

New York Law Journal

ALM Properties, Inc.

Page printed from: <http://www.nylj.com>

[Back to Article](#)

Newsbriefs

06-16-2009



Lehner Again Orders Albany To Raise Judges' Salaries

For the second time in less than two weeks, a Manhattan court yesterday ordered the governor and lawmakers to raise the pay of the state's 1,300 judges to offset the effects of inflation since salaries were last raised in 1999. Supreme Court Justice Edward H. Lehner (See Profile) ruled in *Chief Judge v. Governor*, 400763/08, that the other political branches violated the separation of powers doctrine by linking a judicial pay raise to other issues. The ruling appears to have put the lawsuit, filed by former Chief Judge Judith S. Kaye, on a fast track to be heard by the Court of Appeals at the same time as two cases decided by Appellate Division panels. Earlier this month, the First Department affirmed Justice Lehner's ruling on the linkage issue in a case brought by four judges, *Larabee v. Governor*, 4761-4761A (NYLJ, June 3). Last November, the Third Department rebuffed similar claims raised by three judges in *Maron v. Silver*, 504084, (NYLJ, Nov. 14, 2008). Yesterday, Justice Lehner found that the *Chief Judge* suit expressly attacks the constitutionality of the state statute that contains the judges' pay schedules. If the Court of Appeals agrees the pay schedules were stricken on constitutional grounds, the suit brought by the chief judge and the court system as co-plaintiffs can bypass the First Department and be heard directly by the Court of Appeals as a matter of right. Bernard W. Nussbaum, the partner at Wachtell, Lipton, Rosen & Katz who is handling the court system's lawsuit, said, "We recognize this matter will ultimately be decided by the Court of Appeals and look forward to appearing in that Court as promptly as possible." Justice Lehner yesterday rejected two other claims raised in *Chief Judge*: that judicial salaries have become constitutionally inadequate and that the prohibition in the state Constitution against reducing judges' salaries [Article VI §25(a)] was violated because the salaries of judges have been frozen for 10 years while those of other state employees have been raised. Requests for review from both sides in *Maron* are pending in the Court of Appeals. Neither side of the *Larabee* case has yet to ask the Court to accept an appeal. *Chief Judge v. Governor* appears on page 37 of the print edition of today's Law Journal.

—Daniel Wise

Records Show \$80 Million In Fees for GM Bankruptcy

Weil, Gotshal & Manges, Jenner & Block and Honigman Miller Schwartz and Cohn have filed their applications for employment as counsel to General Motors in the troubled automaker's Chapter 11 case. The filings show that GM has paid more than \$80 million in fees to the three firms over the past six months. As lead bankruptcy counsel to GM, Weil has the lion's share of the billings at more than \$54 million accrued in that period. That is roughly equivalent to the \$55 million that Weil billed bankrupt Lehman Brothers between September 2008 and January 2009. Weil bankruptcy partners Stephen Karotkin, Harvey Miller and Joseph Smolinsky appear on the filing. Weil was paid a \$5.9 million retainer, part of which it intends to apply to "any outstanding amounts" that were "not processed through [Weil's] billing system" prior to the firm being retained as bankruptcy counsel. Records show that Jenner, which has been retained as general corporate and conflicts counsel to GM, has billed for roughly \$11.3 million in fees and expenses since Dec. 11. The firm agreed to waive another \$180,000 in fees it was due to receive over the next two years related to several product liability cases it was handling for GM. Jenner bankruptcy practice chair Daniel Murray and corporate reorganization partners Patrick Trostle and Heather McArn are advising GM. The firm was initially paid a \$6.5 million retainer, of which \$384,906 remains. Detroit's Honigman, special counsel to GM, racked up \$15.1 million worth of billable time for the company. Nearly \$6 million of that total came from advising GM on matters relating to its troubled auto parts suppliers. The firm was paid a \$1 million retainer on Feb. 26. —Brian Baxter

Coalition Tries for Last Time To Halt Atlantic Yards Project

A community group in Brooklyn has filed what may be its last, best chance to block the construction of the massive Atlantic Yards project. Develop Don't Destroy Brooklyn, which was formed in 2004 to oppose Forest City Ratner's 16-tower plan for downtown Brooklyn, submitted on Friday its notice of appeal for the Appellate Division, Second Department's rejection last month of the coalition's eminent domain claims. The group claimed the appellate court's unanimous decision in *Goldstein v. New York State Urban Development Corp.*, 2008-7064 (NYLJ, May 18), presents three "substantial constitutional questions," including whether the public use requirement of the state Constitution "imposes a more stringent standard for takings than does the Fifth Amendment." Last year, 152 notices of appeal were filed in New York, according to a Court of Appeals spokesman. Of those, 70 were subjected to preliminary inquiries and of those 70, all but 10 were dismissed. The average length of time from a notice of appeal until oral arguments was seven