

Ciparick Named to Court of Appeals

Supreme Court Justice Is First Hispanic Nominee

BY GARY SPENCER

ALBANY — Governor Cuomo nominated Manhattan Supreme Court Justice Carmen Beauchamp Ciparick to the Court of Appeals yesterday, moving to place the first Hispanic and second woman on the state's highest court.

Justice Ciparick's trial court rulings, particularly her landmark abortion rights decision in *Hope v. Perales*, have earned her a reputation among attorneys for courage and independence. She also was praised for "solid" legal reasoning and fair demeanor. And Court watchers predicted she could be as sympathetic toward individual rights as the man she would

replace, Judge Stewart F. Hancock Jr., who must retire for age at the end of the year.

But the symbolic significance of her selection appeared to overshadow these concerns when the nomination was announced, even for the judge herself. "It's very heartrending to me to think that as a youngster growing up in Manhattan, as a female child of a Puerto Rican family in Washington Heights, that I could ever be in this position," she said, standing next to the Governor at a press conference in the capitol.

Governor Cuomo stepped in, unasked, to emphasize the point. "Now, after 200 years, we know at least the following: that you will not be

Continued on page 2, column 6



WIDE WORLD PHOTOS
Justice Carmen Ciparick walks with Governor Cuomo to a press conference yesterday, where she was nominated the Court of Appeals' first Hispanic judge. Behind Judge Ciparick are her father, Edward Beauchamp (left) and husband, Joseph Ciparick.

Described as Personable, Principled

BY DANIEL WISE

GOVERNOR CUOMO, in selecting Carmen Beauchamp Ciparick to become the first Hispanic judge to sit on the New York Court of Appeals, has chosen a fearless and personable jurist, according to lawyers and judges who know her well.

Perhaps her greatest test came in 1989 in the America's Cup case when then-Mayor Koch and politicians across the land were waving the flag in favor of the American defender of the cup. Despite the outburst of patriotism, she ruled that the cup belonged to the challengers from New Zealand because the deed of trust that governed the competition barred the American team from

using a twin-hulled boat that was inherently faster.

She ultimately was reversed in that case, but that has not stopped her from going out on a limb on an issue in which she strongly

QUOTES FROM OPINIONS - PAGE 2

believes. Two years ago in *Hope v. Perales*, she broke new legal ground finding for the first time under the State Constitution that a woman's right to have an abortion is protected and that the state must fund abortions when it makes prenatal care available to needy women.

Continued on page 2, column 3

Posners Barred From Corporate Boards

BY DEBORAH PINES

A FEDERAL JUDGE in Manhattan yesterday became the first to

they violated a raft of securities laws during a corporate takeover scheme in the 1980s involving Michael Milken

more worthy candidates to be barred from serving as officers and directors than the Posners," he wrote, noting

IN BRIEF

Decisions of Interest

The following decisions of special

Ciparick Nominated

Continued from page 1, column 4

disqualified from the Court of Appeals because you're a woman. . . you won't be disqualified from the Court because you're black, you won't be disqualified from the Court because you're Hispanic," he said. "[W]hat makes you a judge of the Court of Appeals is your competence."

Chief Judge Judith S. Kaye later described Justice Ciparick as "a marvelous judge and a terrific human being," qualities that she said are of paramount concern. "But I cannot ignore the real deep-down pleasure I feel in having another woman on the Court of Appeals," she said. "Having at least two does take out the gender issue, doesn't it."

Judge Kaye has been the first and only woman on the Court since she was sworn in as an associate judge in September 1983. Despite the nomination of Justice Ciparick, New York is not the trend-setter in this area. Four of seven judges on the Minnesota Supreme Court are women, including the chief judge.

The nomination is subject to confirmation by the State Senate, which has 30 days to act. The Senate Judiciary Committee will begin its investigation today, according to counsel Edward Cole, but he said it is too early to tell whether it will be ready to act when the Legislature returns for a scheduled special session on Dec. 16.

Independent Voice

Although the Republican-controlled Senate has never seriously challenged, let alone rejected a nominee for the Court, Justice Ciparick's 1991 abortion rights decision in *Hope v. Perales* could provide an unusual test of that tradition.

The Senate set the stage for that case in 1989, when it insisted that a new prenatal care program for poor women must exclude funding for abortions. Justice Ciparick found the restriction unconstitutional, ruling in part that a right to privacy under the State Constitution guarantees women "a fundamental right to abortion." The decision was affirmed by the Appellate Division, First Department, and the case will be heard by the Court of Appeals next month.

