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By Fax: 508-436-7109
14 pages

December 3, 1996

The New York Times
James Dao, Albany Bureau

RE: Follow-up to 11/16/96 Letter to the Editor,
"In Choosing Judges, Pataki Creates Problems"

Dear Mr. Dao:

Following up our phone conversation and the materials I faxed to you this morning, herewith enclosed are two announcements, which appeared in the "Classified" sections of newspapers, advertising judicial vacancies. They are:

(1) New York Law Journal, 11/14/96, announcing vacancies in the Appellate Division of the First, Second, and Fourth Departments¹. The ad calls for resumes to be received by 11/25/96 (within 11 days) to Governor Pataki's appointments secretary.

(2) Albany Times Union, 8/11/96, announcing Supreme Court vacancy in the Third Department. The ad calls for resumes to be faxed by 8/14/96 (within three days) to Governor Pataki's appointments secretary. (Also enclosed is an article about the ad, which appeared in the Albany Times Union on 8/13/96).

May I suggest you call Governor Pataki's office and find out how many classified ads of judicial vacancies have been placed during the Governor's administration, in which newspapers the ads had appeared, the cost, if any, to the taxpayer, etc.

You might check whether Governor Cuomo engaged in "classified advertising" of judicial vacancies. We know that under the Cuomo administration front-page notices of judicial vacancies (in the first and second judicial departments) regularly appeared in the New York Law Journal. Three pages of illustrative examples are enclosed. You will note that such notices are from Governor Cuomo's various judicial screening committees and frequently

¹ The Fourth Department is not covered by the NYLJ and you should confirm whether such vacancy was advertised in the Fourth Department.

note that interested attorneys should obtain from them "questionnaires" and "applications".

Governor Pataki has not activated such various judicial screening committees--notwithstanding his promulgation of Executive Order #10 creating them. Thus, for example, as recently as last Wednesday, November 27th, when the New York Law Journal printed a front-page notice of judicial vacancies, it requested resumes to be faxed by December 6th (within 10 days) to Governor Pataki's appointment secretary. A copy is enclosed².

As reflected by our April 29, 1996 letter to Governor Pataki's counsel, Michael Finnegan (at pp. 3-4), we explicitly inquired why Governor Pataki has not implemented his Executive Order #10--and reiterated our long-standing request for information as to the procedures employed by the Governor's "temporary" judicial screening committee, established under his Executive Order #11.

To date, and despite our repeated efforts--as recently as when I wrote my Times' Letter to the Editor--Governor Pataki's office has refused to furnish that information and all other information we have requested, including substantiation for the "highly qualified" ratings his "temporary" judicial screening committee purportedly gave to the 26 judicial appointees the Governor nominated in May. (See our June 12, 1996 ltr to Mr. Finnegan, as well as our June 11, 1996 ltr to the State Senators).

There is BIG STORY here about the behind-closed-door process by which Governor Pataki has been appointing state court judges (including the "rigged ratings" of his "temporary" judicial screening committee)--and the complicity of the State Senate.

Finally, in connection with the scandalous story about the New York State Commission on Judicial Conduct, reflected by the correspondence I faxed to you earlier, I enclose a copy of the ad, "A Call for Concerted Action", which CJA ran in the November 20th New York Law Journal.

² You should find out how many front-page Law Journal notices of judicial vacancies have appeared during Governor Pataki's administration. The only other one we have is from the 5/23/95 NYLJ. (Within two week, 6/7/95, the NYLJ was announcing 13 appointments). It may be noted that in our April 18, 1996 letter to David Gruenberg (at p. 2), we requested various information about Governor Pataki's judicial appointments--NONE OF WHICH IT FURNISHED.

December 3, 1996

As you can see, we have not shirked "taking on" Governor Pataki, just as, so many years ago, we did not shirk "taking on" Governor Cuomo. In case you've forgotten, a copy of the excellent story you wrote about our head-on challenge to Governor Cuomo, which appeared in the December 11, 1993 New York Times, is enclosed.

Your for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc.

Enclosures

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6. Elect Eng-Hardware R & D PHD req. Call for more details Lynn Taylor (518) 868-9576 FAX (518) 868-9256 Snelling Park Svc., 1717 Central Ave, Albany, NY 12205

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ENGINEERS
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EXECUTIVE DIRECTOR
Community corrections center, Albany, NY. Respons: direct supervision of residents, staff, food service, facility maint, & contractor relations. Candidate must show administrative, case mgmt & supervisory skills. Min. req's BS degree social/behavioral science & 1 yr. of related exp. or 5 yrs exp. in correctional supervision or mgmt. Masters degree is pref. Salary \$38,000 to \$40,000. Resume by 8/18/96: PO Box 604, Albany, NY 12201

EXTRUSION MACHINE OPERATORS
Experience req'd. 3+ positions avail. Immed. Long term & temp to hire. Transp. a must. \$3/hr. 18 mins. South of Albany.
J.J. YOUNG, 452-7090

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TEC (The Executive Committee) is an Intern'l organization which provides strategic support to CEOs & Presidents via a comprehensive program of personal coaching, peer group decision assessment or board of advisors, resource speakers, networking & workshops.

