and instruction sheets, such as SF-86A and the immigration addendum form;
- Ten Supplemental Questions for SF-86;
- FD-258, Federal Bureau of Investigation Fingerprint Card;
- PER 111, Request for Consumer Report Information; and
- PER 112, Internal Revenue Service Tax Check Waiver.

Upon completion, the forms should be returned to the Judicial Services Office.

7.2 Completing Background Reports

a. Judicial Conference Regulations

The person selected for appointment is subject to background reviews by the Federal Bureau of Investigation (FBI) and the Internal Revenue Service (IRS). These requirements are discussed in the Guide, Vol. 3, § 320.40.20.

b. Procedure Following Receipt of Reports

The FBI and IRS reports are normally completed in 12 to 14 weeks. Upon receipt, the AO sends the reports by overnight mail to the chief judge of the circuit court of appeals. A blank Form AO 79B (Appointment of United States Bankruptcy Judge) is included for the court of appeals' use.

Occasionally, the AO will receive a partial, or incomplete, investigation report from the FBI. The AO sends the partial report to the chief judge of the circuit court of appeals by overnight mail, with a notation that it is a partial report. When the FBI transmits the remaining portion of the report, the AO sends the material to the chief judge of the circuit court of appeals via overnight mail.

c. Appointment Following Completion of Reports

An appointment may not be made until the FBI and IRS reports are complete and received by the chief judge of the appointing circuit court of appeals. Once the chief judge has received and reviewed the complete FBI and IRS reports, the court may proceed with the appointment.

7.3 Order of Appointment and Oath of Office Forms

Upon the appointment of a new bankruptcy judge, the clerk of the circuit court of appeals should complete and submit to the Judicial Services Office the following documents:

- an original and a certified true copy of Form AO 79B (Appointment of United States Bankruptcy Judge), which includes the Oath of Office as United States Bankruptcy Judge; 28 U.S.C. § 453 and 5 U.S.C. §3331; and
- two certified true copies of the circuit court Order of Appointment; Guide, Vol. 3, § 320.40.40.

The Judicial Services Office will forward these forms to the Judges Compensation and Retirement Division for entry into the payroll system. A judge code will be promptly issued upon receipt of these forms.

7.4 ID Card

An ID card is automatically provided to newly appointed bankruptcy judges upon receipt of the appointment papers. Questions about ID cards may be directed to the clerk's office, or to the Judicial Services Office at (202) 502-1800.

Section 8: Disposition of Records

Upon the submission by the merit selection panel of the report, accompanying documents, and application materials on the recommended nominees to the judicial council of the circuit, the circuit executive is directed to retain the documents of all other applicants (i.e., all individual applicants not recommended by the panel) until the appointment of a bankruptcy judge. Immediately after a bankruptcy judge is appointed, the circuit executive should either return all materials to the respective applicants (but for the recommended nominees) or dispose of materials (i.e., shredding) in keeping with the confidentiality requirement of the Judicial Conference regulations. *Guide, Vol. 3, § 320.30.30*. The circuit executive is directed to retain the panel report and all material related to the recommended nominees as confidential records.

Section 9: Willingness to Accept Reappointment

Bankruptcy judges willing to accept reappointment should notify the chief judge of their circuit six to nine months before the end of their term. This does not preclude the court of appeals from requiring a bankruptcy judge to provide as much as twelve months written notification to the chief judge of the circuit of the bankruptcy judge's willingness to accept reappointment to the position. *Guide, Vol 3, § 320.50.10*.

If willing to accept reappointment, an incumbent bankruptcy judge under age 65 at the expiration of the term, should indicate that willingness by completing form PER-0074 (Notice of Willingness to Accept Reappointment). Under the Judicial Retirement System, a bankruptcy judge who voluntarily leaves office before age 65 is assessed a retirement penalty. If the incumbent bankruptcy judge is willing to accept reappointment but is not reappointed, the timely filing of the PER 74 form with the chief will meet the terms of 28 U.S.C. § 377(b) and prevent the assessment of the penalty.

Section 10: Holdover Periods

An incumbent bankruptcy judge may remain in office with approval of the judicial council of the circuit, up to 180 days after expiration of the term or the date of appointment of a successor, whichever is earlier. 28 U.S.C. § 152 (a)(1).

Section 11: Assistance Provided by the Judicial Services Office

The Judicial Services Office serves as the principal point of contact for addressing the needs and concerns of, and facilitating the prompt delivery of services to, bankruptcy judges and their staffs.

In that role, the office assists newly appointed bankruptcy judges with many of the administrative, procedural, and other questions that arise during the establishment of their offices. Shortly after a bankruptcy judge is selected, the office sends a welcome letter and indicates the availability of helpful materials to the new judge. Included are the following pamphlets:

- *Getting Started as a Federal Judge* (Judges Information Series No. 1). This publication is intended to address questions and concerns of new bankruptcy judges.
- *Retirement Benefits for Bankruptcy Judges and Magistrate Judges* (Judges Information Series No. 5). This publication provides a summary description and analysis of retirement, disability, and health and survivorship benefits for bankruptcy judges.

The Judicial Services Office also participates in an orientation program for new bankruptcy judges sponsored by the Federal Judicial Center.

A duty attorney is on-call during business hours to respond to inquiries from bankruptcy judges, court staff, and the public. The duty attorney provides a single point of contact in the AO for a wide range of issues and can assist courts with questions on the appointment process, bankruptcy judgeship applicants, chief judge issues, or judiciary policy. Direct questions on these topics and other areas of concern to the Judicial Services Office at (202) 502-1800.

Section 12: Additional Information on Appointment and Reappointment

The AO has prepared a booklet entitled *The Selection, Appointment and Reappointment of United States Bankruptcy Judges* (Judges Information Series No. 3) to assist the merit selection panels and the judicial councils as they carry out their responsibilities in the appointment process. It explains the statutes and regulations governing appointment and reappointment, suggests procedures that panels and councils may wish to follow, and contains sample notices and forms used in the process. The booklet is also available from the Judicial Services Office in hard copy.

Part C: Appointment and Reappointment of Magistrate Judges

<u>Section 13:</u>	<u>Designation, Appointment, and Vacancies</u>
<u>Section 14:</u>	<u>Judicial Conference Regulations</u>
<u>Section 15:</u>	<u>Submitting Forms, Background Reports, and Record of Appointment</u>
<u>Section 16:</u>	<u>Disposition of Records</u>
<u>Section 17:</u>	<u>Willingness to Accept Reappointment</u>
<u>Section 18:</u>	<u>Holdover Appointments</u>
<u>Section 19:</u>	<u>Judicial Services Office Assistance</u>
<u>Section 20:</u>	<u>Additional Information on Appointment and Reappointment</u>

Section 13: Designation, Appointment, and Vacancies

13.1 Designation

Magistrate judges are judicial officers of the United States district courts.

13.2 Appointment

The district judges of each district court appoint magistrate judges in the number and at the locations determined by the Judicial Conference. 28 U.S.C. § 631(a).

Appointments of full-time magistrate judges are for a term of eight years. Appointments of part-time magistrate judges are for a term of four years. 28 U.S.C. § 631(e). When a magistrate judge is appointed to an unexpired term, the appointment is for a new four-year or eight-year term, rather than the completion of the unexpired term.

13.3 Vacancies

All magistrate judge position vacancies are subject to review by the full Magistrate Judges Committee unless the committee chair decides, based on a recent survey of the relevant district, that the vacancy may be filled without full committee involvement. Chapter 6, Part C of this manual describes the process and timing of filling a magistrate judge vacancy.

When a magistrate judge retires, resigns, or dies before the end of the term, the AO's Judicial Services Office should be notified as soon as possible.

The procedure to fill a magistrate judge position vacancy begins when the court notifies

the Judicial Services Office of a current or upcoming vacancy and of its intention to fill the position. Once the court obtains approval from the circuit judicial council to fill the position, the full Magistrate Judges Committee or its chair determines whether the court may proceed to fill the vacancy.

The policy for reviewing magistrate judge position vacancies does not apply to reappointments of incumbents to additional terms.

Section 14: Judicial Conference Regulations

The district courts select magistrate judges under standards and procedures established by the Judicial Conference. 28 U.S.C. § 631(b)(5). The Conference has adopted regulations that address the appointment and reappointment of magistrate judges. The regulations are included in the *Guide to Judiciary Policy*. They include provisions that address:

- qualifications required for appointment as a magistrate judge Guide, Vol 3, § 420.10;
- publishing notice of magistrate judge position vacancies Guide, Vol 3, § 420.20;
- the creation, membership, and duties of “merit selection panels” that assist district courts by evaluating and recommending persons for appointment as magistrate judges Guide, Vol 3, § 420.30;
- the appointment by the district courts of qualified persons to magistrate judgeships Guide, Vol 3, § 420.40;
- the selection of part-time magistrate judges Guide, Vol 3, § 420.50; and
- the reappointment of magistrate judges Guide, Vol 3, § 420.60.

Section 15: Submitting Forms, Background Reports, and Record of Appointment

15.1 Completing Forms Following Selection

Soon after notification of selection, the Judicial Services Office sends the nominee the following forms:

- SF-86, Questionnaire for National Security Positions, including any continuation sheets, such as SF-86A;
- Ten Supplemental Questions for SF-86;
- Supplemental Instructions for Completing SF-86;
- FD-258, Federal Bureau of Investigation Fingerprint Card;

- PER 111, Request for Consumer Report Information; and
- PER 112, Internal Revenue Service Tax Check Waiver.

Upon completion, the nominee should return the forms to the Judicial Services Office.

15.2 Completing of Background Reports

a. Conference Regulations

The selectee is subject to background reviews by the Federal Bureau of Investigation and the Internal Revenue Service. These requirements are discussed in the Guide, Vol 3, § 420.40.20.

b. Procedure Following Receipt of Reports

The FBI and IRS normally complete their reports in 12 to 14 weeks. Upon receipt, the AO sends the reports by overnight mail to the chief judge of the district court with form AO 79A (Appointment of United States Magistrate Judge).

Occasionally, the FBI will transmit a partial, or incomplete, investigation report. When the AO receives such a report, the Judicial Services Office sends it by overnight mail to the chief judge of the district court. When the FBI transmits the final, completed report, the Judicial Services Office sends it to the chief judge either by overnight mail or by email as soon as the Judicial Services Office receives it.

c. Appointment Following Completion of Reports

An appointment may not be made until the FBI report is complete and the chief judge of the appointing district court receives it. Once the chief judge has received and reviewed the complete FBI and IRS reports and the position is funded, the court may proceed with the appointment.

In the relatively rare instance where the IRS report has not been completed in a timely manner, the court may waive that report, provided it has taken steps to verify that the nominee has properly filed tax returns. The FBI report may not be waived.

15.3 Order of Appointment and Oath of Office Forms

The clerk of the district court should complete and submit the following documents to the Judicial Services Office upon the appointment of a new magistrate judge:

- The original of Form AO 79A (Appointment of United States Magistrate Judge). This form includes the Oath of Office as United States Magistrate Judge. 28 U.S.C. § 453 and 5 U.S.C. § 3331; and
- One copy of the district court Order of Appointment. Guide, Vol 3, § 420.40.30.

The Judicial Services Office will forward these forms to the Judges Compensation and Retirement Division for entry into the payroll system. Under the AO's automated payroll system, all paperwork must be received in advance of the payroll deadline date for a new magistrate judge to be paid timely for that month.

15.4 ID Card

Newly appointed magistrate judges automatically receive an ID card after submission of the appointment papers. Questions about ID cards may be directed to the clerk's office or to the Judicial Services Office at (202) 502-1800.

Section 16: Disposition of Records

Immediately after a magistrate judge's appointment, the chair of the merit selection panel should either return all materials to the respective applicants or dispose of materials (i.e., by shredding) in keeping with the confidentiality requirement of the Judicial Conference regulations. Guide, Vol. 3, § 420.30.30(b).

Section 17: Willingness to Accept Reappointment

Magistrate judges willing to accept reappointment should notify the chief judge of their court six to nine months before the end of their term. Full-time magistrate judges who will be under age 65 at the expiration of a term should indicate a willingness to accept reappointment by completing a Form PER 74 (Notice of Willingness to Accept Reappointment). Under the Judicial Retirement System, a magistrate judge who voluntarily leaves office before age 65 is assessed a retirement penalty. If the incumbent magistrate judge is willing to accept reappointment but is not reappointed, the timely filing of the PER 74 form with the chief will meet the terms of

28 U.S.C. § 377(b) and prevent the assessment of the penalty.

Section 18: Holdover Appointments

The appointing court may extend a magistrate judge in office beyond the expiration of the term of office, by a majority vote of the judges of the appointing district court and with the approval of the judicial council, until a successor is appointed or for 180 days after the date of the expiration of the magistrate judge's term, whichever is earlier.

28 U.S.C. § 631(f).

Section 19: Judicial Services Office Assistance

The Judicial Services Office serves as the principal focal point for addressing the needs of and facilitating the prompt delivery of services to magistrate judges and their staffs.

In that role, the office assists newly selected magistrate judges with many of the administrative, procedural, and other questions that arise during the establishment of their offices. Shortly after a magistrate judge is selected, the office sends a package of helpful materials to the new judge. Included in the materials are the following pamphlets:

- Getting Started as a Federal Judge (Judges Information Series No. 1). This publication is intended to address questions and concerns often posed by new magistrate judges; and
- Retirement Benefits for Bankruptcy Judges and Magistrate Judges (Judges Information Series No. 5). This publication provides a summary description and analysis of retirement, disability, and health and survivorship benefits for magistrate judges.

