

State of New York
Commission on Judicial Nomination

1133 Avenue of the Americas
New York, New York 10036-6710
(212) 336-2685
FAX (212) 336-2222
spyounger@pbwt.com
www.nysegov.com/cjn

Judith S. Kaye, Chair
John A. Cirando
Steven M. Cohen
Ruth Friendly
Milton S. Hoffman
Gerald B. Lefcourt
Simone M. Levinson
Alan Mansfield
E. Leo Milonas
Margaret S. Morton
David M. Schwartz
Dierdre K. Scozzafava

Stephen P. Younger, Counsel
John J. Halloran, Jr., Deputy Counsel
Katrina E. James, Assistant Counsel
Joseph M. Abraham, Assistant Counsel
Stuart A. Summit, Senior Counsel

March 7, 2013

Contact: Hon. Judith S. Kaye, Commission Chair
Phone: (212) 735-3680
Email: judith.kaye@skadden.com

FOR IMMEDIATE RELEASE

The Commission on Judicial Nomination Releases Its List of Seven Nominees Following the Court of Appeals Vacancy Created by Judge Jones's Untimely Passing

Under New York's Constitution, the Commission on Judicial Nomination is charged with evaluating, and then recommending to the Governor, candidates to fill vacancies on the State's highest court, the New York Court of Appeals. The Commission vigorously seeks out, carefully evaluates, and then nominates to the Governor well qualified candidates from the extraordinary, diverse community of lawyers who have been admitted to practice in New York State for at least 10 years.

In connection with the vacancy on the Court created by the untimely passing in November 2012 of Associate Judge Theodore T. Jones, the Commission today has released its Report to the Governor. The Report contains the names of seven candidates who in the Commission's collective judgment are well qualified, by virtue of their character, temperament, professional aptitude, experience, qualifications and fitness for office, to fulfill the duties of that high office.

Given the compressed schedule necessitated by the nature of the vacancy, the Commission's Report follows a concentrated period of outreach efforts that were conducted through public announcements, individual solicitations of applications and an informational meeting held by the Commission. The Commission's outreach also included efforts to build on

the substantial body of candidates who applied for the Court vacancy recently created by the December 2012 retirement of Senior Associate Judge Carmen Beauchamp Ciparick. These efforts resulted in 71 applications, on par with the substantial number of applications received in connection with the Judge Ciparick vacancy. The applicant pool was also diverse. Of those 71 applicants, 27 (38%) were women, and 22 (31%) were ethnic minorities. The Commission interviewed 37 candidates (including its interviews in connection with the Judge Ciparick vacancy with respect to those candidates who re-certified their applications for the Judge Jones vacancy). Of those interviewed, 15 (41%) were female, and 15 (41%) were ethnic minorities.

Judge Judith S. Kaye, Chair of the Commission, stated, “My colleagues on the Commission and I were all devastated when we learned of Judge Jones’s passing last Fall. But we were impressed by the highly qualified pool of candidates whose applications we have reviewed to fill his seat on the Court—particularly including the seven whose names we are sending to the Governor today. That so many highly qualified candidates were interested in the current vacancy amply demonstrates the remarkable strength and depth of New York’s legal community.”

The Commission’s seven nominees to the Governor are, in alphabetical order:

- **Hon. Sheila Abdus-Salaam**, Associate Justice, Appellate Division, First Department;
- **Hon. Eugene M. Fahey**, Associate Justice, Appellate Division, Fourth Department;
- **Hon. John M. Leventhal**, Associate Justice, Appellate Division, Second Department;
- **Hon. Dianne T. Renwick**, Associate Justice, Appellate Division, First Department;
- **David A. Schulz, Esq.**, attorney in private practice (Levine Sullivan Koch & Schulz, LLP);
- **Maria T. Vullo, Esq.**, attorney in private practice (Paul, Weiss, Rifkind, Wharton & Garrison, LLP); and
- **Rowan D. Wilson, Esq.**, attorney in private practice (Cravath, Swaine & Moore, LLP)

By law, the Governor is to make his appointment from among these seven nominees between fifteen and thirty days after receipt of the Commission’s Report. The State Senate has thirty days after receipt of the Governor’s nomination to confirm or reject the appointment.