We seek group facilitators in Albany who have Ex-CEO or senior level executive exp. Highly developed facilitation skills. Successful sales track record. Established business reputation. We provide outstanding marketing & training support. This venture req's 2/3 of your time. Please fax resume to: TEC, Attn: Chair Recruiting, FAX: 600-834-4840. No Calls.



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The Kingston Hospital is a 180 bed acute care facility located in the Mid-Hudson Valley. We are seeking an experienced individual to play an important role in the implementation of an H.I.S. and other efforts that will lead us into the 21st century.
You will serve as a member of the I.S. department providing operational and technical assistance to all finance related areas throughout the hospital. The ideal candidate should have a strong hospital finance and/or computer systems background.

We offer a competitive salary and benefits package, as well as an environment geared towards your career development. For immediate consideration, please send resume and salary requirements to: Human Resources.

The Kingston Hospital
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members to Representative fitness enthusiasts with good communication/people skills, self starter, highly motivated.
• Maintenance/Repair - fitness & facility preventative maintenance & repair, some janitorial.
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APPLY IN PERSON OR SEND RESUME TO: GOLD'S GYM (Letha n Circle Mall), 400 New Loudon Rd., Letha n N.Y. 12110.

GOLF Course Maintenance Positions available from now through the season. Apply in person (9am-12pm) at Albany Country Club, 300 Wormer Rd, Voorheesville, NY 12166.

GOLF COURSE WORKER

GOVERNOR George E. Pataki's Temporary Judicial Screening Committee is accepting resumes from those persons interested in appointment to the position of Justice of the Supreme Court in the Third Judicial District. Applicants must be attorneys in good standing, be admitted to practice law in New York State and reside in one of the counties comprising the Third Judicial District. Submit resumes to: Mr. Thomas O'neilly, Appointments Secretary to the Governor, New York State Capitol, Albany, NY 12224. Resumes no longer than five (5) pages in length may be submitted via facsimile to (518)473-1114. All resumes must be received by the close of business on Aug. 14, 1996.

GROUND MAINTENANCE
We are seeking individuals for all aspects of grounds maint. incl. mowing, weeding, trimming, landscaping. Applications accepted Tues. thru Fri. at 101 Steuben Dr., Heritage Village, Guilford, CT. No calls, please.

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- ENGINEER** Engineering Clerk
- BANQUET** Banquet Server
- HOUSEKEEPER** Housekeeper AM Lobby Area
- FRONT DESK** Door Person
- KITCHEN** AM/PM Cook, PM Lead Cook, Station Attendant, PM Utility

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452-77

Sunday, August 11, 1996
Classified: Albany Times Union

Employment

Law Employment Center
<http://www.lawjobs.com>

Attorneys

ATTORNEY/NEGLIGENCE
 Downtown in-house counsel defense firm seeks 7+ years personal injury defense experience to handle case-load through trial. Must state salary requirements to be considered. 167M, NYLJ, 345 Park Ave So. 10010

ATTORNEY — Boutique trusts & estates/Elder Law firm seeks associate. 2+ years with excellent legal experience mandatory. Superb interpersonal & writing skills required. Fax cover letter, resume & transcript to: (212) 922-0709. J. Sangerman & Assoc.

ATTORNEY — Expanding downtown defendant/plaintiff's negligence firm seeks associate with a minimum of 2 years litigation experience. Send resume & salary requirements to: 211M, NYLJ, 345 Park Ave So. 10010

ATTORNEY — Defense negligence firm seeks motivated associate with 4+ years experience. Excellent opportunity. Competitive salary & benefits. Must state salary requirements. 190M, NYLJ, 345 Park Ave So. 10010

ATTORNEY — 20 Attorney general practice firm seeks experienced personal injury trial attorney. Emphasis on defense & construction site accident. Send resume & salary requests 245, NYLJ, 345 Park Ave So. 10010

ATTORNEY — Prominent entertainment law firm seeks dynamic, motivated, articulate attorney with 1+ years of transactional experience. Excellent academic credentials required. 248M, NYLJ, 345 Park Ave So. 10010

ATTORNEY — Orange County insurance defense firm seeks associate with 4+ years experience in personal injury defense work. Fax resume and salary requirements to: (914) 343-3866

ATTORNEY

ROCKLAND COUNTY

Personal injury (plaintiff) from intake to trial. 7 Years experience required. P.O. Box 751, Suffern, NY 10901

ATTORNEY — Manhattan Workers' Compensation/Personal Injury firm seeks associate with minimum 2 years experience. Will train to practice administrative law. Fax resume to: (212) 571-1053

Attorneys

ATTORNEY PROFESSIONAL OPPORTUNITY
 French Fluency required
 254, NYLJ, 345 Park Ave So. 10010

Corporate and Securities Associate-Florida

The Orlando office of Greenberg Traurig seeks an associate with 2+ years experience in public and private securities offerings, mergers, acquisitions and financing transactions and general corporate work. Please submit resume in confidence by mail to: Director of Recruitment, Greenberg Traurig, 1221 Brickell Avenue, Miami, Florida 33131. Fax (305) 579-0717