The Judicial Services Office also participates in an orientation program for new magistrate judges sponsored by the Federal Judicial Center.

A duty attorney is on-call during business hours to respond to inquiries from magistrate judges, court staff, and the public. The duty attorney provides a single point of contact in the AO for a wide range of issues and can assist courts with questions on the appointment process, magistrate judge applicants, or judiciary policy. Direct questions on these topics or other areas of concern to the Judicial Services Office at (202) 502-1800.

Section 20: Additional Information on Appointment and Reappointment

The AO has published a booklet entitled *The Selection, Appointment, and Reappointment of United States Magistrate Judges* (Judges Information Series No. 2), which has been approved by the Judicial Conference Committee on the Administration of the Magistrate Judges System.

The booklet serves as a guide to assist the district courts and members of merit selection panels in selecting and appointing magistrate judges. It is designed to familiarize panel members with the role of magistrate judges in the federal court system, to explain the laws and regulations that govern the selection of magistrate judges, and to suggest procedures the panel might wish to follow in performing its duties. Included in the publication is a “Time Line For Reappointment of Magistrate Judges” that has been approved by the Magistrate Judges Committee as a guide for district courts, as well as a number of sample forms and notices used in the application process. The booklet is also available from the Judicial Services Office in hard copy.

Guide to Judiciary Policy

Vol 3: Judges

Ch 2: Appointment of Article III Judges

§ 210 Overview

§ 210.10 Selection, Nomination and Appointment Process

§ 220 Appointment Paperwork

§ 220.10 Forms

§ 230 Oath of Office

§ 230.10 Administering the Oath of Office

§ 230.20 Public Requests for Copies of Judge's Oath of Office

§ 210 Overview

- (a) Article III judges include justices of the United States Supreme Court and judges of the U.S. courts of appeals, the U.S. district courts, and the U.S. Court of International Trade. They are appointed under Article III of the Constitution and are entitled to hold office “during good Behaviour,” effectively for life.
- (b) A vacancy in an Article III judgeship is created by the death, disability, elevation, impeachment, resignation, or retirement of a judge of one of these courts. From time to time, Congress also creates additional judgeships for these courts.

§ 210.10 Selection, Nomination and Appointment Process

The judiciary does not play a role in the recruitment, selection, nomination, or appointment process for Article III judges. Under the Constitution, Article III judges are appointed by the President with the advice and consent of the Senate. The President signs a commission to appoint an individual as a “judge of the United States,” as defined in 28 U.S.C. § 451.

§ 220 Appointment Paperwork

§ 220.10 Forms

- (a) After a nominee has been confirmed and the President has signed the commission, the Department of Justice will send the new judge a package of forms that includes the oath of office, an appointment affidavit, and a “declaration of appointee” form.
- (b) Once these forms are executed, the judge should return the originals to the Judges Compensation and Retirement Division (JCRD) of the Human Resources Office at the Administrative Office of the U.S. Courts (AO) at the following address:

Judges Compensation and Retirement Division
Administrative Office of the U.S. Courts
Thurgood Marshall Federal Judiciary Building
One Columbus Circle, N.E.
Washington, DC 20544
- (c) JCRD must receive the executed oath of office before a judge can be placed on the judiciary payroll. **Note:** To expedite payroll processing, a copy of the oath of office should be sent, via email, to: AOdb_JCRSO/DCA/AO/USCOURTS. New judges should also advise JCRD of the proper mailing address for official mail.
- (d) Certified copies of the appointment forms must also be sent to the Department of Justice.

§ 220.20 [Reserved]

§ 230 Oath of Office

- (a) Every federal judge must take the statutory oath of office before exercising the judicial authority of the United States.
- (b) The oath is a combination of the judicial oath of office required of every justice and judge of the United States under 28 U.S.C. § 453, and the general oath administered to all federal government officials, set forth in 5 U.S.C. § 3331.

I, [INSERT FEDERAL JUDGE’S NAME], do solemnly swear (or affirm) that I will administer justice without respect to persons, and

do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all duties incumbent upon me as [INSERT OFFICE] under the Constitution and laws of the United States; and that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

§ 230.10 Administering the Oath of Office

The oath of office may be administered by any official authorized by federal or state law to administer oaths and affirmations, including a justice or judge of the United States. New judges should consult with the chief judge of the court for any local court traditions and to select an appropriate individual to administer the oath.

§ 230.20 Public Requests for Copies of Judge's Oath of Office

- (a) It is the formal policy of the AO — endorsed by the Judicial Branch Committee of the Judicial Conference — not to release a copy of a particular judge's signed oath of office in response to public requests for such a document. Instead, JCRD will send the requester a standard response letter confirming that the judge took the oath, the date the oath was taken, and the court to which the judge was appointed.
- (b) Requests for the executed oath of office of a judge's staff member will be treated the same as requests for a judge's oath with appropriate revisions to the response letter. The affected judge or staff member will be sent a copy of the response letter.

Guide to Judiciary Policy

Vol 3: Judges

Ch 3: Selection, Appointment, and Reappointment of Bankruptcy Judges

§ 310 Overview

§ 320 Judicial Conference Regulations

§ 320.10 Qualifications of U.S. Bankruptcy Judges

§ 320.20 Public Notice of Bankruptcy Judgeship Vacancies

§ 320.30 Merit Selection Panel

§ 320.40 Selection of Nominees and Appointment of U.S. Bankruptcy Judges

§ 320.50 Reappointment of U.S. Bankruptcy Judges

§ 330 Bankruptcy Judicial Vacancy Notification

§ 310 Overview

- (a) Bankruptcy judges are appointed to 14-year terms of office by the courts of appeals of their respective circuits. **See:** 28 U.S.C. § 152(a). The judicial councils of the circuits assist by evaluating potential nominees and recommending qualified candidates to the courts of appeals under regulations prescribed by the Judicial Conference. **See:** § 120 of the Bankruptcy Amendments and Federal Judgeship Act of 1984, as amended by Pub. L. No. 99-554 (1986) and Pub. L. No. 104-317 (1996).
- (b) To implement the Bankruptcy Amendments and Federal Judgeship Act of 1984, the Judicial Conference promulgated regulations for selecting and appointing bankruptcy judges at its September 1984 session (JCUS-SEP 84, pp. 70-71). It later amended the regulations in 1985 (JCUS-MAR 85, pp. 22-23); 1988 (JCUS-SEP 88, pp. 60-61); 1996 (JCUS-MAR 96, p. 11); 1997 (JCUS-MAR 97, p. 13); 2000 (JCUS-SEP 00, pp. 43-44); 2001 (JCUS-MAR 01, pp. 9-10); and in both 2006 sessions (JCUS-MAR 06, pp. 9-10); (JCUS-SEP 06, p. 8). At the September 2000 session, the Conference revised the introductory provision to the regulations as follows:

Bankruptcy judges exercise highly important judicial powers and responsibilities as officers of the U.S. district courts. It

is therefore imperative that only highly qualified individuals be selected as bankruptcy judges. To that end, and in accordance with §§ 120(a) and (b) of the Bankruptcy Amendments and Federal Judgeship Act of 1984, as amended by § 303 of the Federal Courts Improvement Act of 1996, the following regulations for the selection, appointment, and reappointment of bankruptcy judges are promulgated by the Judicial Conference of the United States. These regulations set forth procedural guidelines that create no vested rights for any incumbent or prospective bankruptcy judge. (JCUS-SEP 00, pp. 43-44).

- (c) In 1996, separate from the appointment regulations and as part of the bankruptcy judicial resource survey process, the Judicial Conference adopted a policy to require notification prior to filling a bankruptcy judgeship vacancy. (JCUS-SEP 96, pp. 50-51).

§ 320 Judicial Conference Regulations

§ 320.10 Qualifications of U.S. Bankruptcy Judges

§ 320.10.10 Minimum Qualifications

To be qualified for appointment as U.S. bankruptcy judges, nominees must meet the following standards:

- (a) They must be members in good standing of the bar of the highest court of at least one state, the District of Columbia, or the Commonwealth of Puerto Rico, and members in good standing of every other bar of which they are members.
- (b) They must:
 - (1) possess, and have a reputation for, integrity and good character;
 - (2) possess, and have demonstrated, a commitment to equal justice under the law;
 - (3) possess, and have demonstrated, outstanding legal ability and competence;
 - (4) indicate by their demeanor, character, and personality that they would exhibit judicial temperament if appointed or reappointed; and

- (5) be of sound physical and mental health sufficient to perform the essential duties of the office.
- (c) They must not be related by blood or marriage to a judge of the appointing court of appeals or judicial council of that circuit, or to a judge of the district court to be served, within the degrees specified in 28 U.S.C. § 458, at the time of the initial appointment.

§ 320.10.20 Additional Qualifications

- (a) Unless the council determines that special conditions exist, they must have been engaged in the active practice of law for a period of at least five years. The judicial council may consider as substitute experience for the active practice of law the following, including any combination thereof:
 - (1) Judge of a state court of record or other state judicial officer;
 - (2) U.S. magistrate judge, referee in bankruptcy, bankruptcy judge, or other federal judicial officer;
 - (3) Attorney for federal or state agencies;
 - (4) Law clerk to any judge or judicial officer (limited to two years); or
 - (5) Other legal experience which is suitable as a substitute in the opinion of the majority of the judicial council.
- (b) A judicial council may establish additional qualification standards appropriate for a particular position, taking into account the specific responsibilities anticipated for that position.

§ 320.20 Public Notice of Bankruptcy Judgeship Vacancies

§ 320.20.10 Publication

Prior to the selection of nominees, public notice of the vacancy shall be published in sources that will reach a wide audience of qualified applicants. These sources may include, but are not limited to the following:

- a general local newspaper or similar publication;
- a bar journal, newsletter, or local legal periodical;
- bar association web sites;
- government web sites; and
- other resources relied upon by legal professionals.

§ 320.20.20 Contents of Notice

The public notice shall describe the nature of the position and the procedures for submission of applications, including the name and address of the person to whom applications should be submitted. The notice should specify that applications are to be submitted only by the potential nominee personally, indicating the person's willingness to serve if selected.

§ 320.20.30 Filing of Notice

The public notice shall be filed and posted in the offices of the clerk of the court of appeals, the clerk of the district court, and the bankruptcy clerk, and a copy of the notice shall be provided to the Director of the Administrative Office at the time an appointment is made.

§ 320.30 Merit Selection Panel

§ 320.30.10 Establishment of Panel

Before nominations are made, the council may appoint a merit selection panel which shall recommend for nomination individuals whose character, experience, ability, and commitment to equal justice under the law fully qualify them to serve as U.S. bankruptcy judges. The council may authorize the chief judge of the circuit to appoint panels under this section.

§ 320.30.20 Membership

- (a) The panel shall be composed of a chairman and other members appointed by majority vote of the judicial council. The panel shall have no fewer than three members, including the chairman.
- (b) Members of the panel shall receive no compensation for their service, but may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law.
- (c) Each member of the panel shall be a resident of the circuit within which the appointment is to be made.
- (d) No person shall be considered as a nominee while serving as a member of the panel or for a period of one year after completion of such service.

§ 320.30.30 Duties

- (a) The chairman shall have such duties as the judicial council may assign.

- (b) All information made available to the members of the panel in the performance of their duties, including the names of potential nominees and the identities of individuals recommended by the panel, shall be kept in strict confidence except as provided in § 320.30.40 of these regulations.
- (c) Decisions of the panel shall be by majority vote of all the members.
- (d) The panel shall examine the applications of all potential nominees and may, in its discretion, personally interview potential nominees. The panel shall make an affirmative effort to identify and give due consideration to all qualified candidates, without regard to race, color, age (over 40), gender, religion, national origin, or disability.
- (e) The panel shall determine those individuals among the potential nominees who meet all of the standards set forth by these regulations for appointment as U.S. bankruptcy judges and shall designate those individuals whom the panel considers best qualified.
- (f) The panel shall submit a report to the council as provided in the following section.

§ 320.30.40 Panel Report

The panel shall within ninety days after its creation report to the judicial council the results of its activities, unless otherwise directed. The report of the panel shall specify five to ten persons the panel has determined as best qualified and shall have attached to it all written information received by or prepared by the panel concerning the recommended nominees. The council may accept a list containing fewer than five names for good cause shown by the panel in its report.

§ 320.30.50 Alternative to Panel

If the council does not appoint a panel under § 320.30.10, the council or a subcommittee of the members of the council may perform the duties set forth in § 320.30.30.

§ 320.40 Selection of Nominees and Appointment of U.S. Bankruptcy Judges

§ 320.40.10 Selection of Nominees

The judicial council shall submit a list of at least three nominees to the court of appeals unless otherwise directed by the court. The council shall select nominees from the list provided by the panel. However, a judicial council may, by majority vote, reject the first list submitted by the panel. The judicial council may require that the finalists selected

complete a preliminary disclosure statement prior to the list being forwarded to the court of appeals. The disclosure statement shall be filed with the judicial council in such manner as it may direct and it shall be considered confidential. If such a list is rejected, the panel shall submit a second list from which the judicial council shall then select its nominees. If a panel is not appointed under § 320.30.10, the judicial council shall select its nominees from the applicants for the position.

