

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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8 pages

July 25, 1997

James F. Gill, Esq.
Chairman, First Department Judicial Screening Committee
Robinson, Silverman, Pearce, Aronsohn & Berman
1290 Avenue of the Americas
New York, New York 10104

RE: "Judicial Screening"

Dear Mr. Gill:

The July 16, 1997 Law Journal (Exhibit "A") reports that from an applicant pool of 23, you have unilaterally selected five candidates to be interviewed to fill two Appellate Division, First Department vacancies. According to the Law Journal, you declined to be interviewed, but designated Austin Campriello of your firm -- who serves as counsel to the First Department Judicial Screening Committee -- to "field questions". Apparently, Mr. Campriello represented that your selection was based upon your "personal knowledge of the individuals and their reputations, and on inquiries to other lawyers about the candidates".

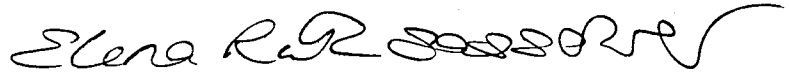
The Law Journal furnished no information as to the "other lawyers" to whom you made inquiry -- if you made such inquiry, in fact. However, from the copy of our June 2, 1997 letter to the Governor which we sent you, it should have been obvious to you that the Center for Judicial Accountability, Inc. (CJA) is an *invaluable* source of *verifiable* information about the on-the-job performance of judges seeking reappointment or elevation to higher judicial office. Indeed, had you inquired of CJA, we would have immediately provided you with documentary proof of the unfitness of at least two of the five candidates which you have selected to be interviewed.

We suggest that you promptly contact us so that arrangements can be made for presentment of such dispositive negative proof. At the same time, you can take the opportunity to provide us with a copy of the First Department Judicial Screening Committee rules, as well as the addresses of the 11 members of the four Department Judicial Screening Committees, which we long ago requested of

Ex "B-1"

you, in writing. For your convenience, copies of our June 16th and June 20th letters to you are annexed (Exhibit "B"). We would note that over the past several weeks we have left recorded phone messages for Mr. Campriello, who has not seen fit to return our calls.

Yours for a quality judiciary,

A handwritten signature in cursive script, reading "Elena Ruth Sassower". The signature is written in dark ink and is positioned above the typed name.

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

Enclosures

7/16/97

5 to Face Interviews for Appellate Seats

Candidates for Appellate Division, First Department Vacancies



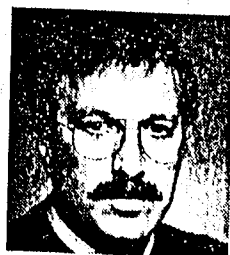
Justice
Herman Cahn



Justice
Stephen Crane



Justice
Bertram Katz



Justice
Charles Ramos



Justice Jacqueline
Silberman

**BY DANIEL WISE
AND MATTHEW GOLDSTEIN**

THE FIELD of candidates for two judicial vacancies in the Appellate Division, First Department, has been narrowed to five judges under a new policy that allows the chair of a state judicial screening panel to determine alone which judges will be interviewed by the full 13-member committee.

The new rules, adopted in May by

New Rules for Procedures Of Four Screening Panels

Governor Pataki's statewide judicial screening committee, govern the operation of the screening panels for all four Appellate Divisions. The rules mark a change from the Cuomo Administration when the judicial screening panels routinely interviewed every applicant for an appellate post.

The First Department's judicial screening panel, which is closest to

developing a list of candidates to offer the Governor, will interview five State Supreme Court justices selected by Committee Chairman James Gill. Mr. Gill, a partner at Robinson Silverman Pearce Aronsohn & Berman and a member of Governor Pataki's transition team, selected the judges from a list of 23 applicants, according to sources.

In a recent letter to each committee member, Mr. Gill said that under the

Continued on page 7, column 1

EX "A"

5 Appellate Division Candidates

Continued from page 1, column 5

new rules, he had selected five justices whom he had found "the most highly qualified" from Manhattan and the Bronx. Appellate Division justices must be elected State Supreme Court justices.

Four — Herman Cahn, Stephen G. Crane, Charles E. Ramos and Jacqueline W. Silbermann — are from Manhattan; the fifth, Bertram Katz, is from the Bronx. All five are Democrats.