Corporate Including SEC Or Commercial Real Estate-FL

Minimum 3 years experience with mergers, acquisitions; commercial/industrial real estate; securities; and other complex business transactions. Must have excellent academic credentials. Send resume to: S. Palmer Orloff, Lowenbach, Stiefelmaier & Siegel, 101 Eisenhower Parkway, Roseland, NJ 07068

CORPORATE ASSOCIATE-FL

...with 3+ years of corporate and securities experience including general M&A, private placements, public offerings. Major FLORIDA law firm based in Ft. Lauderdale. Call or fax resume to:

Jim Valenti, Esq.
 Ph:(954) 761-2919/Fax:(954) 764-4996

CORPORATE ATTORNEY

LI based national law firm with a rapidly expanding transactional practice seeks 4+ years general corporate attorney with emphasis on banking & SEC. Send resume to: 177M, NYLJ, 345 Park Ave So. 10010

CRIMINAL ATTORNEY

Union legal services seeks admitted attorney for criminal defense department. 1+ years indigent criminal defense experience a plus, as is fluency in Spanish. Salary in \$40's. Excellent benefits. Resume and cover letter to: 228M, NYLJ, 345 Park Ave So. 10010

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80 Lawyer midtown firm seeks mid-level associate for growing ERISA practice. 5+ years' experience in corporate transactions and tax compliance a must. Respond to: 200M, NYLJ, 345 Park Ave So. 10010

Attorneys

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Governor George E. Pataki is accepting resumes from those Supreme Court Justices interested in appointment to the **Appellate Division of the First, Second, or Fourth Departments.**

Submit resumes to: Mr. Thomas F. Doherty, Appointments Secretary to the Governor, New York Capitol, Albany, NY 12224. Resumes no longer than five (5) pages in length may be submitted via facsimile to (518) 473-8114. All resumes must be received by the close of business on November 25, 1996.

JONES HIRSCH CONNORS & BULL LLP

ATTORNEY — 45+ attorney midtown insurance litigation firm seeks two associates with 2+ and 4+ years experience for immediate hire. Send resume and salary requirements to: Recruitment Coordinator, Jones Hirsch Connors & Bull LLP, 101 E 52 St, NY, NY 10022. Telephone or fax submissions will not be considered.

LABOR EMPLOYMENT — New York office of National law firm (representing management) seeks an associate with 3+ years experience in fair employment litigation and traditional

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THE FAMILY CENTER/MHRA
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 NEW YORK, NEW YORK 10007
 FAX # 212-766-1696

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12 Attorney firm seeks full time matrimonial attorney with minimum 3 years experience in divorce, custody, visitation, separation & support matters. Must be admitted to NYS Bar. Salary commensurate with experience. Benefits & MATLAW software support provided. Send resume to: Gordon, Siegel, Mastro, Mullaney, Gordon & Galvin, P.C., 670 Franklin St., Schenectady, NY 12305.

PATENT ATTORNEY

Prominent midtown law firm with multi-national practice seeks patent attorneys having excellent academic credentials and strong technical background. Undergraduate degree

STATE

TIMES UNION
Albany, New York
Tuesday, August 13, 1996
B-2

Pataki panel seeks applicants for Kahn seat on state bench

By CAROL DENHARE
Staff writer

ALBANY — Former state Supreme Court Justice Lawrence P. Kahn was officially in his new federal court chambers Monday as Gov. George Pataki's judicial screening committee began searching for a candidate to fill the state court vacancy.

An advertisement appeared Sunday in the Times Union classified section notifying applicants to the state bench that the committee was receiving resumes.

However, the new judge — more than likely Republican because the appointment will be Pataki's — can sit only until Dec. 31. The applicant would have to run for a full 14-year term in November in the seven counties comprising the Supreme Court's 3rd Judicial

District.

The committee is accepting resumes until Wednesday, and they should be directed to Thomas Doherty, the governor's appointments secretary, according to the ad. Applicants must be lawyers in good standing, be admitted to practice in the state and live in the 3rd Judicial District, which includes the counties of Albany, Rensselaer, Columbia, Greene, Ulster, Sullivan and Schoharie. The state pret pays about \$110,000.

It is "normal practice" to advertise for judgeships or other elected offices where a vacancy exists, such as for county clerks, "to solicit people's resumes to get the best candidate," Pataki spokesman Michael Mickoon said.

He said he has no idea how many resumes are in, nor how soon after the deadline the

governor will act. The committee reviews the resumes and interviews candidates of interest, Mickoon said.

Kahn, a Republican who had more than 20 years' experience in state courts, was sworn in privately to the federal bench on Aug. 2, his law clerk, Ray Santora, said Monday. Plans are underway for a ceremonial swearing-in that could occur in September, he said. The federal judgeship pays \$133,600.

For several weeks, after Kahn's confirmation to the federal bench seemed imminent, numerous names emerged as likely successors, both Democrats who want to run for the office and Republicans eyeing a Pataki appointment.

Frequently mentioned by insiders as the front-runner for the appointment is the state's solicitor general, Victoria Grafino of Albany.