§ 320.40.20 FBI and IRS Reports

The name of the person selected by the court of appeals for appointment shall be submitted to the Director of the Administrative Office, who shall request background reports by the Federal Bureau of Investigation (FBI) and the Internal Revenue Service (IRS). However, if the nominee has been the subject of such reports prior to appointment to the present position, the requirement for further background reports may be waived on request by the court of appeals.

§ 320.40.30 Filing of Preliminary Disclosure Statement by Nominee

A nominee for a bankruptcy judgeship may be required by the court of appeals to complete a preliminary disclosure statement after being selected for appointment by the court of appeals and prior to preparation of the background reports by the FBI and IRS. The disclosure statement shall be filed with the court of appeals in such manner as it may direct and it shall be considered confidential.

§ 320.40.40 Order of Appointment

An order of appointment may be issued by the court of appeals following receipt by the court of the information obtained from the FBI and IRS. If in the judgment of the court the IRS report has not been completed in a timely manner, it may waive the report provided that it has taken steps to insure itself that the nominee has filed returns as required.

§ 320.40.50 Oath of Office

The appointee shall, prior to entering on duty, take the oath or affirmation prescribed by 28 U.S.C. § 453, as well as the constitutional oath of office prescribed by 5 U.S.C. § 3331.

§ 320.40.60 Record of Appointment

The appointment of the bankruptcy judge shall be entered of record in the court of appeals and the pertinent district court or courts, and notice of such appointment shall be given at once by the clerk of the court of appeals to the Director of the Administrative Office.

§ 320.50 Reappointment of U.S. Bankruptcy Judges

§ 320.50.10 Methods

- (a) Pursuant to the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988, not earlier than nine months and not later than six months before the date on which the term of a bankruptcy judge expires, a bankruptcy judge who is willing to accept reappointment shall provide written notification of willingness in official forms to the chief judge of the circuit. This does not preclude the court of appeals from requiring a bankruptcy judge to provide as much as twelve months written notification to the chief judge of the circuit of such bankruptcy judge's willingness to accept reappointment to the position.
- (b) The court of appeals shall decide whether or not to reappoint the incumbent judge before considering other potentially qualified candidates. In making this decision, the court of appeals shall take into consideration the professional and career status of the incumbent, and whether the incumbent has performed the duties of a bankruptcy judge according to the high standards of performance regularly met by U.S. bankruptcy judges and demonstrated those characteristics and qualifications specified in § 320.10.10 and § 320.10.20(b) of these regulations.

§ 320.50.20 Procedures for Soliciting Public Comment

- (a) Public Notice

Within 60 days of the notification of the incumbent's willingness to accept reappointment pursuant to § 320.50.10(a), the circuit executive shall cause to be published a public notice in sources that will reach a wide audience of persons qualified to comment. These sources may include, but are not limited to the following: a general local newspaper or similar publication; a bar journal, newsletter, or local legal periodical; bar association web sites; government web sites; and other resources relied upon by legal professionals. The notice shall state that the court of appeals is considering the reappointment of the incumbent bankruptcy judge to a new term of office. The notice shall describe the duties of the position, state the date of expiration of the incumbent's current term of office, and invite comments from members of the bar and public. The comment period shall not exceed 45 days. The notice shall include the name and address of the circuit executive to whom comments shall be submitted. A copy of the notice shall be filed and posted in the office of the clerk of the bankruptcy court and a copy shall be provided to the Director of the Administrative Office.

(b) Public Comments

No later than 10 days after the deadline for submission of comments from members of the bar and public, the circuit executive shall submit such comments to the court of appeals.

§ 320.50.30 Decision of the Court of Appeals

- (a) Not later than 60 days after the court of appeals receives from the circuit executive the comments of the members of the bar and public, and after due consideration of those comments, the active judges of the court of appeals shall vote whether to reappoint the incumbent.
- (b) If a majority of the active judges of the court of appeals votes to reappoint the incumbent, the incumbent shall be reappointed.
- (c) If a majority of the active judges of the court of appeals votes not to reappoint the incumbent, the incumbent shall not be reappointed. The court shall so notify the incumbent and proceed with the selection procedures prescribed in § 320.10, § 320.20, § 320.30, and § 320.40 of these regulations. The incumbent shall not be considered for appointment under the selection procedures set forth in § 320.10, § 320.20, § 320.30, and § 320.40 of these regulations.
- (d) Whenever a majority of the active judges of the court of appeals cannot agree upon the reappointment of an incumbent bankruptcy judge pursuant to section § 320.50.30(b) or (c), the chief judge of such court shall make that decision. If, in the exercise of such authority, the chief judge should decide not to reappoint the incumbent, the court shall follow the applicable procedures set forth in § 320.50.30(c) of these regulations.

§ 320.50.40 Extension of Time Periods

In appropriate cases the chief judge of the court of appeals may determine to extend any of the time periods stipulated in this chapter by not more than 45 days. If the chief judge extends any time periods, the judge whose reappointment is affected by such extension shall be notified. The extension of time periods does not preclude the court from using the provision of 28 U.S.C. § 152(a)(1), which permits a bankruptcy judge, with the approval of the circuit judicial council, to continue to perform the duties of the office until the earlier of the date that is 180 days after the expiration of the term or the date of the appointment of a successor.

§ 320.50.50 Order of Appointment

Upon the reappointment of an incumbent bankruptcy judge, an order of appointment shall be issued by the court of appeals.

§ 320.50.60 Oath of Office

Upon the reappointment of an incumbent bankruptcy judge, the reappointee shall take the judicial oath or affirmation prescribed by 28 U.S.C. § 453, as well as the constitutional oath of office prescribed by 5 U.S.C. § 3331.

§ 320.50.70 Record of Appointment

Upon the reappointment of an incumbent bankruptcy judge, the reappointment shall be entered of record in the court of appeals and the pertinent district court or courts, and notice of such reappointment shall be given at once by the clerk of the court of appeals to the Director of the Administrative Office.

§ 330 Bankruptcy Judicial Vacancy Notification

Prior to initiating the process for filling a bankruptcy judgeship, the chief judge for the circuit, or the circuit executive by designation, must notify the Judicial Conference Committee on the Administration of the Bankruptcy System and the Administrative Office that the court of appeals for the circuit is considering whether to fill a vacant bankruptcy judgeship so that relevant, up-to-date data can be provided to facilitate the court's decision.

Guide to Judiciary Policy

Vol 3: Judges

Ch 4: Selection, Appointment, and Reappointment of Magistrate Judges

§ 410 Overview

§ 420 Judicial Conference Regulations

§ 420.10 Qualifications of United States Magistrate Judges

§ 420.20 Public Notice

§ 420.30 Merit Selection Panel

§ 420.40 New Appointments of Magistrate Judges

§ 420.50 Selection of Part-Time Magistrate Judges

§ 420.60 Reappointment of Magistrate Judges

§ 420.70 Appointments to Combination Positions

§ 410 Overview

- (a) The judges of each district court appoint magistrate judges in the number and at the locations determined by the Judicial Conference. **See:** 28 U.S.C. § 631(a). Magistrate judges must be selected by the district courts under standards and procedures promulgated by the Judicial Conference. **See:** 28 U.S.C. § 631(b)(5).
- (b) The Judicial Conference regulations establishing the standards and procedures for appointing and reappointing magistrate judges were first promulgated at the Conference's 1980 session (JCUS-MAR 80, p. 32). The Conference later amended the regulations at its 1981 (JCUS-MAR 81, p. 29), 1982 (JCUS-SEP 82, pp. 93-94), 1986 (JCUS-SEP 86, p. 77), 1992 (JCUS-SEP 92, p. 75), 1996 (JCUS-MAR 96, p. 30), 1997 (JCUS-MAR 97, p. 29), 1998 (JCUS-SEP 98, p. 82), 1999 (JCUS-MAR 99, p. 29), 2000 (JCUS-SEP 00, p. 60), 2001 (JCUS-SEP/OCT 01, p. 65), 2004 (JCUS-MAR 04, p. 23), 2006 (JCUS-SEP 06, p. 29), 2007 (JCUS-SEP 07, p. 29), 2008 (JCUS-MAR 08, p. 23 and JCUS-SEP 08, pp. 29-30), 2009 (JCUS-SEP 09, p. 25), 2010 (JCUS-MAR 10, pp. 21-22), 2011 (JCUS-MAR 11, pp. 30-31), and 2013 (JCUS-SEP 13, p. 29) sessions.
- (c) Full-time magistrate judges are appointed to 8-year terms of office by the judges of each respective United States district court. **See:** 28 U.S.C.

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§ 631(e). Part-time magistrate judges are appointed to 4-year terms of office by the judges of the court. **See:** 28 U.S.C. § 631(e). The selection and reappointment regulations refer in several places to the actions of a majority vote of the district judges. The Federal Judiciary Administrative Improvements Act of 2010 amended Title 28, United States Code, section 631(a) by repealing section 504 of the Court Security Improvement Act of 2007. This solved a conflict regarding which senior judges can vote on magistrate judge appointments. Now, under 28 U.S.C. § 296, those senior judges with a 50 percent workload may participate in court governance activities generally, including magistrate judge appointments.

- (d) The Judicial Conference accordingly adopted the following introductory instruction to the selection and appointment regulations at its March 2011 session (JCUS-MAR 11, p. 30):

References to district judges in § 420.30.10, § 420.30.20(a), § 420.40.10, § 420.60.20, and § 420.60.30(c) of these regulations include all active district judges and those senior judges who performed in the preceding calendar year an amount of work equal to or greater than the amount of work an average judge in active service on that court would perform in six months, and who elect to exercise such powers.

§ 420 Judicial Conference Regulations

§ 420.10 Qualifications of United States Magistrate Judges

§ 420.10.10 Minimum Qualifications

To be qualified for appointment or reappointment as a U.S. magistrate judge, a person must:

- (a) Be, and have been for at least five years, a member in good standing of the bar of the highest court of a State, the District of Columbia, the Commonwealth of Puerto Rico, the Territory of Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States.
- (b) Have been engaged in the active practice of law for a period of at least five years. The court may consider as substitute experience for the active practice of law the following, including any combination thereof:
- (1) Judge of a state court of record or other state judicial officer.

- (2) U.S. magistrate judge, bankruptcy judge, or other federal judicial officer.
 - (3) Attorney for federal or state agencies.
 - (4) No more than two years as a law clerk to any judge or judicial officer or as a staff attorney or pro se law clerk in a court.
 - (5) Other types of substantial legal experience (subsequent to receipt of a law degree or license to practice law), not included in (1) through (4) above, which is suitable as a substitute in the opinion of the majority of the court.
- (c) Be competent to perform the duties of the office, of good moral character, emotionally stable and mature, committed to equal justice under the law, in good health, patient, courteous, and capable of deliberation and decisiveness when required to act on his or her own reason and judgment.
 - (d) Not be related by blood or marriage to a judge of the appointing court or courts, within the degrees specified in 28 U.S.C. § 458, at the time of the initial appointment.
 - (e) In the case of an initial appointment, not be seventy years of age or older.

[**Note:** For information on continuation and reappointment of magistrate judges upon attaining age 70, **see:** 28 U.S.C. § 631(d).]

§ 420.10.20 Additional Qualifications

A district court may establish additional qualification standards appropriate for a particular magistrate judge position, taking into account the specific responsibilities anticipated for that position. In no event, however, may the additional qualification standards be inconsistent with the court's policy as an equal opportunity employer.

§ 420.20 Public Notice

§ 420.20.10 Publication

Before the selection of a magistrate judge, whether a new appointment or a reappointment, a public notice must be published in sources that will reach a wide audience of qualified applicants. These sources may include, but are not limited to, the following: a general local newspaper; a widely circulated local legal periodical; bar association web sites; government web sites; and other resources relied upon by legal

professionals. To encourage applications from all qualified individuals, the court is encouraged to transmit the public notice to state and local bar associations and interest groups that focus on women and minorities. The court should also consider utilizing national publications and the judiciary's JNet Job Vacancies site.

§ 420.20.20 Contents of Notice

Except as provided in § 420.60.30, the public announcement must describe the duties of the position, the pertinent qualification standards, and the procedures for submission of applications, including the name and address of the person to whom applications should be submitted. The notice should specify that applications are to be submitted only by the applicant personally, indicating the person's willingness to serve if selected.

§ 420.20.30 Filing of Notice

The public notice must be filed and posted in the office of the clerk of court and a copy must be provided to the Director of the Administrative Office.

§ 420.30 Merit Selection Panel

§ 420.30.10 Establishment of Panel

Before the appointment or reappointment of a U.S. magistrate judge, the court, by majority vote of the district judges, must appoint a merit selection panel which will recommend to the court for consideration individuals whose character, experience, ability, and commitment to equal justice under the law fully qualify them to serve as a U.S. magistrate judge. The panel must be established by an order of the court specifying the names of the members, whether each is a lawyer or a nonlawyer, and the effective date of the panel's appointment. A copy of the court's order appointing the merit selection panel must be submitted to the Director of the Administrative Office at the time the order is entered and prior to any action by the panel. (For information on the participation of senior judges in the appointment of magistrate judges, **see**: § 410(c) and (d).)

§ 420.30.20 Membership

- (a) The panel must be composed of a chairperson and other members appointed by majority vote of the district judges of the court. The panel must have no fewer than seven members, including the chairperson. (For information on the participation of senior judges in the appointment of magistrate judges, **see**: § 410(c) and (d).)