Several attorneys mentioned the *Hope* decision as evidence of the judge's independence and courage in the face of controversy. Others mentioned her decision in the America's Cup dispute four years ago, when she ruled for New Zealand over the American entry in *Mercury Bay Boating Club v. San Diego Yacht Club*. The Court of Appeals reversed in 1990, preserving the American boat's victory. But Judge Hancock, whose seat she will take, dissented and voted to uphold Justice Ciparick's decision.

Governor Cuomo said he expects Justice Ciparick to fit the mold of a Court "which has developed a reputation not only for judicial excellence, but for stirring and occasionally disconcerting independence." Just last month, the Court of Appeals ruled in *McDermott v. Regan* that the Governor and Legislature violated the State Constitution when they changed the method of funding public retirement systems, a decision that could cost the state as much as \$3 billion.

His nomination of the first Hispanic judge to the Court drew praise from minority groups. The Hispanic National Bar Association said, "Justice Ciparick's cultural ties to our community will bring to New York's highest court a perspective and sensitivity not present there today."

The nomination of Justice Ciparick is the 11th the Governor has made to the Court of Appeals, and the fourth he has made in the past year and a half. The next scheduled vacancy on the Court will occur in December 1997, when Judge Richard J. Simons must retire.

Judge Described as Personable, Principled

Continued from page 1, column 4

Unlike the America's Cup case, she was affirmed in *Hope* by the Appellate Division, First Department. If confirmed by the Senate, she will have to step aside when the Court of Appeals hears the case in January.

Grace Under Pressure

There was no doubt that the America's Cup litigation was a pressure cooker, said George N. Tompkins of Condon & Forsyth who represented the challengers from New Zealand, and that pressure was intensified by the presence in the first row of the courtroom the mayor of San Diego, hometown for the American club.

But in a gesture that many would describe as completely in character, Justice Ciparick extended every courtesy to her West Coast visitor, including inviting her into chambers to exchange pleasantries.

Presiding Justice Francis T. Murphy of the Appellate Division, First Department, along with many other judges and lawyers had high praise for Justice Ciparick yesterday. Justice Murphy, saying that he had hoped she would be appointed to the First Department, described her as having the "right temperament required for a collegial appellate court; (she's an) intelligent and excellent writer."

Allen G. Schwartz, a former New York City Corporation Counsel who recently was confirmed as a U.S. district judge, described Justice Ciparick as doing "an excellent job" in handling a complicated case stemming from the breakup of the investment banking firm that arranged financing for the buildup of Olympia & York's real estate empire in the U.S. As evidence of that fine work, Mr. Schwartz pointed to the fact that no appeal was taken despite the large amount of money at stake.

Other lawyers, however, expressed some reservations, pointing to the ranking given her by the New York State Bar Association and the difficulty she had winning approval by the Governor's screening panel by the First Department. After being rejected by the screening panel several times, she was approved earlier this month. The State Bar had ranked her "qualified," while rating five other contenders for the Court of Appeals "highly qualified."

Henry T. Berger, a long-time friend who has served with her for the past six years on the Judicial Conduct Commission, said her detractors underestimate her, and that she is likely to emerge as a strong liberal voice who will "stretch the Court's debate on the issues."

Justice Ciparick, age 51, was raised in Washington Heights, the daughter of immigrants from Puerto Rico. Her father was a clerk with the U.S. Corps of Army Engineers and her mother a housewife.

A graduate of George Washington High School, she received her undergraduate degree from Hunter College. She worked as a teacher in Harlem to finance her legal education at St. John's University School of Law, where she was in the evening division.

Following her graduation in 1967, she took a job as a staff attorney with The Legal Aid Society in the Bronx. Starting in 1969, she held a series of

posts in judicial administration, ending as counsel in the office of New York City Administrative Judge David Ross in 1974. She was appointed by Mayor Koch to the Criminal Court in 1978 and elected to the Supreme Court in 1982.

She is married to Joseph Ciparick, who teaches chemistry at Martin Luther King High School in the Lincoln Center area. Their daughter, Roseann, majors in voice at Northwestern University.

Justice Ciparick herself is an accomplished singer, and has performed on numerous occasions — in recent years together with her daughter — in productions staged by the Village Light Opera Group.