Kahn's vacancy is one of three Supreme Court judgeships up in November. Justice John Connor, a Democrat from Columbia County, is seeking re-election. Republican Justice George L. Cobb of Greene County is not.

Besides Grafino, Republicans mentioned as possible candidates include Rensselaer County District Attorney Mary O. Donohue, Ulster County Family Court Judge Marianne O. Mizel, and Republican lawyer William Sorrensen, longtime clerk to Supreme Court Justice Harold J. Hughes of Albany, and Albany Law School professor Michael J. Hutter.

Democrats said to be interested include Albany County Judge Larry J. Rosen and Thomas A. Breslin, Family Court Judge Gerard Maney and Dennis Duggan, and City Court Judge Stephen W. Herrick.

Cuomo # 1

2/27/91

date

10/29/90

The Governor's Judicial Screening Committee for the First Department said it is seeking candidates for the vacancy in Manhattan Supreme Court created by the resignation of Justice Eve M. Preminger, who is a candidate for surrogate. Chairman Chester J. Straub said applications may be obtained from the committee at 587-2175 and must be returned by Dec. 3. The appointment is for a term expiring Dec. 31, 1991.

NEWS

late 10/29/90

Governor Cuomo's Judicial Screening Committee for the First Department reported that it is reviewing candidates for a vacancy on the Appellate Division created by the appointment of Justice George Bundy Smith to the State Court of Appeals. Chester J. Straub, the panel's chairman, said the designation is restricted to Manhattan and Bronx Supreme Court justices, and questionnaires returnable Nov. 13 may be obtained from the committee's counsel, Thomas J. Schwarz, at 417-2175. In addition, the committee is seeking comment on incumbent Justices Theodore R. Kupferman, E. Leo Milonas and David Ross, who are eligible for redesignation to the Appellate Division when their terms expire Dec. 31. Comments should be forwarded to Mr. Schwarz at 270 Broadway, Room 517, New York, N.Y. 10007.

11/2/92

The Judicial Screening Committee for the Second Department is seeking candidates to fill vacancies on the Supreme Court, 10th Judicial District (Nassau and Suffolk Counties), and the Appellate Division created by the pending resignation of Justice Stanley Harwood. Basil A. Paterson, the committee's chairman, said questionnaires returnable by Nov. 20 may be obtained from the panel's office at (212) 417-2175.

8/25/93

The Judicial Screening Committee for the First Judicial Department is seeking applicants for a vacancy created by the appointment of Justice E. Leo Milonas as Chief Administrative Judge of the Courts. Any Supreme Court justice sitting in either Bronx or New York Counties interested in applying must do so by Monday, Sept. 20. Interested applicants, as well as others wishing to make recommendations or offer comments, should contact the committee's counsel, Thomas J. Schwarz, at 417-2175. Because Justice Milonas remains as an inactive justice of the First Department, Governor Cuomo has approved the appointment of an additional justice for the department, the panel said.

11/16/92

The First Department's Judicial Screening Committee is seeking attorneys to provide pro bono assistance in reviewing qualifications of candidates for a vacancy on the Appellate Division. The committee said the assignments would include reviewing candidates' questionnaires, contacting references and submitting reports on candidates. Information may be obtained from Thomas J. Schwarz, the panel's counsel, at 417-2175.

Cuomo # 2

DORIS L. SASS JMWER
CTR FOR JUDICIAL
223 SOUTH AVENUE
WHITE PLAINS
NY 10604

New York La

BENCH AND BAR SINCE 1888

12—NO. 74

10/17/94

NEW YORK, MONDAY, OCT

AY'S NEWS

Update

The Governor's Judicial Screening Committee for the First Department is seeking Supreme Court applicants from Manhattan and the Bronx for an Appellate Division vacancy arising from Justice John Carro's retirement Nov. 16. Committee chairman Chester J. Straub said questionnaires, returnable by Nov. 10, may be obtained from Jeanne Leviss at 417-2175. In addition, Mr. Straub said the panel is reviewing the qualifications of Appellate Division Justices Theodore R. Kupferman and David Ross, whose terms expire Dec. 31, for re-designation by Governor Cuomo. Comments should be sent to Thomas J. Schwarz, the panel's counsel, at 270 Broadway, Suite 517, New York, N.Y. 10007.

Fred I. Parker, Vermont's former Chief U.S. District Judge, has been confirmed by the Senate for the Second Circuit Court of Appeals, filling the vacancy created when fellow Vermonter James L. Oakes took senior status in July 1992. Judge Parker, 56, will have a formal swearing-in ceremony Nov. 4 in Burlington, Vt. Meanwhile, Barrington Parker Jr., the newest member of the Southern District bench, will be sworn in today at 4 p.m. in Courtroom 506 of the U.S. Court House.