- (b) Members of the panel may receive no compensation for their service, but may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law.
- (c) The panel must consist of lawyers and other members of the community. At least two members of the panel must be non-lawyers. Each member of the panel must be a resident of the district within which the appointment is to be made, or, if a nonresident, have significant ties to the community of the district. No active, senior, or recalled federal judge, retired Article III judge, or other district court officer or district court employee may be appointed as a member of the panel. This prohibition does not preclude U.S. attorneys and assistant U.S. attorneys, and federal defenders and assistant federal defenders from serving on the panel.
- (d) One year must elapse between the earlier of when a former merit selection panel submitted its report to the court or when the member of that panel now seeking a position resigned, and the date by which applications for a subsequent vacancy are due to be submitted to the court, for that former panel member to be considered for the subsequent magistrate judge position. The Committee on the Administration of the Magistrate Judges System is authorized to grant waivers to this provision on an individual case basis.
- (e) To further efforts to achieve diversity in all aspects of the magistrate judge selection process, the court is encouraged to appoint a diverse merit selection panel.

§ 420.30.30 Duties

- (a) The chairperson will have such duties as the court may assign.
- (b) Except as provided in § 420.30.40 of these regulations, all information made available to the members of the panel in the performance of their duties, including the names of applicants and the identities of individuals recommended by the panel, must be kept in strict confidence by the panel and the court, provided, however, that applicants may, upon request, waive the confidentiality requirements to allow the court or the panel to publicize the applicants' names in order to solicit comments from the bar and the public.
- (c) Decisions of the panel must be by majority vote of all the members.
- (d) The panel must examine all applications and may, in its discretion, personally interview applicants. The panel must make an affirmative effort

to identify and give due consideration to all qualified applicants without regard to race, color, age (40 and over), gender, religion, national origin, or disability.

- (e) The panel must determine, from among the applicants, those individuals who meet all of the standards set forth by these regulations for appointment as a U.S. magistrate judge, and must designate those individuals whom the panel considers best qualified.
- (f) The panel must submit a report to the court as provided in the following section.

§ 420.30.40 Panel Report

If an appointment is to be made to a vacant or newly created position, the panel must report to the court the results of its activities within 90 days after its creation unless otherwise directed by the court. The report of the panel must specify the five applicants the panel has determined as best qualified and have attached to it all written information received by or prepared by the panel concerning the recommended applicants. The court may accept a list containing fewer than five names for good cause shown by the panel in its report.

§ 420.40 New Appointments of Magistrate Judges

§ 420.40.10 Selection from List and Majority Decision of Judges

The district judges must select from the list provided by the panel. However, if no applicant receives a majority vote of the district judges, the court must request a second list of five names. The court is then free to select from either list. If, again, no applicant receives a majority vote, the chief judge must make the selection for the court from either list. (For information on the participation of senior judges in the appointment of magistrate judges, see: § 410(c) and (d).)

§ 420.40.20 FBI and IRS Reports

The name of the person selected by the court for appointment to either a full-time or a part-time magistrate judge position must be submitted to the Director of the Administrative Office, who must request full-field background reports, with a 15-year scope, by the Federal Bureau of Investigation (FBI) and background reports by the Internal Revenue Service (IRS). A part-time magistrate judge, who was the subject of a full-field FBI investigation before appointment to the part-time position, is required to undergo a second full-field investigation before appointment to a full-time position. The Committee on the Administration of the Magistrate Judges System is authorized to grant waivers under this section, on an individual case basis, in circumstances involving

high turnover and recruitment problems due to isolated locations of certain part-time magistrate judge positions.

§ 420.40.30 Order of Appointment

An order of appointment may be issued by the district court following receipt by the court of the information obtained from the FBI and the IRS. If in the judgment of the court the IRS report has not been completed in a timely manner, it may waive the report provided that it has taken steps to ensure that the applicant selected by the court for appointment has filed returns as required.

§ 420.40.40 Oath of Office

The appointee must, prior to entering on duty as magistrate judge, take the oath or affirmation prescribed by 28 U.S.C. § 453, and the constitutional oath prescribed by 5 U.S.C. § 3331.

§ 420.40.50 Record of Appointment

The appointment of a magistrate judge must be entered of record in the district court, and notice of such appointment must be given at once by the clerk of that court to the Director of the Administrative Office.

§ 420.50 Selection of Part-Time Magistrate Judges

§ 420.50.10 Alternative Procedures

The provisions of §§ 420.10 through 420.40 of these regulations will apply to the selection and appointment of a part-time magistrate judge; except that, in the case of the appointment of a part-time magistrate judge whose authorized annual salary is less than one-third of the maximum salary authorized for a full-time magistrate judge:

- (a) The court may, in lieu of the requirements of § 420.30.20 concerning the membership of merit selection panels, appoint a panel of less than seven members, but not less than three members. The panel must be established by an order of the court specifying the names of the members, whether each is a lawyer or a nonlawyer, and the effective date of the panel's appointment. A copy of the court's order appointing the merit selection panel must be submitted to the Director of the Administrative Office at the time the order is entered and prior to any action by the panel. Federal judges, including circuit judges, senior, retired, and recalled judges, and other district court officers or district court employees may serve on the panel, although at least two members of the panel must be from outside the federal judiciary.

- (b) The court may, in lieu of the requirement of § 420.30.40 that the panel submit to the court a list of five names, authorize the panel to determine the size of the list submitted to the court.
- (c) The court may waive the bar membership requirements of § 420.10.10 if the appointing court and the Judicial Conference have determined that no qualified individual who is a member of the bar is available to serve at a specific location as provided in 28 U.S.C. § 631(b)(1).

§ 420.60 Reappointment of Magistrate Judges

§ 420.60.10 Qualifications

The provisions of § 420.10 of these regulations apply to the reappointment of U.S. magistrate judges, except that the court may waive the bar membership requirement of § 420.10.10 for the reappointment of a part-time magistrate judge as provided in 28 U.S.C. § 631(b)(1).

§ 420.60.20 Alternative Selection Methods

Before the expiration of an incumbent magistrate judge's term of office, the court must determine, by majority vote of the district judges, whether it wishes to consider the reappointment of the incumbent. In the event that there is no concurrence of a majority of the judges of the court, the chief judge must make the determination, as provided in 28 U.S.C. § 631(a). (For information on the participation of senior judges in the appointment of magistrate judges, **see**: 28 U.S.C. § 296; Guide, Vol 3, § 410(c) and (d).) The court should give due consideration to the professional and career status of the position of U.S. magistrate judge.

- (a) If the court determines not to reappoint the incumbent, it must so notify the incumbent and must follow the initial selection procedures set forth in §§ 420.20 through 420.50 of these regulations. Under these procedures, no comments may be sought on the incumbent magistrate judge's performance or reappointment, and the incumbent magistrate judge may not apply for the position.
- (b) If the court desires to consider the reappointment of the incumbent, it must follow the selection procedures set forth in § 420.60.30 of these regulations.

§ 420.60.30 Procedures

If the court desires to consider the reappointment of an incumbent magistrate judge, it must follow the procedures in this section:

(a) Public Notice

The court must cause to be published a public notice stating that it is required by law to establish a panel of citizens to consider the reappointment of the incumbent magistrate judge to a new term of office. The public notice must be published in sources that will reach a wide audience of members of the public qualified to comment. These sources may include, but are not limited to, the following: a general local newspaper; a widely circulated local legal periodical; bar association web sites; government web sites; and other resources relied upon by legal professionals. The notice must describe the duties of the position, state the date of expiration of the incumbent's current term of office, and invite comments from members of the public. The notice must include the name and address of the person to whom comments should be submitted. A copy of the notice must be filed and posted in the office of the clerk of court and a copy must be provided to the Director of the Administrative Office.

(b) Merit Selection Panel

Before the reappointment of a magistrate judge, the court must establish a panel as prescribed in § 420.30.20, or § 420.50.10(a), as the case may be, of these regulations. The panel must review the incumbent's current service as magistrate judge and other experience, the comments from members of the bar and public, and other evidence of the incumbent's good character, ability, and commitment to equal justice under the law. The panel must report to the court within ninety days after its creation, unless otherwise directed by the court, whether the incumbent is recommended for reappointment.

(c) Decision of the Court

After due consideration of the report of the panel, the court must determine whether to reappoint the incumbent by majority vote of all district judges. In the event that there is no concurrence of a majority of the judges of the court, the chief judge must make the determination, as provided in 28 U.S.C. § 631(a). (For information on the participation of senior judges in the appointment of magistrate judges, **see**: 28 U.S.C. § 296; Guide, Vol 3, § 410(c) and (d).) If the court decides not to reappoint the incumbent, it must so notify the incumbent and proceed anew with the selection procedures prescribed in §§ 420.20 through 420.50 of these regulations.

§ 420.70 Appointments to Combination Positions

The court may consider the selection of an incumbent clerk or deputy clerk of court to fill a combination magistrate judge/clerk or deputy clerk of court position, in the same manner as prescribed in § 420.60 for reappointment.

Section 1



***The Appointment Process to Become a
Court of Claims Judge***

*Hon. Diane L. Fitzpatrick
Judge of the New York State Court of Claims*

I. GENERAL OVERVIEW

A. New York State Constitution article VI, § 9 (see attached)

Appointed by the Governor and affirmed by the New York State Senate for a term of nine years. Authorized eight judges, but permits the legislature to increase that number or reduce it to six or seven judges.

B. Court of Claims Act § 2 (see attached)

Sets forth the number of judges, terms, the designation of one judge to be presiding judge, and the qualifications to becoming a judge of the Court of Claims. Over time, the legislature has increased the number of judicial positions utilizing different letter designations, (a) through (e). Typically, only judges appointed under (a) hear cases justiciable in the Court of Claims for money damages against the State of New York. Judges appointed under (b) through (e) are usually made acting Supreme Court justices who hear criminal or other civil cases. The terms for these judicial positions run from the effective date of the legislation creating the position.

II. THE APPLICATION PROCESS

A. The Judicial Screening Committee provides public notice of open positions on its website and in major newspapers (see example of public notice attached).

B. Application (copy attached).

Requires applicant to sign waivers to obtain records regarding applicant's professional disciplinary record, information from state and local bar associations, IRS, Department of Taxation and Finance, credit reports, criminal records, and other court records.

Complete background investigation, and fingerprinting, is performed by the New York State Police.

C. Applicant is interviewed by the Judicial Screening Committee regarding background and qualifications. Committee determines whether applicant is qualified. The names of highly qualified applicants are forwarded onto the governor for nomination.

III. NOMINATION AND SENATE APPROVAL

- A. Notification of nomination and date for interview with Senate Judiciary Committee. If Senate Judiciary Committee approves of candidate, it makes a recommendation to the full Senate. Senate then votes on whether or not to confirm the governor's nominee.

New York State Constitution

Article 6, Section 9: [Court of claims; composition; appointment of judges; jurisdiction]

The court of claims is continued. It shall consist of the eight judges now authorized by law, but the legislature may increase such number and may reduce such number to six or seven. The judges shall be appointed by the governor by and with the advice and consent of the senate and their terms of office shall be nine years. The court shall have jurisdiction to hear and determine claims against the state or by the state against the claimant or between conflicting claimants as the legislature may provide.

Court of Claims Act

Section 2

2. Such court shall consist of (a) twenty-seven judges, who shall be appointed by the governor, by and with the advice and consent of the senate; (b) such number of additional judges not exceeding seventeen to and including December thirty-first, nineteen hundred eighty-two, and not exceeding fifteen on and after January first, nineteen hundred eighty-three, as shall be appointed by the governor, by and with the advice and consent of the senate; (c) such number of additional judges not exceeding nineteen as shall be appointed by the governor, by and with the advice and consent of the senate prior to December thirty-first, nineteen hundred eighty-two; (d) such number of additional judges not exceeding thirty-two as shall be appointed by the governor, by and with the advice and consent of the senate; (e) such number of additional judges not exceeding twelve as shall be appointed by the governor, by and with the advice and consent of the senate, provided that no more than five of such judges shall be appointed prior to July first,

nineteen hundred ninety.

3. The term of each judge hereafter appointed shall be nine years, provided, however, that the existing terms of present judges shall continue until the expiration thereof.

4. Whenever the term of office of a judge shall expire, or his office become vacant from any cause, his successor shall be appointed for the unexpired term. Notwithstanding the provisions of section five of the public officers law, a judge of the court of claims shall hold over and continue to discharge the duties of his office, after the expiration of the term for which he shall have been appointed, until his successor shall have been chosen and qualified but after the expiration of such term the office shall be deemed vacant for the purpose of choosing his successor.

5. Repealed.

6. By an order to be filed in the office of the secretary of state, the governor shall designate one of the judges as presiding judge, who shall act as such during his term, and thereafter upon the appointment of his successor, the governor shall designate such successor or any other judge of the court as presiding judge, who shall act as such during his term.


7. A judge of the court of claims must be an attorney and counselor-at-law admitted to practice in the courts of this state, of at least ten years' experience in practice.

8. Whenever in any other statute reference is made to the board of claims or any officer thereof, the same shall be deemed to refer to and mean the court of claims or an officer thereof. A determination of the board of claims heretofore rendered shall have the same force and effect and be subjected to the same procedure as provided in this act for a judgment.

WestlawNext

New York Bill Jacket, 1996 A.B. 11324, Ch. 731
 Legislative History (Approx. 11 pages)

NY Bill Jacket, 1996 A.B. 11324, Ch. 731

 Image 1 within document in PDF format.