Their interviews have tentatively been set for July 31 and Aug. 5, sources said.

Under the new rules, an individual committee member can request that the committee interview an applicant not selected by the chair, but only if a majority of the panel agrees.

Thomas J. Schwarz, who was counsel to the First Department screening panel for the Cuomo Administration, said during his tenure the full committee interviewed every State Supreme Court justice who applied. Prior to each interview, a written background report was prepared on the candidate, Mr. Schwarz said.

Concerns Raised

The new procedures, which were adopted without notice, even to members of the departmental committees, have prompted concern that they afford the committee chairs too much discretion.

One member of the First Department panel said that Mr. Gill's control of the selection process could result in the committee's vision being too narrowly constricted.

The role of the screening committees is to identify "highly qualified" candidates for the Appellate Division. The Governor is required to choose new Appellate Division justices from the list offered by the screening panels. The panels include appointees by the Governor, Chief Judge Judith S. Kaye, Attorney General Dennis C. Vacco, the presiding justices of the respective Appellate Divisions and the New York State Bar Association.

Chairman's Role

Mr. Gill, who headed Governor Pataki's statewide lawyers committee during his 1994 campaign, declined to

be interviewed, instead designating the committee's counsel, Austin V. Campriello, to field questions.

Mr. Campriello, a partner at Robinson Silverman as well, said Mr. Gill selected the interviewees based upon his personal knowledge of the individuals and their reputations, and on inquiries to other lawyers about the candidates.

Once a potential candidate was identified as one to be brought before the full committee, Mr. Campriello was responsible for investigating the judge's background, including reviewing decisions and interviewing lawyers who had appeared before them.

Mr. Campriello said a written report has been prepared on each candidate, but since the rules do not permit the reports to leave his law firm, committee members must come to Robinson Silverman to read the reports before the interviews.

A Different Approach

Meanwhile, Kevin J. Plunkett, the head of the screening panel in the Second Department, has used a different approach.

He said he is soliciting the views of committee members on which judges should be interviewed for two vacancies in the Second Department. He has sent the committee members the names of some 20 judges who have applied.

Mr. Plunkett, a name partner in Plunkett & Jaffe, which is Governor Pataki's former law firm, said he is also deciding whether to set up a subcommittee to help identify candidates who should be interviewed.

The new rules were adopted by the State Judicial Screening Committee, which is headed by Governor Pataki's counsel, Michael Finnegan. The four appellate department committee chairmen are also members.

In April 1995, Governor Pataki signed an executive order creating the statewide commission and the four Appellate Division screening panels, but panel members were not appointed until two years later (*NYLJ*, March 6). During the two intervening years, bar associations and judges criticized the procedures used by an interim statewide screening panel headed by former New York Court of Appeals Chief Judge Lawrence H. Cooke.

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4 pages

June 20, 1997

James F. Gill, Esq.
Chairman, First Department Judicial Screening Committee
Robinson, Silverman, Pearce, Aronsohn & Berman
1290 Avenue of the Americas
New York, New York 10104

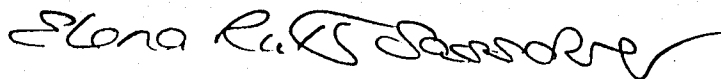
Dear Chairman Gill:

We have received no response to our June 16, 1997 fax, seeking the addresses of 11 members of the four Department Judicial Screening Committees who are *not* listed in the 1997 New York Lawyers Diary and Manual. For your convenience, a copy of that fax is enclosed. Once again, we ask you to respond promptly so that, if necessary, we can turn to others for the information we seek.

Indeed, yesterday, at the annual meeting of the Citizens Union, at which Chief Judge Judith Kaye spoke -- and took questions -- I *publicly* described Governor Pataki's continued use of the Temporary Committee and called upon her to take steps to ensure the Governor's compliance with Executive Orders #10 and #11. As you know, under those Executive Orders, Chief Judge Kaye designates members of the Temporary and Permanent Committees. Chief Judge Kaye *publicly* accepted, and I *publicly* handed to her, copies of our June 2, 1997 letter to the Governor and June 12, 1997 coverletter, both of which she promised to read.