Simpson Thacher & Bartlett's John J. Kenney was elected president last week of the Federal Bar Council. Among the other new offi-

The Legal Aid Society has cancelled recruitment interviews and presentations at 18 law schools, 10 of them in the metropolitan area, in the wake of Mayor Giuliani's cancellation of its \$79 million-a-year contract for the criminal defense of indigents. Legal Aid decided to cancel recruiting activities for October, when about 75 percent of its recruitment is conducted, because of the uncertainty over whether it will have any jobs to offer, according to Legal Aid spokeswoman Pat Bath. The Mayor cancelled the contract in the midst of a four-day strike by staff attorneys earlier this month.

Tenzer, Greenblatt, Fallon & Kaplan management committee member Robert Mittman allegedly dropped the firm's temporary secretary agency after it refused to buy him four tickets to June's final game of the Stanley Cup hockey championship series won by the New York Rangers. Bon Temps Agency has claimed in a state court suit that Mr. Mittman fired the agency after it refused to pay a broker \$8,000 for the tickets. The agency, which said it earned \$267,000 placing secretaries at the firm in 1993, claims \$1 million in damages. In his answering papers, Mr. Mittman denies the charges, claiming that Bon Temps agreed to get the tickets but said it "would then raise the rates charged" the firm for temporary secretaries.



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Claim Against Accountant Is Before Court of Appeals

BY GARY SPENCER

ALBANY — Certified public accountants, provoked to passion by a new statute of limitations rule, are asking the Court of Appeals to reverse an order they say "radically" expands the liability of professional tax preparers for negligence.

The Court will hear 40 cases during the two-week session that begins tomorrow, including a flood of claims arising from the 1983 garment district blackout, a hesitant attempt by the state to collect taxes from Indian-owned reservation stores, and an ef-

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11/13/90



05—NO. 52 3/19/91

Y'S NEWS

Update

& The Governor's Statewide Judicial
1- Screening Committee is reviewing
n the qualifications of Court of
of Claims Judge Edward J. Amman Jr.
3, for a new appointment when his
:- current term expires Aug. 31, the
:- panel's chairman, Chester J.
e Straub, announced. Judge Amman
3 is assigned to Richmond County
1 Supreme Court. Communications
r should be forwarded to Thomas J.
7 Schwarz, the committee's counsel,
- at 2 World Trade Center, Suite
3 5835, New York 10047.

S NEWS

late

Governor Cuomo's Judicial Screening Committee reported it is seeking comment on the redesignation of seven Appellate Division justices in the First Department. The justices, whose terms are expiring on Dec. 31, are Francis T. Murphy Jr., the Presiding Justice, John Carro, Theodore R. Kupferman, Ernst H. Rosenberger, David Ross, Israel Rubin and Richard W. Wallach. Comments should be sent to Thomas J. Schwartz, the committee's counsel, at 2 World Trade Center, Suite 5835, New York 10047. At the same time, the committee invited applicants to apply for a Manhattan Supreme Court vacancy to be created by the announced resignation of Justice Bernard H. Jackson.

10/13/93

date

The Judicial Screening Committee for the First Department is seeking comments on the redesignation of Appellate Division Justices Sidney H. Asch and Betty Weinberg Ellerin, whose terms expire Dec. 31. Chester J. Straub, the committee's chairman, said comments should be sent to Thomas J. Schwarz, its counsel, at 270 Broadway, Suite 517, New York, N.Y. 10007.

10/25/94

S NEWS

late

The Statewide Judicial Screening Committee is seeking comment on Court of Claims Judge Donald J. Corbett Jr., who is eligible for redesignation by Governor Cuomo when his term expires Dec. 31. Comments should be sent to Thomas J. Schwarz, the committee's counsel, at its offices, 270 Broadway, Room 517, New York, N.Y. 10007.

Pataki #1

5/12/95

Governor Pataki yesterday named Christopher Mega of Brooklyn, a former Republican colleague in the State Senate, as the Presiding Judge of the Court of Claims. Judge Mega joined the Court of Claims in July 1993 after 18 years in the Legislature. He succeeds Donald Corbett, who has been nominated for a new nine-year term on the court.

5/23/95 NYCU

Governor Pataki's Temporary Judicial Screening Committee announced that it is accepting applications from candidates for 11 Court of Claims vacancies. Seven are for judgeships in the First and Second Departments. Details appear on page 2.

Governor to Appoint Claims Court Judges

GOVERNOR Pataki's Temporary Judicial Screening Committee is accepting applications from candidates for 11 Court of Claims vacancies he will fill.

The committee announced that five of the judges would serve only on the Court of Claims and fill vacancies in White Plains, Goshen, Rochester and two in Albany. The other six judges will handle criminal cases as acting Supreme Court justices: two in Brooklyn and one each in Manhattan, Queens, Mineola and Onondaga County.

Applicants should send their resume to the Governor's appointments secretary, Leslie Maebly, by the close of business Friday, to the Capitol, Room 256, Albany, N.Y. 12224.

6/7/95

Pataki
7/2

Governor Pataki nominated 13 trial court judges this week, including 10 interim appointments to fill judicial vacancies created in the last election. The five nominees in the First and Second Department include three for Bronx Supreme Court seats: Joseph N. Giamboi, counsel to Republican State Senator Guy J. Vellella, and Civil Court Judges Salvador Collazo and Kenneth L. Thompson. In addition, Cornwall attorney John K. McGuirk and Pearl River attorney Margaret Garvey were nominated to the Orange County and Rockland County Family Courts, respectively. The Senate Judiciary Committee is scheduled to consider the appointments this week. The Governor also nominated three Court of Claims judges in Western New York. Details appear on page 2.