New York Bill Jacket, 1996 Assembly Bill 11324

1996
 Governor of New York
 219th Legislature, 1996 Regular Session

Illegible text characters in the source data are indicated by three asterisks (***).

APPROVAL # 131

CHAPTER 731

LAWS OF 1996 _____ MEMORANDUM NO. _____

SENATE BILL _____ ASSEMBLY BILL 11324

11324

IN ASSEMBLY

July 12, 1996

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Weinstein) -- (at request of the Governor) -- read once and referred to the Committee on Judiciary

AN ACT to amend the court of claims act, in relation to additional judges and repealing subdivision 5 of section 2 of such act relating thereto

DATE RECEIVED BY GOVERNOR:

12/24/96

ACTION MUST BE TAKEN BY:

12/31/96

DATE GOVERNOR'S ACTION TAKEN:

JAN 30 1997

SENATE VOTE ____ Y ____ N HOME RULE MESSAGE ____ Y ____ N

DATE _____ BILL IS DISAPPROVED

ASSEMBLY VOTE ____ Y ____ N DATE _____

DATE _____

COUNSEL TO THE GOVERNOR

STATE OF NEW YORK

11324

IN ASSEMBLY

July 12, 1996

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [] is old law to be omitted.

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Weinstein) -- (at request of the Governor) -- read once and referred to the Committee on Judiciary

AN ACT to amend the court of claims act, in relation to additional judges and repealing subdivision 5 of section 2 of such act relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 2 of section 2 of the court of claims act, as amended by chapter 209 of the laws of 1990, is amended to read as follows:

2. Such court shall consist of (a) [eighteen] ~~twenty-two~~ judges, who shall be appointed by the governor, by and with the advice and consent of the senate; (b) such number of additional judges not exceeding seventeen to and including December thirty-first, nineteen hundred eighty-two, and not exceeding fifteen on and after January first, nineteen hundred eighty-three, as shall be appointed by the governor, by and with the advice and consent of the senate; (c) such number of additional judges not exceeding nineteen as shall be appointed by the governor, by and with the advice and consent of the senate prior to December thirty-first, nineteen hundred eighty-two; (d) such number of additional judges not exceeding twenty-three as shall be appointed by the governor, by and with the advice and consent of the senate, prior to December thirty-first, nineteen hundred eighty-six; (e) such number of additional judges not exceeding [eight] ~~twelve~~ as shall be appointed by the governor, by and with the advice and consent of the senate, provided that no more than five of such judges shall be appointed prior to July first, nineteen hundred ninety.

§ 2. Subdivision 4 of section 2 of the court of claims act, as amended by chapter 500 of the laws of 1982, is amended to read as follows:

4. [Except as provided by subdivision five hereof, whenever] ~~Whenever~~ the term of office of a judge shall expire, or his office become vacant from any cause, his successor shall be appointed for the unexpired term. Notwithstanding the provisions of section five of the public officers law, [except as provided by subdivision five hereof] a judge of the court of claims shall hold over and continue to discharge the duties of his office, after the expiration of the term for which he shall have been appointed, until his successor shall have been chosen and qualified but after the expiration of such term the office shall be deemed vacant for the purpose of choosing his successor [provided, however, that a judge appointed prior to January first, nineteen hundred eighty-two pursuant to paragraph (b) of subdivision two of this section shall not hold over and continue to discharge the duties of his office for a period to exceed one year].

§ 3. Subdivision 5 of section 2 of the court of claims act is REPEALED.

§ 4. This act shall take effect immediately; provided that section one of this act shall take effect April 1, 1997.

CHAPTER 731

APPROVAL #131

STATE OF NEW YORK

EXECUTIVE CHAMBER

ALBANY 12224

January 30, 1997

MEMORANDUM filed with Assembly Bill Number 11324, entitled:

"AN ACT to amend the court of claims act, in relation to additional judges and repealing subdivision 5 of section 2 of such act relating thereto"

APPROVED

I am pleased to sign into law this Governor's Program Bill. The bill increases the number of "traditional" judges of the Court of Claims (those who preside over actions against the state) from eighteen to twenty-two; authorizes four additional judges under paragraph (e) of subdivision 2 of section 2 of the Court of Claims Act; and amends section 2 in other respects to prevent the expiration of the terms of the judges of the Court of Claims appointed under paragraph (b) of subdivision 2.

Despite the outstanding efforts of the Office of Court Administration, the Presiding Judge

of the Court of Claims and all the judges of the Court of Claims appointed under paragraph (a) to hear cases against the state, a serious backlog of such cases currently exists. By authorizing the appointment of four additional judges under paragraph (a), the bill will enable the Court to reduce and eventually eliminate the backlog.

Although great progress has been made recently in the war against crime, the bill recognizes that the judiciary must have adequate resources to accomplish its fundamental mission of doing justice. The four additional judges the bill authorizes me to appoint under paragraph (e) will benefit all New Yorkers. Finally, neither the judiciary nor the public can afford the loss of the judges previously appointed under paragraph (b).

The bill is approved.

A11324 Rules (Weinstein)

BILL NUMBER: A11324

PURPOSE:

The bill is designed to ensure an adequate number of judges of the court of claims, by preventing the termination of the offices of the fifteen judges appointed pursuant to paragraph (b) of subdivision 2 of section 2 of the court of claims act and by authorizing the appointment of eight additional judges.

SUMMARY OF PROVISIONS:

Section 1 of the bill amends paragraphs (a) and (e) of subdivision 2 of section 2 of the court of claims act, by authorizing the appointment by the governor of eight additional judges -- four pursuant to paragraph (a) and four pursuant to paragraph (e). Section 2 of the bill makes conforming amendments to subdivision four of section 2 of the court of claims act, in light of section 3 of the bill, which repeals subdivision 5.

Section 4 of the bill states that the bill takes effect immediately, except that section 1 takes effect on April 1, 1997.

EXISTING LAW:

Current law authorizes the appointment of eighteen "traditional" judges -- those presiding over actions against the state -- pursuant to paragraph (a) of subdivision 2 of section 2 of the court of claims act, and the appointment of eight judges pursuant to paragraph (e) of such subdivision. Pursuant to subdivision 5 of section 2 of the court of claims act, upon the expiration (in the years 2000 and 2001) of the terms of office of the fifteen judges appointed pursuant to paragraph (b) of subdivision 2, a successor may not be appointed and thus the number of judges of the court of claims must be reduced accordingly.

STATEMENT IN SUPPORT:

A number of judges of the court of claims have been assigned to administrative positions in the unified court system. Partly for this reason, there are at present an insufficient number of judges to handle expeditiously the high volume of actions against the state in the court of claims and the high volume of felony criminal cases. Moreover, the ability of our criminal courts to render swift justice would be threatened if successors cannot be appointed when the terms of the judges appointed pursuant to paragraph (b) expire in the years 2000 and 2001.

BUDGET IMPLICATIONS:

None in the current fiscal year.

TEN-DAY BILL

B-201 BUDGET REPORT ON BILLS Session Year: 1996

Introduced by: Rules

SENATE ASSEMBLY

No. No. A.11324

Law: Court of Claims Act Sections: Subdivision 2, 4 & 5 of Section 2

Division of the Budget recommendation on the above proposal:

Approve: ___ Veto: ___ No Objection: No Recommendation: ___

1. Subject and Purpose:

The purpose of this Governor's program bill is to authorize the appointment of eight additional Court of Claims judges and to make permanent fifteen currently temporary judgeships.

2. Summary and Provisions:

Effective April 1, 1997, section 1 of this bill amends paragraphs (a) and (e) of subdivision 2 of section 2 of the Court of Claims Act, by authorizing the Governor to appoint eight additional judges to the Court of Claims: four pursuant to paragraph (a), increasing the number of authorized traditional Court of Claims judges from eighteen to twenty-two; and four pursuant to paragraph (e), increasing the number of supplementary judges from eight to twelve.

Effective immediately, section 2 and section 3 of this bill would allow the appointment of successors to the fifteen judges whose seats would currently expire in 2000 and 2001.

3. Legislative History:

None

4. Arguments In Support:

There are at present an insufficient number of judges to expeditiously handle the high volume of actions against the State in the Court of Claims. Over the past six years the backlog of cases pending in the Court of Claims has risen by 22 percent. As of August 31, 1996, the number of cases pending was 5,889. Creating four new traditional judgeships in the Court of Claims would enable the court to address these long term problems.

Sections 2 and 3 of this bill are needed since the ability of our criminal courts to render swift justice would be threatened if the fifteen judgeships currently scheduled to expire in the years 2000 and 2001 were not continued.

5. Arguments In Opposition:

It could be argued that the creation of the four new Court of Claims judgeships that would be assigned to hear felony criminal cases in the Supreme Court - Criminal Term, is not justified by rising caseloads statewide. Although the criminal caseload in selected districts (i.e. 4th, 6th, 7th and 8th) is increasing, on a statewide basis new felony criminal filings have been declining in recent years.

6. Other State Agencies Interested:

Office of Court Administration supports this bill.

7. Other Interested Groups:

None known.

8. Budgetary Implications:

The Office of Court Administration (OCA) estimates that the full annual State costs associated with this bill are \$5.1 million a year. Of this amount, \$1.6 million is required to fund the four paragraph (a) judges and their staff of sixteen (four each) and \$3.5 million is required to fund the four paragraph (e) judges and 48 staff (12 each). It is anticipated that the Office of Court Administration will absorb these costs.

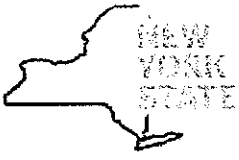
9. Recommendation:

This bill would add eight additional Court of Claims judges and make 15 temporary judgeships permanent. We believe that there is ample opportunity for the Office of Court Administration to absorb the bill's \$5 million cost within existing resource levels. Accordingly, we have no objection to this bill becoming law.

December 18, 1996

STATE OF NEW YORK

Section 2



Judicial Screening

By Executive Order No. 15, Governor Andrew M. Cuomo established Judicial Screening Committees to evaluate the qualifications of candidates for appointment or designation to judicial office throughout New York State, and to recommend to the Governor those persons who are highly qualified to hold judicial office.

Public Notice

The New York State Judicial Screening Committee is actively seeking applications for the following positions:

Presiding Justice of the New York State Supreme Court, Appellate Division, First Department

Applicants must be elected New York State Supreme Court Justices and reside in the First Department

(Application Deadline May 1, 2015)

Additional Justice of the New York State Supreme Court, Appellate Division, Third Department

Applicants must be elected New York State Supreme Court Justices and reside in New York State.

(Application Deadline April 3, 2015)

Presiding Justice of the New York State Supreme Court, Appellate Division, Fourth Department

Applicants must be elected New York State Supreme Court Justices and reside in the Fourth Department

(Application Deadline May 1, 2015)

Additional Justice of the New York State Supreme Court, Appellate Division, Fourth Department

Applicants must be elected New York State Supreme Court Justices and reside in New York State.

(Application Deadline May 1, 2015)

Presiding Judge of the New York State Court of Claims

Applicants must be current members of the Court of Claims.

(Application Deadline April 3, 2015)

Interim Justice of the County/Surrogate's Court, Ninth Judicial District (Westchester County)

Applicants must reside in the county where the vacancy exists, be admitted to practice law in New York State for at least ten years and be attorneys in good standing.

(Application Deadline April 3, 2015)

Interested candidates should submit an original and fifteen copies of their application and supplemental materials to the address below.

For more information, please contact the New York State Judicial Screening Committees at (518) 474-1289 or email: james.finke@exec.ny.gov.