The next vacancy on the Court of Appeals is anticipated to occur in November 2014, in connection with the expiration of Associate Judge Victoria A. Graffeo’s 14-year term on

the Court. All candidates for the Judge Ciparick or Judge Jones vacancies may request that the Commission reconsider their previously submitted application materials in connection with that future vacancy.

If any person or organization wishes to receive copies of future Commission press releases, please provide an email or mailing address to: Commission on Judicial Nomination, Attn: Stephen P. Younger, Commission Counsel, c/o Patterson Belknap Webb & Tyler LLP, 1133 Avenue of the Americas, New York, New York 10036; or to CJN_PR@pbwt.com. The Commission will register the address and make every effort to distribute its future press releases in the designated manner. Persons interested in learning more about the Commission on Judicial Nomination are encouraged to visit the Commission's website: www.nysegov.com/cjn.

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March 7, 2013

The Honorable Andrew M. Cuomo
Executive Chamber
State Capitol
Albany, New York 12224

Dear Governor Cuomo:

As Chair of the Commission on Judicial Nomination, I have the honor to report to you on behalf of the Commission, pursuant to Article 6, Section 2 of the Constitution, and Section 63(3) of Article 3-A of the Judiciary Law, the names of seven candidates for your consideration for appointment to the office of Associate Judge of the Court of Appeals. These candidates in the collective judgment of the Commission are well qualified, by virtue of their character, temperament, professional aptitude, experience, qualifications and fitness for office, to discharge the duties of that high office. The vacancy in that office is the result of Associate Judge Theodore T. Jones's untimely passing, of which the Commission was officially notified by the Clerk of the Court of Appeals on November 7, 2012.

Under Judiciary Law Section 68(2), the Commission had 120 days from the date on which it was notified of this Court vacancy to solicit candidates, conduct its investigations, and complete its deliberations. This was a much shorter period than the time allowed for the Commission's recently completed process in connection with the Court vacancy occasioned by the retirement of Associate Judge Carmen Beauchamp Ciparick. Accordingly, throughout its efforts to solicit, investigate and nominate well-qualified applicants to fill the current vacancy, the Commission sought to build on the efforts that it undertook throughout the past year in connection with that prior vacancy.

As with the Judge Ciparick vacancy, the Commission, including its Outreach Committee formed pursuant to the Commission's Rules, took many steps to seek out the largest number of well-qualified applicants, consistent with the Commission's mandate to "conduct

broad outreach to encourage wide participation in the application process.” 22 N.Y.C.R.R. § 7100.6.

Within days after being notified of the vacancy, the Commission disseminated statewide notice of the vacancy and application procedure, and continued its outreach efforts through the date of the application deadline. Notice was sent to the media, bar associations, New York law schools, and members of the judiciary and the State government. The Commission’s notices explicitly encouraged all candidates with applications then pending before the Commission in connection with the Judge Ciparick vacancy to re-certify their applications for use in connection with the current vacancy.

The Commission conducted an informational meeting on December 5, 2012, at the New York City Bar Association, concerning the vacancy and the candidate application process. The meeting included as speakers former Associate Judge George Bundy Smith; Alphonso B. David, Governor Cuomo’s Deputy Secretary for Civil Rights; Glenn Lau-Kee, Incoming President-Elect, New York State Bar Association; Hon. Jacqueline Silbermann, President, New York Women’s Bar Association; Stephen P. Younger, Counsel to the Commission; and myself. Multiple candidates for the current vacancy, as well as other members of the legal community, attended the meeting.

Print and online media throughout the State devoted extensive coverage to the current vacancy both in connection with and independently from coverage relating to the Judge Ciparick vacancy. And the Commissioners engaged in individual solicitation of applications by qualified candidates.