6/15/95

The State Senate yesterday confirmed six judges Governor Pataki named to the State Court of Claims. It is scheduled to act on four more Court of Claims appointments today. Details appear on page 2.

Claims Court Judges Confirmed by Senate

ALBANY — The State Senate yesterday confirmed six judges Governor Pataki named to the State Court of Claims. It is scheduled to act on four more Court of Claims appointments today.

The judges confirmed were James T. King, a Republican Assemblyman from Ticonderoga who will sit in Albany; Assistant Attorney General Terry Jane Ruderman of Scarsdale, who will sit in White Plains; John J. Brunetti of Baldwinsville, former counsel to Republican Senator John DeFrancisco, who will sit in Syracuse; Hamburg attorney Ronald H. Tills, who will sit in Buffalo; and Seneca Falls attorney Nicholas V. Midey, who will sit in Rochester. The Senate also confirmed the appointment of former Presiding Judge Donald J. Corbett Jr., of Rochester, to a new term as a Court of Claims judge.

Scheduled for confirmation votes today are four Court of Claims nominees: Colleen McMahon of Paul, Weiss, Rifkind, Wharton & Garrison in Manhattan; Suffolk County District Court Judge Richard M. Klein of Huntington; Ballston Spa attorney Thomas McNamara; and Briarcliff Manor attorney William A. Wetzel.

Governor Names 3 To Court of Claims

ALBANY — Governor Pataki made three nominations this week for permanent positions on the Court of Claims in Western New York. There are currently 12 vacancies on the Court of Claims, with the oldest dating back to 1991.

Two Court of Claims nominees would hear criminal cases as acting Supreme Court justices: John J. Brunetti of Baldwinsville, counsel to Republican State Senator John DeFrancisco, would sit in Syracuse, and former Assemblyman Ronald H. Tills, an attorney in Hamburg, would sit in Buffalo. The third nominee, Seneca Falls attorney Nicholas V. Midey, would hear Court of Claims civil cases in Rochester.

The Governor's screening committee will meet tomorrow to review other candidates for the Court of Claims. The Senate is expected to act on the three Court of Claims nominees, along with any other nominations, later in the session.

New York Law Journal

SERVING THE BENCH AND BAR SINCE 1888

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TODAY'S NEWS

Update

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Governor Pataki announced his Temporary Judicial Screening Committee is seeking applicants for interim bench appointments throughout the metropolitan area and in upstate courts. The vacancies are in Supreme Court, Brooklyn and Staten Island, Nassau and Suffolk counties and the Eighth Judicial District, which includes Buffalo. Other vacancies for one-year terms are in Niagara and Suffolk County Family Courts; County Court for Nassau, Sullivan, Westchester and Madison; Steuben County Surrogate; and Court of Claims in Long Island City, a term running until August 2000. Resumes should be faxed by Dec. 6 to Thomas Doherty, the Governor's appointments secretary, at (518) 473-8114. The committee earlier announced it was screening for vacancies on the Appellate Division for the First, Second and Fourth Departments.

Nicholas Bissell, the former New Jersey prosecutor who became a fugitive last week from a possible 10-year prison term, fatally shot himself yesterday in a casino-hotel room in Laughlin, Nev., as U.S. marshals tried to persuade him to surrender. The 49-year-old ex-prosecutor shot himself in the mouth as a marshal entered his hotel room, a medical examiner said. Mr. Bissell fled house arrest Nov. 18, two days before sentencing on his federal conviction for corruption, tax fraud and other charges.

Guido Calabresi, the Second Circuit Court of Appeals judge, will deliver the Cardozo Lecture Monday at 7 p.m. at the City Bar. He will speak on "Liberty, Equality and

Discovery of Police Files A

Witness Accounts, Investigative Materials Available Under FOIL

BY GARY SPENCER

ALBANY — Opening a new avenue for criminal discovery, the Court of Appeals ruled yesterday that defendants can use the Freedom of Information Law to obtain witness statements and other investigative information from police files.

The Court reversed the Appellate Division, First Department, in a 6-1 opinion by Judge Carmen Beauchamp Ciparick, holding that complaint follow-up reports and police activity logs are not categorically exempt from disclosure under the FOIL statute.

"We recognize that petitioners seek documents relating to their own criminal proceedings and that disclosure of such documents is governed generally by CPL article 240 as well as the *Rosario* and *Brady* rules," the Court said. "However, insofar as the Criminal Procedure Law does not specifically preclude defendants from seeking these documents under FOIL, we cannot read such a categorical limitation into the statute."

In other decisions, the Court upheld a \$1 million award to former U.S. Attorney General Nicholas Katzenbach and Lee H. Kimmell, a former member of Salomon Brothers, for their losses in a California investment. And it reversed a \$500,000 restitution order in a criminal case because the defendant was not given an opportunity to contest the amount.