State Committee Members
First Department Committee Members
Second Department Committee Members
Third Department Committee Members
Fourth Department Committee Members

New York State Judicial Screening Committees
State Capitol
Room 239
Albany, New York 12224

(518) 474-1289

(518) 473-5153 – Fax



State Committee Members

New York State Judicial Screening Committees

State Capitol

Room 239

Albany, New York 12224

(518) 474-1289

STATE JUDICIAL SCREENING COMMITTEE

MEMBERS:

Eric Corngold, Chair

Partner, Friedman Kaplan Seiler & Adelman

Bennett Capers

Professor of Law, Brooklyn Law School

Abby Milstein

Equity Partner, Constantine Cannon

Maria Vullo

Partner, Paul Weiss Rifkind Wharton & Garrison LLP

Douglas Dunham

Counsel, Quinn Emanuel Urquhart & Sullivan LLP

Benedict Morelli

Founder & Partner, Morelli Ratner PC

Henry M. Greenberg

Partner, Greenberg Traurig LLP

Ross D. Levi

Vice President of Marketing Initiatives, Empire State Development

Laura Harshbarger

Partner, Bond Schoeneck & King, PLLC

John Elmore

Senior Trial Counsel and Managing Attorney, Brown Chiari

Natalie Gomez-Velez

Professor, CUNY School of Law

Hon. Betty Weinberg Ellerin

Senior Counsel, Alston & Bird LLP

Catherine Beltz-Foley

Partner, Paul William Beltz LLC

Print Form

APPOINTMENTS QUESTIONNAIRE
CONFIDENTIAL

This Appointment Questionnaire is designed to gather detailed information from potential judicial appointees. Please complete this questionnaire using additional sheets as necessary. Every question must be answered. If a question is inapplicable, write N/A in the answer space provided. Please submit an original and fifteen (15) copies of the Appointment Questionnaire, fifteen (15) copies of your resume, and fifteen (15) copies of legal writing sample(s) or decisions. The materials do not need to be bound. If you decide to bind them, please do not bind the original. Please return the completed material to:

James Finke
Executive Chamber
State Capitol
Executive Chamber, Room 239
Albany, New York 12224

FULL NAME _____

HOME ADDRESS _____

SOCIAL SECURITY NUMBER _____

HOME TELEPHONE NUMBER _____

BUSINESS TELEPHONE NUMBER _____

FAX NUMBER _____

PAGER OR CELLULAR PHONE NUMBER _____

EMAIL ADDRESS _____

POSITION OR AREA OF SPECIALIZATION FOR WHICH YOU WISH TO APPLY:

I. BIOGRAPHICAL INFORMATION

A. Date of Birth _____

B. Place of Birth _____

C. Mother's Name _____

1. Place of Birth _____

2. Current Address _____

3. Occupation _____

D. Father's Name _____

1. Place of Birth _____

2. Current Address _____

3. Occupation _____

E. Have you changed your name other than through marriage?

YES NO

F. Have you used a name other than the one given above?

YES NO

If yes, please set forth the name (s) and explain why:

G. Are you a U.S. citizen?

YES NO

H. If you are not a U.S. citizen, do you have a permanent resident alien status?

YES NO

II. MARITAL STATUS

A. SINGLE LEGALLY SEPARATED

MARRIED DIVORCED

B. If you are currently married, provide the following:

1. Spouse's Name _____

a. Date of Birth _____

b. Place of Birth _____

c. Current Address _____

d. Occupation _____

e. Employer Name and Address _____

2. Date of Current Marriage _____
3. State and County from which marriage certificate was issued

C. If you are formerly married, provide the following for each marriage:

1. Spouse's Name _____
 - a. Date of Birth _____
 - b. Place of Birth _____
 - c. Current Address _____
 - d. Occupation _____
2. Spouse's Name _____
 - a. Date of Birth _____
 - b. Place of Birth _____
 - c. Current Address _____
 - d. Occupation _____

D. If any prior marriage(s) ended in divorce, annulment or separation, provide the following:

1. Court or Agency where Filed _____
2. Civil Index Number _____
3. Date Filed _____
4. Grounds for Divorce, Annulment, or Separation

E. Child Support and/or Maintenance Obligations

1. Do you have any child support and/or maintenance obligations?
 YES NO N/A
2. Are you current in all of your child support and/or maintenance obligations?
 YES NO N/A

3. Are there any legal proceedings in any court pending against you for non-payment of child support and/or maintenance obligations?

YES NO N/A

4. Are there any judgments against you in any court for non-payment of child support and/or maintenance obligations?

YES NO N/A

F. Have you ever had an order of protection entered against you in a Family Court proceeding?

YES NO N/A

If yes, please explain.

G. Identify your children and provide their respective dates of birth, current address, current occupation and current employer.

Name _____

Date of Birth _____

Address _____

Occupation/Employer _____

Name _____

Date of Birth _____

Address _____

Occupation/Employer _____

Name _____

Date of Birth _____

Address _____

Occupation/Employer _____

Name _____

Date of Birth _____

Address _____

Occupation/Employer _____

H. Please identify any other children whom you are legally responsible for or whom you deduct as dependents on your federal tax return.

I. Please identify any other person whom you are legally responsible for or whom you deduct as dependents on your federal tax return.

III. RESIDENCES

A. List each address and dates of occupancy at which you have lived for the last five years.

1. Please list the persons living in your household (name, age, relationship)

B. If you own your current residence, please provide the following:

1. Mortgage Holder _____
2. Address of Mortgage Holder _____
3. Amount of Mortgage _____
4. Monthly Payment _____

C. If you rent your current residence, please provide the following:

1. Monthly Rental _____
2. Name of Landlord _____

IV. EMPLOYMENT

- A. Name of Present Employer _____
Address _____
Date Employment Commenced _____
Position or Title _____
Annual Salary or Wage _____
Typical Bonus _____

B. If you are self-employed or the owner of a business, please provide the name of your business(es) along with the taxpayer identification number(s).

C. Are you now or have you been at any time within the last four (4) years an independent consultant/contractor? If yes, list your clients over the past four (4) years, including periods of consultancy or contract.

D. Please provide the following information with respect to your employers over the last twenty (20) years:

1. Name _____
Address _____
Dates Employed _____ to _____
Final Position or Title _____
Final Annual Salary _____
Typical Bonus _____

2. Name _____
Address _____
Dates Employed _____ to _____
Final Position or Title _____
Final Annual Salary _____
Typical Bonus _____

3. Name _____
Address _____
Dates Employed _____ to _____
Final Position or Title _____
Final Annual Salary _____
Typical Bonus _____

4. Name _____
Address _____
Dates Employed _____ to _____
Final Position or Title _____
Final Annual Salary _____
Typical Bonus _____

E. Involuntary Terminations

1. Have you ever been fired from any job for any reason?

YES NO

If yes, please explain.

2. Have you ever resigned from any job after being informed that your employment would be terminated?

YES NO

If yes, please explain.

3. Have you ever had an employment discrimination charge brought against you that has been substantiated by a court of law, administrative agency, arbitrator's decision, or grievance committee finding?

YES NO

If yes, specify when, by whom and what was the outcome?

V. LEGAL EXPERIENCE

A. Bar Admissions

1. List all bars and courts in which you are admitted or have ever been admitted to practice, other than on a pro hac vice basis, and dates of admission.

2. Have you ever resigned from a position as, or for other reasons ceased to be, a member of the bar of any state or court in any jurisdiction? If yes, describe the circumstances.

3. Have you complied with all registration requirements for lawyers in any jurisdiction in which you are licensed to practice law? If not, describe the circumstances.

4. For your most recent New York State biennial registration period, did you satisfy the mandatory continuing legal education requirement? If not, describe the circumstances.

B. Prior Legal Experience

1. General

- a. List all areas of law in which you have concentrated or have had substantial experience for any sustained period of time and the periods during which you have done so.

- b. Prior to admission to any Bar, did you work as a paralegal, clerk, etc.? If yes, give the dates, names and addresses of the entity and people you worked for.

2. Litigation

- a. List on a separate piece of paper, with dates, the ten most recent cases in which you have participated during the past five years. State the names, present address and telephone numbers of the attorneys in each such case.
- b. List on a separate piece of paper, with dates, any noteworthy cases in which you have participated. A case could be noteworthy because of its legal significance, or press attention. Include citations to relevant decisions or publicity.
- c. What percentage of your litigation in the last five years was:
 - (i) Civil? _____
 - (ii) Criminal? _____
- d. State the approximate number of personal appearances you have made in any court during the last five years.

Number: _____

- (i) What percentage of such appearances was in:

(i) Supreme Court? _____

(ii) County Court? _____

(iii) Family Court? _____

- (iv) District Court? _____
- (v) Federal Court? _____
- (vi) Other Courts (indicate the type(s) of courts)? _____

e. State the number of trials you have participated in during the past five years, indicating whether you were sole, associate, or chief counsel.

Number: _____

(i) What percentage of your trials in the last five years was:

Jury? _____

Non-jury? _____

f. State the number of appeals you have participated in during the past five years, giving the names of the appellate courts and a general description of subject matter.

Number: _____

(i) List on a separate piece of paper, citations to opinions in the ten most recent appeals in which you have participated during the past five years. Please provide copies of any such written opinions that were not reported.

3. Non-Litigation Representation

a. List on a separate piece of paper, with dates, the ten most recent significant non-litigation legal representations you have participated in during the past five years. State the names, present address and telephone numbers of the attorneys you recall were involved in each such representation.

4. Disciplinary Actions, Malpractice, and other Misconduct

a. Have you ever been disciplined by, or do you have any charges currently pending before any disciplinary committee, commission, or government agency arising out of your official or professional responsibilities? If yes, describe the circumstances.

- b. Have you, or any firm or organization that you have ever been a member of, ever been found to have committed legal malpractice, ever settled a case alleging the commission of acts constituting legal malpractice, or is any such legal malpractice claim currently pending? If yes, and if it related to a case or matter on which you worked, describe the finding, settlement or claim and state whether your conduct was the subject of the finding, settlement or claim.

- c. Have you, your firm, your employer or any of your clients ever been cited for contempt or otherwise had a sanction imposed upon you or them as a result of your conduct in any judicial or administrative proceeding? If yes, describe the circumstances.

- d. Have you ever been sued by a client? If yes, describe the circumstances.

C. Judicial Experience

1. Prior Judicial Experience

- a. List all judicial positions that you have held and all dates that you held such positions.

- b. Have you ever resigned from a position as, or for other reasons ceased to be, a member of the bench of any court in any jurisdiction? If yes, describe the circumstances.

- c. List all elective or non-elective judicial positions for which you have applied or sought election. Specify the position, the applicable jurisdiction, the relevant dates, and whether you received the position.

- d. Have your qualifications for any judicial position previously been reviewed by any committee, Bar Association or other group, including this Committee? If yes, state the position for which you were reviewed, the name and address of the group, the dates you appeared before the group, and the rating, if any, which you were given.

- e. Have you ever withdrawn a request that you be reviewed as a candidate for any judicial office by any group? If yes, describe the circumstances.

- f. List on a separate piece of paper, with dates, any noteworthy cases over which you have presided. A case could be noteworthy because of its legal significance or press attention. Include citations to relevant decisions and/or publicity.

2. Current Judicial Office Holders (Including Judicial Hearing Officers and Referees)

- a. For the most recent New York State biennial registration period, did you satisfy the requirement of attendance at training and education courses? If not, describe the circumstances.

- b. State the approximate number of cases you hear per year.

Number: _____

- (i) What percentage of these cases is:

(i) Civil? _____

(ii) Criminal? _____

- (ii) List on a separate piece of paper, with dates, the ten most recent cases over which you have presided. State the names, present addresses and telephone numbers of the attorneys in each such case. If your ten most recent cases are exclusively civil or criminal in nature, add to the list your three most recent cases from the other side of the docket, regardless of date.

- c. State the approximate number of trials over which you preside per year.

Number: _____

- (i) What percentage of these trials was:

(i) Civil? _____

(ii) Criminal? _____

- (ii) percentage of these trials was:

(i) Jury? _____

(ii) Non-jury? _____

- d. State the approximate number of miscellaneous hearings or in-court proceedings over which you preside per year.

Number: _____

- (i) What percentage of these hearings/proceedings was:

(i) Civil? _____

(ii) Criminal? _____

e. State the approximate number of motions and applications determined by you per year.

Number: _____

(i) What percentage of these hearings/proceedings was:

(i) Civil? _____

(ii) Criminal? _____

f. State the approximate number of appeals taken in cases over which you presided. State the percentage of these appeals that were affirmed, the percentage that were reversed, and the percentage that were modified.

Number: _____

Percentage affirmed: _____ Percentage reversed: _____ Percentage Modified: _____

a. What percentage of these appeals was:

(i) Civil? _____

(ii) Criminal? _____

b. For criminal appeals, what percentage was:

(i) Taken after plea? _____

(ii) Taken after judgment? _____

c. For civil cases, what percentage was:

(i) Taken after judgment in a jury case? _____

(ii) Taken after judgment in a non-jury case? _____

d. List on a separate piece of paper all your decisions which have been reversed upon appeal, giving citations for every written opinion at every level, including your opinion. Please provide copies of any of your written opinions that were not reported.

g. State the approximate number of interlocutory civil appeals taken in cases over which you presided. State the percentage of these appeals that were affirmed and the percentage that were reversed, and the percentage that were modified.

Number: _____

Percentage affirmed: _____ Percentage reversed: _____ Percentage Modified: _____

h. List on a separate piece of paper citations to all published opinions that you have written in the last three years. If the opinions are not published at this time, please provide copies of at least five recent unpublished opinions. If the names and addresses of all counsel in each case are not shown in the opinion, please supply those names and addresses if they are available to you.

3. Current and Former Appellate Judges

- a. List on a separate piece of paper citations for all your opinions (including dissenting or concurring opinions) that you authored as an Appellate Judge. If the opinions are not published at this time, please provide copies of all such unpublished opinions.
- b. List on a separate piece of paper citations to any decision reversing or modifying any of the opinions listed above. If the decisions are not published at this time, please provide copies of all such unpublished decisions.

D. Teaching and Lecturing Experience

- 1. Have you engaged in teaching law? If yes, state when, where, and the subjects taught.

- 2. Have you lectured or participated as a panelist at any schools or seminars conducted by any bar association or other organization of the legal profession? If so, specify dates and details.

E. Judicial Capacity

- 1. Do you know of any factors that would adversely affect your ability to serve competently as a judge, to comply with a judge's ethical responsibilities, or to complete the day-to-day responsibilities that a judge is required to assume that could not be overcome by a reasonable accommodation? If yes, describe the circumstances.



VI. GOVERNMENT SERVICE

- A. Identify any experience in or association with any local, state or federal governmental entity (including advisory, consultative, honorary or other part-time service or positions). Specify the dates of such service.

- B. Identify all elective public offices which you have sought and/or held. Specify the dates of such service.

- C. Are you currently receiving or are you currently entitled to receive any pension benefit from any governmental entity?

(Y) (N)

- D. Are you currently receiving or are you currently entitled to receive any disability benefits?