The Commission’s outreach efforts were once again successful. The Commission disseminated over 200 applications through its website and informational meetings, and through third-party websites—over 160 in connection with the Judge Ciparick vacancy, and over 40 to additional candidates in connection with the current vacancy. Ultimately, 71 candidates submitted applications to the Commission, a figure on par with the excellent response in connection with the Judge Ciparick vacancy. Of the 71 candidates, 55 of them had previously submitted an application for the Judge Ciparick vacancy, and 16 candidates newly applied for the current vacancy. Approximately 38% of the applications were submitted by female candidates, and approximately 31% by candidates of diverse backgrounds. *See* Exhibit A hereto.

The Commission met in January 2013 and conducted in-person interviews of 10 new candidates, and relied on the prior interviews of the many candidates interviewed in November 2012 in connection with the Judge Ciparick vacancy (27 of whom re-certified their applications in connection with the current vacancy). Of the 37 total applicants interviewed in connection with the current vacancy, 15 (41%) were female, and 15 (41%) were ethnic minorities. As before, the Commission interviewed candidates from all corners of the State, of varying personal and professional backgrounds, and drawing from the bench, the practicing bar, law schools and the private sector.

Consistent with past practice, the Commission staff investigated the qualifications of the applicants. The result of each investigation was reported to the Commission and discussed before and after the interviews. The Commission sought by its investigations and interviews to

address each candidate's character, temperament, professional aptitude, experience, qualifications and fitness for office.

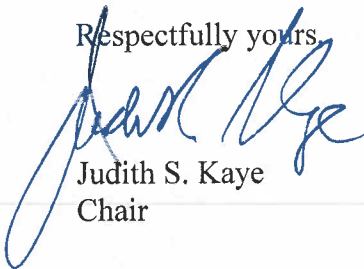
The candidates thus nominated by the Commission for the office of Associate Judge, and listed in alphabetical order, are:

- Hon. Sheila Abdus-Salaam
- Hon. Eugene M. Fahey
- Hon. John M. Leventhal
- Hon. Dianne T. Renwick
- David A. Schulz, Esq.
- Maria T. Vullo, Esq.
- Rowan D. Wilson, Esq.

Each candidate recommended for the office of Associate Judge has been interviewed by the Commission and each has filed the financial statement required by law, which is being transmitted to you separately. A summary of the careers of the recommended candidates is attached.

Section 66(2) of the Judiciary Law provides that "[t]he governor shall have access to all papers and information relating to persons recommended to him by the commission." At your request, the Commission will furnish you with any such material or information, which requests should be directed to the Commission's Counsel, Stephen P. Younger.

Respectfully yours,



Judith S. Kaye
Chair

NOMINEE BIOGRAPHIES (in alphabetical order)

Hon. Sheila Abdus-Salaam

Justice Sheila Abdus-Salaam, an Associate Justice of the Appellate Division, First Department, was found by the Commission to be well qualified for the position of Associate Judge based on her character, temperament, professional aptitude, experience, qualifications and fitness for office. Justice Abdus-Salaam was previously nominated by the Commission for the position of Associate Judge in 2012. She was interviewed by the Commission on November 6, 2012.

Justice Abdus-Salaam received her undergraduate degree from Barnard College in 1974. Upon graduating from Columbia Law School in 1977, where she was a Charles Evans Hughes Fellow, she began her legal career as a Staff Attorney at East Brooklyn Legal Services Corporation (1977-1980). Thereafter, Justice Abdus-Salaam served as an Assistant Attorney General in the New York State Department of Law (1980-1988) and as General Counsel for the New York City Office of Labor Services (1988-1991). Justice Abdus-Salaam then began her judicial career in 1992, when she was elected to the position of Judge of the Civil Court of the City of New York. In 1994, she was elected to the Supreme Court of the State of New York, New York County, where she sat on the Criminal Term from 1994 to 1995, followed by the Civil Term from 1996 to 2009. In 2009, Justice Abdus-Salaam was appointed to the Appellate Division, First Department, where she currently serves.

Justice Abdus-Salaam recently authored the Court's opinion in *Martin v. Portexit Corp.*, which addressed the admissibility of an electronically signed physician's affirmation. Justice Abdus-Salaam also wrote a dissenting opinion in the *ABN AMRO Bank, N.V. v. MBIA, Inc.*, a case concerning insurance policyholders' rights to bring claims for fraudulent conveyance, *inter alia*, against a bond insurer in connection with a financial restructuring.