The FOIL issue arose in a trio of cases in which the New York City Police Department had denied defendants access to complaint follow-up reports, which contain detailed investigative data and statements of witnesses, and police activity logs, in which individual officers record their assignments and duties.

Council's Creation of Board On Police Corruption Debated

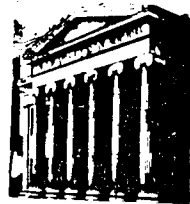
BY DANIEL WISE

THE BATTLE between Mayor Giuliani and the City Council over the Council's creation of an independent

minute arguments made it plain that vital principles were at stake. Mr. Koppell, referring to the findings of police corruption resulting from a two-year probe headed by former

Appeals Court

The State Court of Appeals
■ Held 6-1 that cor-
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Legal Aid attorney Steven B
sented one of the defendants a
brief on behalf of another, said
jecting these documents to FOIL
obtain information that is not a
discovery, including statements
be called at trial, and allow ther
tion earlier.

Con



A Meeting With Cuomo Brings Out the Critics

By JAMES DAO

Special to The New York Times

ALBANY, Dec. 10 — For years Gov. Mario M. Cuomo has waxed poetic about the importance of participatory democracy. But today he got a tart taste of what can happen when there is a New England-style town hall meeting at the Capitol.

Mr. Cuomo had been asked to address a conference organized by Terry Anderson, the former hostage, and his group, the Alliance for a New York Renaissance. In the room were two dozen advocates for a wide range of government reforms, including term limits, stronger ethics codes and campaign finance restrictions.

It was a daunting prospect for any politician, much less a three-term incumbent who is undecided about seeking re-election next year and has seen several incumbent governors dumped by voters in recent elections.

But Mr. Cuomo opened gamely, pushing a pet project of his own: a constitutional convention to pass election reforms the Legislature won't touch. As he criticized the performance of elected officials everywhere, Mr. Cuomo might have thought he was winning them over. He was wrong.

For the next 45 minutes, the group engaged in a bruising assault on Mr. Cuomo's record, mixing harangues with civics lectures and displaying a disdain for incumbents in general and Mr. Cuomo in particular.

The grilling started with Elena Sassower, a member of the Center for Judicial Accountability, which argues that the cross-endorsement of judges by the Republican and Democratic parties in the lower Hudson Valley robs the voters of choice.

Three times, Ms. Sassower told the Governor, she wrote to him asking for the appointment of a special prosecutor to investigate what she called election irregularities. Three times his aides demurred. Ms. Sassower suggested something was amiss in the Governor's office.

"Please don't be disappointed if in this world of reasonable people there are several who unanimously disagree with you," the Governor said, diplomacy in his voice.

"The only thing I'm disappointed in is the Governor's office," Ms. Sassower retorted.

"Boy, you guys must be tough at dinner," Mr. Cuomo said.

Next up was Dick Martens, an employee of the State Assembly who stood up 10 feet from the Governor and bellowed, "When is your Budget Department going to shape up?"

Mr. Martens, as it turned out, has been a member of a long-standing commission on eliminating government waste. Clearly, Mr. Martens said, Mr. Cuomo had not taken the commission's suggestions to heart.

"Just read the report and respond.

Don't stand mute," Mr. Martens said, doing his best to prevent the Governor from responding.

When Mr. Martens stopped talking, possibly for lack of air, Mr. Cuomo looked at Mr. Anderson, who seemed to be checking his watch, and said, "Good luck, Terry."

Getting Grumpy

The Governor seemed so put upon that when Travis Plunkett, a lobbyist for the New York Public Interest Research Group, lobbed him a relatively softball question about legislation to increase voter registration, Mr. Cuomo gave him the verbal equivalent of a rabbit punch.

"Well, will you help me with the constitutional convention?" Mr. Cuomo said, cutting Mr. Plunkett off.

Mr. Plunkett said the group was

considering it. "Forget about your consideration," Mr. Cuomo said curtly. "I want your energy."

The advocates weren't done. Taking a swipe at the Governor's call for greater participatory democracy, Robert L. Schulz asked Mr. Cuomo why state lawyers have tried to block his legal challenges to state borrowing practices.

"Don't exhort us to get involved and when we do, do everything in your power to force us down," the normally soft-spoken Mr. Schulz said angrily after a rather sharp exchange with Mr. Cuomo.

Moments later, Mr. Anderson, who has said that he will support the Governor if he runs next year, announced that Mr. Cuomo had to depart. "I'm not trying to rescue him from your wrath," he said.

A CALL FOR CONCERTED ACTION

Last Saturday, The New York Times printed our Letter to the Editor, "On Choosing Judges, Pataki Creates Problems", about the Governor's manipulation of appointive judgeships. Meanwhile, the New York Law Journal has failed to print the following Letter to the Editor, which we submitted last month, and ignored our repeated inquiries. We think you should see it.

In his candid Perspective piece "The Importance of Being Critical" (10/17/96), Richard Kuh expresses concern that the Committee to Preserve the Independence of the Judiciary, in its rush to defend judges from personal attack, will ignore legitimate criticism against judges. He therefore suggests that the now seven-month old Committee be countered by formation of "an up-front, outspoken, courageous group...to publicly attack bench shortcomings".