(Y) (N)

- E. If your answer to question C or D of this section is yes, please identify the governmental entity and specify when you began to receive or were entitled to receive such benefits.

- F. If you are receiving or are entitled to receive benefits from any governmental entity, please identify your retirement system and registration number.

- G. Are you or any member of your household now receiving or applying for public assistance?

(Y) (N)

- H. Have you ever been removed from public employment or asked to resign for disciplinary reasons?

(Y) (N)

If yes, set forth the circumstances.

VII. EDUCATIONAL BACKGROUND

A. High School

1. Name and address of last high school attended

2. Dates attended _____ to _____
3. Did you graduate? YES NO
4. Please identify any other high schools that you attended

5. If you have an equivalency diploma, please specify when it was obtained

B. College

1. Name and address of last undergraduate college attended

2. Dates attended _____ to _____
3. Did you graduate? YES NO
 - a. Type of Degree _____
 - b. Major Field _____
 - c. Approximate Rank in Class _____
4. List any scholarships, fellowships, honorary degrees or any other awards that you received.

5. Please identify any other colleges that you attended. Specify the dates of attendance and any degrees obtained.

Section 2

C. Graduate or Professional School

1. Name and address of school (if more than one, use a separate sheet to answer this question)

2. Dates attended _____ to _____

3. Did you graduate? YES NO

a. Type of Degree _____

b. Major Field _____

c. Approximate Rank in Class _____

4. List any scholarships, fellowships, honorary degrees or any other awards that you received.

D. Were you ever expelled, suspended, placed on probation, or subject to any other disciplinary action while attending any of the colleges, professional schools or other institutions that you listed in sections "B" and "C" above?

YES NO

If yes, please explain the circumstances.

VIII. PROFESSIONAL CERTIFICATIONS

A. Please identify all professional licenses and certifications that you hold or have ever held. Specify the dates and the conferring authorities.

B. Has any professional license or certification ever been suspended or revoked?

YES NO

If yes, please explain the circumstances.

- C. Have you ever been the subject of any proceeding, inquiry or investigation by any professional association, including any bar association, of which you are a member?

YES NO

If yes, please explain the circumstances.

- D. Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, bar association, disciplinary committee, or other professional group? If so, please give the particulars.

YES NO

IX. MILITARY SERVICE

- A. Have you ever served in the military?

YES NO

- B. If yes, please list highest rank, branch of service, dates of service and type of discharge.

- C. Are you a member of the Reserves or National Guard?

YES NO

If yes, when does your obligation end?

X. ORGANIZATIONAL AFFILIATIONS

- A. Identify any professional/business organizations of which you are a member. Specify the name and address of the organization, the dates of your membership and any title that you hold in the organization.

- B. Identify all memberships and offices held in and services rendered to all political parties or election committees during the past ten (10) years. If you received compensation, please provide the particulars.

- C. Identify any civic, educational or charitable organizations of which you are a member. Specify the name and address of the organization, the dates of your membership and any title that you hold in the organization.

- D. List any office, trusteeship, directorship, partnership, or position of any nature, whether compensated or not, that you hold with any firm, corporation, association, partnership, or other organization other than the State of New York. Include compensated honorary positions; do NOT list membership or uncompensated honorary positions. If the listed entity was licensed by any state or local agency, was regulated by any state regulatory agency or local agency, or, as a regular and significant part of the business or activity of said entity, did business with or had matters other than ministerial matters before any state or local agency, list the name of any such agency. If you received compensation, please provide the particulars.

E. List any office, trusteeship, directorship, partnership, or position of any nature, whether compensated or not, held by your spouse with any firm, corporation, association, partnership, or other organization other than the State of New York. Include compensated honorary positions; do NOT list membership or uncompensated honorary positions. If the listed entity was licensed by any state or local agency, was regulated by any state regulatory agency or local agency, or, as a regular and significant part of the business or activity of said entity, did business with, or had matters other than ministerial matters before any state or local agency, list the name of any such agency. If your spouse received compensation, please provide the particulars.

F. Identify any fraternal organizations of which you are a member. Specify the name and address of the organization, the dates of your membership and any title that you hold in the organization.

G. Identify any recreational/leisure organizations (e.g., country club, yacht club, tennis club) of which you are a member. Specify the name and address of the organization, the dates of your membership and any title that you hold in the organization.

H. To your knowledge, are you or have you ever been a member of any organization that restricted admission on the basis of race, color, religion, age, sexual orientation, national origin, disability, or marital status?

YES NO

If yes, please describe.

- I. Have you ever been associated with any person, group or business venture that could be used to impugn or attack your character and qualifications for the position to which you seek to be appointed?

YES NO

If yes, please describe.

XI. PUBLISHED WORKS, SPEECHES AND AWARDS

A. Published Works

Identify the titles, publishers and dates of books, articles, reports or other opinion statements which you have written (even under another name) that have been published. Please submit a copy of any book, article, report or other published opinion statement.

B. Speeches

Identify the title of any speech that addresses a topic related to the position for which you are applying and that you have delivered during the last four (4) years. Please include the date of delivery and the audience. If the speech has been reduced to writing or transcribed, please submit a copy.

C. Honors and Awards

Identify all honors and awards that you have received in the past ten (10) years. Please include the date you received the award and the conferring organization.

XII. REFERENCES

A. Please identify three (3) individuals who know you well in your business and/or professional life over the last five (5) or more years.

1. Name _____
Residence Address _____
Home Telephone _____
Employer or Business Name _____
Business Address _____
Business Telephone _____
Years Known _____

2. Name _____
Residence Address _____
Home Telephone _____
Employer or Business Name _____
Business Address _____
Business Telephone _____
Years Known _____

3. Name _____
Residence Address _____
Home Telephone _____
Employer or Business Name _____
Business Address _____
Business Telephone _____
Years Known _____

B. Please identify three (3) individuals who know you well in your personal life and who are not related to you.

1. Name _____

Residence Address _____

Home Telephone _____

Employer or Business Name _____

Business Address _____

Business Telephone _____

Years Known _____

2. Name _____

Residence Address _____

Home Telephone _____

Employer or Business Name _____

Business Address _____

Business Telephone _____

Years Known _____

3. Name _____

Residence Address _____

Home Telephone _____

Employer or Business Name _____

Business Address _____

Business Telephone _____

Years Known _____

XIII. CONFLICT OF INTEREST INQUIRIES

A. Are you or any of your immediate family members (i.e., spouse/domestic partner and children or parents and siblings, as applicable to your circumstances.) related to any State of New York official or employee?

YES NO

If yes, please provide details.

B. Are you or any of your immediate family members related to any United States government official or employee?

YES NO

If yes, please provide details.

C. Are you or any of your immediate family members related to any official or employee of a municipal subdivision of the State of New York?

YES NO

If yes, please provide details.

D. During the past five (5) years, have you or any other immediate family members received any compensation or been involved in any financial transactions with the State of New York, any of its agencies, public authorities, public corporations or public educational institutions (i.e., SUNY, CUNY)?

YES NO

If yes, please provide details.

E. During the past five (5) years, have you or any immediate family members received any compensation or been involved in any financial transactions with the United States government, any of its agencies, public authorities or public corporations?

YES NO

If yes, please provide details.

F. During the past five (5) years, have you or other immediate family members received any compensation or been involved in any financial transactions with any local government or municipal subdivision of the State of New York, any of their agencies, public authorities or public corporations?

YES NO

If yes, please provide details.

G. During the past five (5) years, have you or other immediate family members received any compensation or been involved in any financial transactions with any State of New York official in his/her personal capacity?

YES NO

If yes, please provide details.

H. Please describe any business relationship, dealing or financial transaction which you have had during the past five (5) years, whether for yourself, or on behalf of a client, or acting as an agent, which you believe may constitute an appearance of impropriety or may result in a potential conflict of interest in the position for which you seek appointment. If none, please so state.



I. Describe any business relationship, dealing or financial transaction which any immediate family member has had during the past five (5) years, whether for himself/herself, or on behalf of a client, or acting as an agent, which you believe may constitute an appearance of impropriety or may result in a potential conflict of interest in the position for which you seek appointment. If none, please so state.

J. Does any member of your immediate family hold an employment position that is related in any way to the position that you seek? If so, please identify the employer, the position and the length of time it has been held.

K. Describe briefly any lobbying activity that you have engaged in during the past ten (10) years for the purpose of influencing any legislative or administrative action within the State of New York.

NOTE: "Lobbying activity" includes any activity performed as an individual or agent of another individual or of any organization that involves direct communication with an official in the executive branch, the legislative branch, or any public authority, agency or educational institution of New York State government.

L. Have you registered as a lobbyist with the Temporary Commission on Lobbying?

YES NO

If yes, please explain.

M. Describe briefly any lobbying activity that any member of your immediate family has engaged in during the past ten (10) years for the purpose of influencing any legislative or administrative action within the State of New York.

N. Please describe any other matter in which you have been involved which may be incompatible or in conflict with the discharge of the duties of the position that you seek, or any matter which may impair or tend to impair your independence of judgment or action in the performance of your duties. If there is none, please so state.

O. Outside Employment

1. Do you have any commitments or agreements to pursue outside employment, with or without compensation, while you may be employed by the State of New York?

YES NO N/A

If yes, please explain.

2. Do you intend to sever all connections with your present employer or business firm, association or organization if you are appointed to the position you seek?

YES NO N/A

If no, please explain.

XIV. FINANCIAL MATTERS

A. Liens or Judgments

1. Are there any liens or judgments against you or any business in which you are an owner, officer, director or partner?

YES NO

If yes, please explain.

2. Has a collection proceeding ever been instituted against you by any federal, state, or local taxing authority; or any other government entity?

YES NO

If yes, please explain.

B. Tax Liabilities

1. Are you or any business in which you are an owner, officer, director or partner in arrears with regard to any tax obligations to federal, state and local authorities?

YES NO

If yes, please explain.

2. Are there any tax liens currently assessed or pending against you, any business in which you are an owner, officer, director or partner, or any real property in which you have a beneficial or legal interest?

YES NO

If yes, please explain.

3. Have your city, state or federal income tax returns been the subject of any audit, investigation, warrant or inquiry resulting in the assessment of a penalty?

YES NO

If yes, please explain.

4. Within the last five (5) years, have you employed any domestic or household help?

YES NO

a. If you employed domestic or household help, did you file the appropriate reports with the taxing authorities and pay withholding taxes?

YES NO N/A

If no, please explain.

b. If you employed domestic or household help, have you verified that any domestic or household help that you employed are U.S. citizens or documented aliens?

YES NO N/A

If no, please explain.

C. Student Loans

1. Are you, your spouse or any of your unemancipated children in arrears on the repayment of any student loan(s)?

YES NO

If yes, please provide the name of the lender, the amount that is currently overdue and the length of time of the delinquency.

2. Have you, your spouse or any of your unemancipated children ever defaulted on a student loan?

YES NO

If yes, please provide the name of the lender, the amount of the default and the disposition of the loan.

D. Bankruptcies

1. Have you, your spouse or any corporation, firm, partnership or other business enterprise or non-profit organization or other institution in which you or your spouse have served as an owner, officer, director, trustee or partner ever filed a petition for bankruptcy under the U.S. Bankruptcy Code?

YES NO

If yes, please explain.



2. Have you, your spouse or any corporation, firm, partnership or other business enterprise or non-profit organization or other institution in which you or your spouse have served as an owner, officer, director, trustee or partner ever been adjudicated a bankrupt under the U.S. Bankruptcy Code?

YES NO

If yes, please explain.

3. Have you, your spouse or any corporation, firm, partnership or other business enterprise or non-profit organization or other institution in which you or your spouse have served as an owner, officer, director, trustee or partner ever been the subject of a receivership proceeding?

YES NO

If yes, please explain

2. Describe the parties to and the terms of any agreement providing for continuation of benefits to you in EXCESS of \$1,000 from a prior employer OTHER THAN the State. (This includes interests in or contributions to a pension fund, profit-sharing plan, or life or health insurance, buy-out agreements; severance payments; etc.)

NONE

G. Other Income, Assets and Liabilities:

1. List below the nature and amount of any income in EXCESS of \$1,000 from EACH SOURCE for you and your spouse for the most recent taxable year. Nature of income includes, but is not limited to, all income from compensated employment, whether public or private, directorships and other fiduciary positions, contractual arrangements, teaching income, partnerships, honorariums, lecture fees, consultant fees, bank and bond interest, dividends, income derived from a trust, real estate rents, and recognized gains from the sale or exchange of real or other property. Income from a business or profession and real estate rents shall be reported with the source identified by the building address in case of real estate rents and otherwise by the name of the entity and not by the name of the individual customers, clients or tenants, with the aggregate net income before taxes for each building address or entity. The receipt of maintenance received in connection with a matrimonial action, alimony and child support payments shall not be listed.

NONE

Self/Spouse	Source	Nature	Category of Amount*

*VALUE/AMOUNT CATEGORIES A - UNDER \$5,000 B - \$5,000 TO UNDER \$20,000 C - \$20,000 TO UNDER \$60,000 D - \$60,000 to under \$100,000 E - \$100,000 TO UNDER \$250,000 F - \$250,000 or over

2. List the sources of any deferred income (not retirement income) in EXCESS of \$1,000 from each source to be paid to you following the close of this calendar year, other than deferred compensation reported above. Deferred income derived from the practice of a profession shall be listed in the aggregate and shall identify as the source, the name of the firm, corporation, partnership or association through which the income was derived, but shall not identify individual clients.