Justice Abdus-Salaam is Vice President of the Columbia Law School Board of Visitors and a member of the Pattern Jury Instructions Committee. She also previously served as Chair of the Board of Directors of Harlem Legal Services.

Hon. Eugene M. Fahey

Justice Eugene M. Fahey, an Associate Justice of the Appellate Division, Fourth Department, was found by the Commission to be well qualified for the position of Associate Judge based on his character, temperament, professional aptitude, experience, qualifications and fitness for office. Justice Fahey was previously nominated by the Commission for the position of Associate Judge in 2012. He was interviewed by the Commission on November 8, 2012.

Justice Fahey received his law degree in 1984 from the SUNY at Buffalo School of Law. He previously received his B.A. (*cum laude*) from SUNY at Buffalo in 1974 and subsequently received an M.A. in European History from SUNY at Buffalo in 1998. After graduation from law school, he worked in private practice from 1985 through 1993. He also previously served as a Judge on the Buffalo City Court (1995-1996) and on the New York State

Supreme Court, Eighth Judicial District (1997-2006). During 2005-2006, he was assigned to the Commercial Division. Justice Fahey was appointed to the Appellate Division in 2006.

Justice Fahey recently authored an opinion in the case of *New Yorkers for Constitutional Freedoms v. New York State Senate*, concluding that there had been no violation of the Open Meetings Law as a result of meetings that Senate Republicans had with Mayor Bloomberg and Governor Cuomo in connection with New York's Marriage Equality Act.

Previously, Justice Fahey served as a member of Buffalo's Common Council both before and after law school (1978-1983, 1988-1994). Justice Fahey has been involved in Western New York community organizations including Deaf Adult Services of Western New York, Inc., Buffalo Neighborhood Housing Services and Fillmore-Leroy Area Residents, Inc.

Hon. John M. Leventhal

Justice John M. Leventhal, an Associate Justice of the Appellate Division, Second Department, was found by the Commission to be well-qualified for the position of Associate Judge based on his character, temperament, professional aptitude, experience, qualifications and fitness for office. He was interviewed by the Commission on November 6, 2012.

Justice Leventhal received his B.A. from Case Western Reserve University in 1970, his M.S. in Urban Affairs from Hunter College of the City University of New York in 1974, and his J.D. from Brooklyn Law School in 1979. Justice Leventhal began his legal career as a law assistant to a Civil Court Judge who sat in the New York City Criminal Court, and thereafter was engaged in private practice in Brooklyn, New York from 1982 to 1994. From 1991 through 1994, he also served as Counsel in the New York State Assembly. In 1995, Justice Leventhal was elected to the Supreme Court of the State of New York, Second Judicial District, and in 1996, he became the Presiding Judge in the Domestic Violence Court, the first court of its kind in the nation. He served in that capacity until his elevation to the Appellate Division, Second Department in 2008.

Justice Leventhal recently authored the Court's decision in *People v. Campbell*, in which the Second Department held that the New York State Board of Examiners of Sex Offenders exceeded its authority by adopting a guideline that contravened the Family Court Act.

Among his professional and community activities, Justice Leventhal has served as Editor in Chief of the Brooklyn Bar Association's Barrister (1982-1994), and President of the Association of the Justices of the Supreme Court of the City of New York (2011-2012). He has received various professional honors, including a Special Commendation from the U.S. Department of Justice, Office on Violence Against Women, in 2005. Justice Leventhal is a frequent writer, having authored or co-authored dozens of publications, particularly on evidentiary and criminal justice issues.

Hon. Dianne T. Renwick

Justice Dianne T. Renwick, an Associate Justice on the Appellate Division, First Department, was found by the Commission to be well-qualified for the position of Associate

Judge based on her character, temperament, professional aptitude, experience, qualifications and fitness for office. She was interviewed by the Commission on November 8, 2012.