In fact, such "up-front, outspoken, courageous group" already exists and has not only challenged "bench shortcomings", but the rhetorical posturing of the Committee to Preserve the Independence of the Judiciary.

The group is the Center for Judicial Accountability, Inc. (CJA), a national, non-partisan, non-profit organization of lawyers and laypeople. For the past seven years, CJA has documented the dysfunction and politicization of judicial selection and discipline processes on local, state, and national levels and has been on the front-lines in taking action to protect the public. Two years ago, we ran an ad on the Op-Ed page of *The New York Times* entitled, "Where Do You Go When Judges Break the Law?", about our in-the-trenches formative background in battling political manipulation of judicial elections in this state and about judicial retaliation against a judicial whistleblower. On November 1, 1994, we re-ran that ad in this newspaper.

CJA's work has received growing media attention: in an A&E cable television Investigative Report on the American justice system, in *Reader's Digest* and, most recently, in an article entitled "Playing Politics with Justice" in the November issue of *Penthouse*.

Both this year and last, the *New York Law Journal* has printed Letters to the Editor from us. In "No Justification for Process's Secrecy" (1/24/96), we recounted our testimony at the so-called "public" hearing of Mayor Giuliani's Advisory Committee on the Judiciary, protesting the public's exclusion from the Mayor's behind-closed-doors judicial selection process and demonstrating that such secrecy makes "merit selection" impossible. In "Commission Abandons Investigative Mandate" (8/14/95), we described our ground-breaking litigation against the New York State Commission on Judicial Conduct, challenging the constitutionality of its self-promulgated rule (22 NYCRR §7000.3) by which it has unlawfully converted its statutory duty to investigate facially-meritorious complaints (Judiciary Law §44.1) into a discretionary option, unbounded by any standard. Our published Letter invited the legal community to review the New York County Clerk's file (#95-109141) to verify the evidentiary proof therein that the Commission protects politically-connected, powerful judges from disciplinary investigation and that it survived our legal challenge only because of a judge's fraudulent dismissal decision.

Back in February of this year, at a time when bar leaders were hemming and hawing on the sidelines as Mayor Giuliani and Governor Pataki were calling for the removal of Judge Lorin Duckman based on their selected readings of transcript excerpts from hearings at which Judge Duckman lowered bail for Benito Oliver, CJA had already obtained the full transcript. We wasted no time in publicly rising to the defense of Judge Duckman. We wrote to the Mayor, the Governor, and the Brooklyn

District Attorney, charging them with inciting the public by deliberately misrepresenting and distorting the transcript. Indeed, because of Mayor Giuliani's professed concern in protecting New Yorkers from "unfit judges", we delivered to him a copy of the file of our case against the Commission on Judicial Conduct so that he could take action against it for endangering the public by its demonstrable cover-up of judicial misconduct and corruption.


It was against this dazzling record of *pro bono* civic activism by CJA, protecting the public from self-serving politicians, no less than from unfit judges, that bar leaders and law schools formed the Committee to Preserve the Independence of the Judiciary in early March. Prior to its organizational meeting at the New York County Lawyers Association, CJA requested the opportunity to be present. We made known to the Committee's organizers our public defense of Judge Duckman, as well as the significance of our case against the Commission on Judicial Conduct -- the file of which we had provided six weeks earlier to the City Bar. Nevertheless, when we arrived for the Committee meeting, with yet another copy of the file of our case against the Commission, the room was *literally* locked with a key to bar our entry. Meantime, Judge Duckman's attorney was ushered in to address the assembled bar leaders and law school deans and was present while the Committee reviewed its draft Statement. This Statement, of course, included rhetorical support for "the independent functioning of the constitutionally created New York State Commission on Judicial Conduct".

Since then, the Committee to Preserve the Independence of the Judiciary has continued to shut us out and ignore the file evidence in its possession that the Commission is "not merely dysfunctional, but corrupt". Likewise, the politicians to whom we have given copies of the court file, including Governor Pataki, have ignored it. Indeed, we cannot find anyone in a leadership position willing even to comment on the Commission file.

Such conduct by bar leaders, law school deans, and public officials only further reinforces the conclusion that if the real and pressing issues of judicial independence and accountability are to be addressed, including protection for judicial "whistleblowers", it will require the participation of those outside the circles of power in the legal establishment.

CJA invites lawyers who care about the integrity of the judicial process -- and the quality of judges around which the process pivots -- to join us for *concerted action*. Requests for anonymity are respected.

CENTER for
JUDICIAL
ACCOUNTABILITY, Inc.



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E-Mail: judgewatch@aol.com
On the Web: <http://www.judgewatch.org>

If you share CJA's view that our reply to Mr. Kuh's Perspective piece is an important one and deserved to be seen by the legal community, help defray the cost of this ad. It cost us \$1,648.36. All donations are tax-deductible. Better still, join CJA as a member. Your participation, up-front or behind-the-scenes, will make change happen.