NONE

Self/Spouse	Source	Nature	Category of Amount*

*VALUE/AMOUNT CATEGORIES A - UNDER \$5,000 B - \$5,000 TO UNDER \$20,000 C - \$20,000 TO UNDER \$60,000 D - \$60,000 to under \$100,000 E - \$100,000 TO UNDER \$250,000 F - \$250,000 or over

3. List below the type and market value of securities held by you or your spouse from each issuing entity in EXCESS of \$1,000 at the close of the most recent taxable year, including the name of the issuing entity exclusive of securities held by the reporting individual issued by a professional corporation. Whenever an interest in securities exists through a beneficial interest in a trust, the securities held in such trust shall be listed ONLY IF you have knowledge thereof except where you or your spouse has transferred assets to such trust for his or her benefit in which event such securities shall be listed unless they are not ascertainable by you because the trustee is under an obligation or has been instructed in writing not to disclose the contents of the trust to you. Securities of which you or your spouse are the owner of record but in which you or your spouse has no beneficial interest shall not be listed. Indicate percentage of ownership ONLY if you or your spouse holds more than five percent (5%) of the stock of a corporation in which the stock is publicly traded or more than ten percent (10%) of the stock of a corporation in which the stock is NOT publicly traded. Also list securities owned for investment purposes by a corporation more than fifty percent (50%) of the stock of which is owned or controlled by you or your spouse. For the purpose of this item, the term "securities" shall mean mutual funds, bonds, mortgages, notes, obligations, warrants and stocks of any class, investment interests of any class, investment interests in limited or general partnership and certificates of deposits (CDs) and such other evidences of indebtedness and certificates of interest as are usually referred to as securities. The market value for such securities shall be reported only if reasonably ascertainable and shall not be reported if the security is an interest in a general partnership that was listed in Item G(A) or if the security is corporate stock, NOT publicly traded, in a trade or business of you or your spouse.

NONE

Self/Spouse	Issuing Entity	Type of Security	Percentage of Corporate Stock Owned or Controlled*	Category of Market Value**

* If more than 5% of publicly traded stock, or more than 10% of stock not publicly traded, is held.
** Category of Market Value as of the close of the most recent taxable year.

VALUE/AMOUNT CATEGORIES A - UNDER \$5,000 B - \$5,000 TO UNDER \$20,000 C - \$20,000 TO UNDER \$60,000 D - \$60,000 to under \$100,000 E - \$100,000 TO UNDER \$250,000 F - \$250,000 or over

4. List below the location size, general nature, acquisition date, market value and percentage of ownership of any real property in which any vested or contingent interest in EXCESS of \$1,000 is held by you or your spouse. Also list real property owned for investment purposes by a corporation more than fifty percent (50)% of the stock of which is owned or controlled by you or your spouse. Do NOT list any real Property which is the primary or secondary personal residence of you or your spouse, except where there is a co-owner who is other than a relative.

NONE

Self/Spouse/ Corporation	Location	Size	General Nature	Acquisition Date	Percentage of Ownership	Category of Market Value*

VALUE/AMOUNT CATEGORIES A - UNDER \$5,000 B - \$5,000 TO UNDER \$20,000 C - \$20,000 TO UNDER \$60,000 D - \$60,000 to under \$100,000 E - \$100,000 TO UNDER \$250,000 F - \$250,000 or over

5. List below all notes and accounts receivable, other than from goods or services sold, held by you at the close of the most recent taxable year and other debts owed to you at the close of the most recent taxable year in EXCESS of \$1,000 including the name of the debtor, type of obligation, date due and the nature of the collateral securing payment of each, if any, excluding securities.

NONE

Name of Debtor	Type of Obligation, Date Due, and Nature of Collateral, if any	Category of Amount*

VALUE/AMOUNT CATEGORIES A - UNDER \$5,000 B - \$5,000 TO UNDER \$20,000 C - \$20,000 TO UNDER \$60,000 D - \$60,000 to under \$100,000 E - \$100,000 TO UNDER \$250,000 F - \$250,000 or over

6. List below all liabilities of you and your spouse, in EXCESS of \$5,000 as of the date of filing of this application, other than liabilities to a relative. Do NOT list liabilities incurred by, or guarantees made by, you or your spouse or by any proprietorship, partnership or corporation in which you or your spouse has an interest, when incurred Or made in the ordinary course of the trade, business or professional practice of you or your spouse. Include the name of the creditor and any collateral pledged by you or your spouse to secure payment of any such liability. You shall not list any obligation to pay maintenance in connection with a matrimonial action, alimony or child support payments. Any loan issued in the ordinary course of business by a financial institution to finance educational costs, the cost of home purchase or improvements for a primary or secondary residence, or purchase of a personally owned motor vehicle, household furniture or appliances shall be excluded. If any such reportable liability has been guaranteed by any third person, list the liability and name the guarantor.

NONE

Name of Creditor Or Guarantor	Type of Liability and Collateral, if any	Category of Amount*

VALUE/AMOUNT CATEGORIES A - UNDER \$5,000 B - \$5,000 TO UNDER \$20,000 C - \$20,000 TO UNDER \$60,000 D - \$60,000 to under \$100,000 E - \$100,000 TO UNDER \$250,000 F - \$250,000 or over

XV. GENERAL MATTERS

A. Criminal Convictions

Have you ever been convicted of or entered a plea of guilty or nolo contendere or forfeited collateral for any felony, misdemeanor or violation other than for minor traffic violations?

YES NO

If yes, please explain.

B. Investigatory Actions

Have you ever been the subject of any inquiry or investigation by a federal, state or local agency (other than for routine background investigations for employment purposes)?

YES NO

If yes, please explain.

C. Contempt

Have you ever been cited for contempt of any court, legislative, civil or criminal investigative body or grand jury?

YES NO

If yes, please explain.

D. Driver's License

1. Please list driver's license number and issuing state.

2. Has your driver's license ever been suspended or revoked?

YES NO

If yes, please explain.

E. Parking Tickets

Do you have any outstanding parking tickets from any jurisdiction in New York which have remained unpaid for more than thirty (30) days?

YES NO

If yes, please explain.

F. Civil Litigation

1. Have you or any business in which you are an owner, officer, director or partner ever been a plaintiff or a defendant in a civil lawsuit?

YES NO

If yes, please specify the nature of the action, its title and index number or civil action number, and the disposition or status of the case.

2. For current past judicial office holders or other public officers, have you ever been named as a defendant in a lawsuit in your official capacity?

YES NO

If yes, please specify the nature of the action, its title and index number or civil action number, and the disposition or status of the case.

3. Is any person or entity currently threatening to sue you or any business in which you are an owner, officer, director or partner?

YES NO

If yes, please specify the name and address of the claimant and explain any pertinent details.

4. Are you or have you ever been a party in interest in any administrative agency proceeding or lawsuit that is related in any way to the position that you seek?

YES NO

If yes, please explain and provide the title of any litigation, its index number or civil action number and the disposition or status of the case.

5. Has any business in which you, your spouse, an immediate family member or business associate are or were an owner, officer, director or partner been a party to any administrative agency proceeding or lawsuit that is related in any way to the position that you seek?

YES NO

If yes, please explain and provide the title of any litigation, its index number or civil action number and the disposition or status of the case.

G. Compliance with Health and Safety Statutes

1. Do you, your spouse or immediate family member own or have any interest in any real property which during the time of such ownership has been cited for health or environmental violations by federal, state, or local authorities?

YES NO

If yes, please explain.

2. Do you, your spouse or immediate family member own or have any interest in any real property which during the time of such ownership has been condemned or closed by federal, state or local authorities?

YES NO

If yes, please explain.

3. Do you, your spouse or immediate family member own or have any interest in any real property which during the time of such ownership has been identified as containing hazardous materials?

YES NO

If yes, please explain.

H. Are you registered to vote?

YES NO

I. Have you voted consistently over the past ten (10) years or since you graduated from high school?

YES NO

J. Are you willing to relocate within the State of New York if you receive an appointment?

YES NO N/A

XVI. FUTURE INTENTIONS

A. Do you expect to serve the full term for which you may be appointed?

YES NO

If no, please explain.

- B. As far as can be foreseen, do you intend to resume employment, affiliation or practice with your previous employer, business firm, association or organization after completing government service?

YES NO N/A

If yes, please explain.

- C. Has anyone offered to employ you after you leave government service?

YES NO N/A

If yes, please explain.

XVII. ADDITIONAL INFORMATION AND DISCLOSURES

- A. Is there any information not otherwise elicited by this questionnaire which would affect, favorably or unfavorably, your eligibility for the judiciary? If so, please set it forth.

- B. Appointees as well as candidates for appointment may be subject to scrutiny by the public and the media. Accordingly, please set forth any additional disclosures that you believe should be considered with your application.

AUTHORIZATION AND RELEASE OF PERSONAL INFORMATION AND
CERTIFICATION

I understand that if I accept an offer of employment, any false statement on this questionnaire may result in dismissal. I further understand that this questionnaire is not an offer of employment, nor does it obligate the Cuomo administration in any way.

The Cuomo administration and its individual members and advisors and the State of New York are authorized to make any investigation of my background that they deem appropriate. They are hereby authorized to investigate any criminal activity, court records, and/or credit reports through any law enforcement, investigative or credit agencies or bureaus of their choice.

I hereby release from liability the Cuomo administration and its individual members and advisors, the State of New York and all persons supplying information in connection with this appointments questionnaire, and I further release such persons and agencies from any obligation to provide me with notification of such disclosure.

I certify that I have reviewed the information in this questionnaire and that to the best of my knowledge the information I have supplied is complete, true and accurate.

**Do you consent to a copy of this questionnaire
being reviewed by the Judiciary Committee of
the New York State Senate if you are nominated
for the position you seek?**

YES NO N/A

Dated: _____

Signature

PLEASE KEEP A COPY OF THIS FORM FOR YOUR RECORDS

CONSENT, AUTHORIZATION AND RELEASE

I, _____ hereby authorize any investigative or professional standards or disciplinary committee, firm, company, governmental agency, law enforcement agency, court, association, institute, board or any public or private authority to provide information, copies or inspection of any and all records, documents or other data relating to me in its possession to: the Governor of the State of New York, his agents and employees and the New York State Senate Committee on Finance, its agents and employees.

The undersigned further authorizes the Commission on Judicial Conduct or any attorney disciplinary, review or sanctioning body or committee to provide information, copies or inspection of any and all records, documents, data and or complaints, including but not limited to formal and/or informal inquiries, petitions or letters of grievance, including investigations or inquiries which may be pending or closed and those which have been dismissed or otherwise deemed erased as a matter of law, relating to me in its possession to: the Governor of the State of New York, his agents and employees and the New York State Senate Committee on Finance, its agents and employees.

The undersigned further authorizes any bar association, group, committee or organization which has interviewed and/or rated me as a candidate for any office, including a judicial office, to provide information relating to or copies or inspection of any and all records and documents relating to me in its possession to: the Governor of the State of New York, his agents and employees and the New York State Senate Committee on Finance, its agents and employees.

I hereby release, discharge, exonerate and hold harmless the Governor of the State of New York, his agents and employees and the New York State Senate Committee on Finance, its agents and employees and any person or entity furnishing information from any and all liability of every nature and kind arising out of the furnishing, inspection, receipt and disposition of such documents, records, and other information and understand that by my execution of this waiver that all information provided to said persons or bodies shall be kept strictly confidential but shall not abrogate or otherwise suspend the right or ability of the herein named persons or bodies from sharing any and all information with the appropriate law enforcement or disciplinary committee, body or entity.

A signed facsimile copy of this Consent and Authorization shall be adequate authority to provide either access to or copies of all of the heretofore described records, documents and information.

Signature

Date

STATE OF NEW YORK }

COUNTY OF _____

On the ____ day of _____, 20____, before me came _____, to me personally known and who acknowledged to me that he/she has voluntarily executed the above Consent, Authorization and Release.

Notary Public



FOR OFFICIAL USE ONLY

IT-201 (long form)
 IT-200 (short form)
 IT-100 (fast form)

TO: State of New York
 Department of Taxation and Finance
 W. A. Harriman Campus
 Albany, New York 12227

I, _____, authorize the Department of Taxation and Finance to examine any of my personal income tax returns for any year, including any schedules and attachments to those returns, for the purpose of ascertaining the correctness of those returns, schedules and attachments. I also authorize the Tax Department to inspect any correspondence, including protests, I may have had with the Department concerning those returns, schedules or attachments. If the Department of Taxation and Finance determines that any return, schedule, or attachment is incorrect in any detail, or information in any correspondence or protest might affect my personal income tax liability for past or future years, I authorize the Department of Taxation and Finance to disclose those returns, schedules, attachments and correspondence as well as any information learned during an investigation of personal income tax liability, to the Counsel to the Governor or his designee and to discuss its findings with said Counsel or such designee. I will commence no claim against the State of New York, the Department of Taxation and Finance and its officers if they make this disclosure according to this release.

My social security number is _____

 (Signature)

REMARKS

ACKNOWLEDGEMENT

STATE OF NEW YORK)
) SS.:
 COUNTY OF _____

On this _____ day of _____ 20____ before me personally came _____, to me known and known to me to be the individual described in and who executed the foregoing instrument, and he/she acknowledged to me that he/she executed the same as his/her free act and deed.

 NOTARY PUBLIC

Print Form