I believe the Chief Judge would provide us with the addresses of the 11 members of the permanent Department Judicial Screening Committees -- should you fail to do so. Of course, we would prefer not to burden her with such a trivial request.

Yours for a quality judiciary,



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

Enclosure

Do "B"

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June 16, 1997

James F. Gill, Esq.
Chairman, First Department Judicial Screening Committee
Robinson, Silverman, Pearce, Aronsohn & Berman
1290 Avenue of the Americas
New York, New York 10104

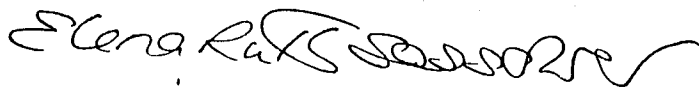
Dear Chairman Gill:

We trust you have received, in today's mail, a copy of CJA's June 2, 1997 letter to Governor Pataki, seeking *basic* information about his judicial appointments process and his unworthy appointment of Supreme Court Justice Nicholas Colabella to the Appellate Division, First Department.

Unfortunately, we do not have the mailing addresses of those members of the Permanent Judicial Screening Committees who, not being in private practice, are not listed in the 1997 New York Lawyers Diary and Manual. We, therefore, would appreciate if you would provide their mailing addresses. For your convenience, we have put an asterisk beside their names, as they appeared in the March 6, 1997 Law Journal article announcing their appointment to the four Department Judicial Screening Committees.

Your prompt response would be greatly appreciated.

Yours for a quality judiciary,



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

Enclosures

March 6, 1997

Journal

Today's
Classified
Section
Begins on
Page 8

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Pataki Names Panels For Judicial Screening

Members Appointed Two Years After Order

BY GARY SPENCER

ALBANY — Nearly two years after promising to set up permanent screening committees for judicial appointments, Governor Pataki this week finished selecting the members needed to make them operational.

He named a political ally, James F. Gill of Robinson Silverman Pearce Aronsohn & Berman, to chair the First Department's Judicial Screening Committee. Mr. Gill, a resident of Rockville Centre, served as acting director of the Governor's Office of Employee Relations during Governor Pataki's transition in 1995 and is now chairman of the Battery Park City Authority.

In the Second Department, he chose his former law partner, Kevin J. Plunkett of Tarrytown, to chair the screening committee. Mr. Plunkett is a partner in Plunkett & Jaffe, where Mr. Pataki practiced from 1975 to 1989.

The Governor also named former Chief Judge Lawrence H. Cooke of Monticello to chair the Third Department screening committee and Syracuse attorney John A. Cirando to chair the Fourth Department's.

The new screening panels "will ensure that the highest quality appointments will be made," the Governor said, but he has never explained his lengthy delay in getting the panels up and running.

Although he issued an executive order establishing all four screening committees in April 1995, the Governor did not appoint his share of the members. Instead, he continued to have judicial applicants reviewed by a "Temporary Judicial Screening Committee" headed by Judge Cooke.

Using the temporary panel, on which his appointees hold four of the seven seats, Governor Pataki has appointed or given new terms to at least 83 judges in posts ranging from the Appellate Division to interim trial court vacancies.

Continued on page 2, column 1



PHOTOGRAPH BY ANITA BARTSCH
Governor Pataki

Pataki Names Panel Members

Continued from page 1, column 6

The practice has drawn increasing criticism from bar associations. In a scathing report, three weeks ago, the Association of the Bar of the City of New York said the Governor's delay in filling the permanent panels "might look like the Governor was waiting until 'political favors' had been paid with judicial appointments" (NYLJ, Feb. 11).

The permanent screening structure differs slightly from the one established by former Governor Cuomo. Mr. Cuomo appointed four of the 10 members on each committee, while Governor Pataki appoints five of the 13 members of his committees and Attorney General Dennis Vacco appoints two.

The rest of the seats are filled as they were in the Cuomo administration: two appointments by Chief Judge Judith S. Kaye, one by the presiding justice of the department, one each by the Republican and Democratic leaders in the Legislature, and one by the New York State Bar Association.

1st Department

In the First Department, in addition to Mr. Gill, the Governor appointed former U.S. Attorney Paul Curran of Kaye Scholer Fierman Hays & Handler, who heads the Mayor's Committee on the Judiciary; Staten Island attorney Daniel L. Master, counsel to Borough President Guy Molinari; Manhattan Assistant District Attorney Mireya C. D'Angelo; and Marta B. Varela, commissioner of the city's Commission on Human Rights. Mr. Vacco named Arnold Burns of Proskauer Rose Goetz & Mendelsohn and Charles E. Dorkey III of Haythe & Curley.

Judge Kaye named Claire Gutekunst of Proskauer Rose Goetz & Mendelsohn and Carol Edmead, counsel to the Federal Deposit Insurance Corporation. Presiding Justice Francis T. Murphy named Peter Johnson Jr. of Leahy & Johnson. Republican legislative leaders named Taisa Rak of Sciretta Rak & Shea, and Democratic leaders named legislative consultant Barbara Shack. The State Bar named Renaye Cuyler of Gorayeb & Cuyler.

2d Department

In the Second Department, in addition to Mr. Plunkett, the Governor named Rockville Centre lawyer and investment banker William R. Howell; Jerold R. Ruderman of Scarsdale, a partner in Wilson Elser Moskowitz Edelman & Dicker; and Nassau County Assistant District Attorney Patricia P. Wright of Freeport. Mr. Vacco named

Lawrence E. Elovich of Elovich & Adell and William F. Harrington of Bleakley Platt & Schmidt.

Judge Kaye named Sandra Grannum of Stroock Stroock & Lavan and solo practitioner Caroline Levy. Presiding Justice Guy J. Mangano named former Supreme Court Justice Joseph J. Kunzeman. Republican legislative leaders named Jeffrey L. Stadler of Rivkin Radler & Kremer, and Democratic leaders named Philip M. Damashek of Schneider Kleinick Weitz Damashek & Shoot. The State Bar named one of its former presidents, John P. Bracken of Bracken & Margolin in Islandia.

3d Department

In the Third Department, in addition to Judge Cooke, the Governor appointed former Albany County Court Judge John J. Clyne of Delmar, Harry J. D'Agostino of D'Agostino Hoblock Greisler & Segal in Albany, Dale M. Thuillez of Thuillez Ford Gold & Conolly in Albany, and Guilderland attorney Nancy M. Sills. Mr. Vacco named Chemung County Attorney Ransom P. Reynolds Jr. and M. Cornelia Cahill of Ruberti Girvin & Ferlazzo in Albany.

Judge Kaye named New York State United Teachers General Counsel Bernard F. Ashe and Rachel Kretser, head of the attorney general's Consumer Frauds Bureau. Presiding Justice Anthony V. Cardona named Stanley A. Rosen of McNamee Lochner Titus & Williams in Albany. Republican legislative leaders named James B. Crane III of Crane Kelley Green & Parente in Albany, and Democratic leaders named former State Bar president John J. Yanas of DeGraff Foy Holt-Harris Mealey & Kunz in Albany. The State Bar named former State Senator John R. Dunne of Whiteman Osterman & Hanna in Albany.

4th Department

In the Fourth Department, in addition to Mr. Cirando, the Governor named former Court of Appeals Judge Matthew J. Jasen of Orchard Park, former State Bar president Maryann Saccomando Freedman of Buffalo, John C. Cherundolo of Cherundolo Bottar & McGowan in Syracuse, and Anne D. Riley of Harris Beach & Wilcox in Rochester. Mr. Vacco named Buffalo attorney Sal Martoche of the State Commission of Investigation and Patricia Snyder of Syracuse, assistant general counsel of Fay's Inc.

Judge Kaye named former Court of Appeals Judge Stewart F. Hancock Jr. of Syracuse and Joan Photiadis, a director of the League of Women Voters of Greater Buffalo. Presiding Justice M. Dolores Denman named Philip H. Magner Jr. of Magner Love & Morris in Buffalo. Republican legislative leaders named Gordon Gross of Gross Shuman Brizdle & Gilfillan in Buffalo, and Democratic leaders named Thomas G. Smith of Harter Secrest & Emery in Rochester. The State Bar named David L. Hoffberg of Nixon Hargrave Devans & Doyle in Rochester.

Daily columns on page 3 of the Law Journal give readers an opportunity to rely on experts to keep them abreast of developments in many areas of practice.

4 names →

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3 names ↓

3 names ↓

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