Justice Renwick received her undergraduate degree from Cornell University in 1982 and her J.D. from the Benjamin N. Cardozo School of Law in 1986, where she received the Best Advocacy Writing Award. Thereafter, Justice Renwick served as a Staff Attorney in the Criminal Defense Division of The Legal Aid Society (1986-1989) and as a Staff Attorney in the Federal Defender Services Unit of The Legal Aid Society (1989-1997).

Justice Renwick began her judicial career in 1997 as a Housing Court Judge of the Housing Court of the City of New York, New York County. Justice Renwick served as a Judge on the Civil Court of the City of New York (1998-2001) and thereafter as a Justice on the New York State Supreme Court, Bronx County (2002-2008). She was appointed to the Appellate Division in 2008.

Among the decisions Justice Renwick has authored is *Acevedo v. Piano Building*, in which Justice Renwick, writing for a unanimous panel, ruled that an apartment may remain eligible for rent stabilization under the Emergency Tenant Protection Act of 1974 even after the landlord purchased the tenant's Loft Law rights. She also authored the Court's opinion in *People v. Davis*, which addressed whether prosecutors need to secure court permission before re-presenting a case to a grand jury.

Justice Renwick is Chair of the New York State Continuing Legal Education Board and serves on the Board of Directors of the Benjamin N. Cardozo School of Law. She previously served on the Governor's Task Force on Judicial Diversity and as Chair of the New York State Supreme Court Board of Justices, 12th Judicial District. Justice Renwick is also involved in various community activities, including serving on the Board of Managers for the New York Botanical Garden and the Board of Directors of the Picture House Regional Film Center.

David A. Schulz, Esq.

David A. Schulz, a partner at the law firm of Levine Sullivan Koch & Schulz, LLP in New York City, was found by the Commission to be well qualified for the position of Associate Judge based on his character, temperament, professional aptitude, experience, qualifications and fitness for office. Mr. Schulz was previously nominated by the Commission for the position of Associate Judge in 2007 and 2012. He was interviewed by the Commission on November 7, 2012.

Mr. Schulz received a B.A. from Knox College (*magna cum laude*) in 1974, an M.A. in economics from Yale University in 1975, and a J.D. degree from Yale Law School in 1978. He has been engaged in the private practice of law in New York City from 1979 to the present. He is a founding partner of his current firm, which was formed in 2003. Previously, he practiced at Rogers & Wells LLP, and following a merger, at Clifford Chance US LLP. Mr. Schulz is currently an adjunct professor at Yale and Columbia University Law Schools and has previously served in a similar capacity at Fordham University School of Law and Brooklyn Law School.

Mr. Schulz is a Past President of the Defense Counsel Section of the Libel Defense Resource Center. He is also Chair of the Intellectual Property Council and Past Chair of the Communications and Media Law Committee of the New York City Bar Association. He served on the Sedona Conference's Working Group on Protective Orders, Confidentiality and Public Access. He also serves as a Trustee of Knox College.

Mr. Schulz is a frequent author and lecturer on topics related to the press and the First Amendment. He is an associate member of the Society of Professional Journalists.

Maria T. Vullo, Esq.

Maria T. Vullo, currently a partner at the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP in New York City, was found by the Commission to be well-qualified for the position of Associate Judge based on her character, temperament, professional aptitude, experience, qualifications and fitness for office. She was interviewed by the Commission on November 8, 2012.

Ms. Vullo received her undergraduate degree from College of Mount Saint Vincent in 1984 (*summa cum laude*). She graduated from New York University School of Law in 1987, where she was Senior Editor of the Moot Court Board. In January 2012, Ms. Vullo received an M.P.A. from New York University's Wagner Graduate School of Public Service. Upon graduation from law school, from 1987 to 1988, Ms. Vullo served as Law Clerk to Hon. John A. MacKenzie, U.S. District Judge for the Eastern District of Virginia. Thereafter, Ms. Vullo joined Paul, Weiss as an associate and became a partner in 1996.

In her litigation practice, Ms. Vullo has handled civil, criminal and regulatory matters, including cases in the areas of securities, antitrust, healthcare, real estate, tax, bankruptcy, constitutional law, intellectual property and environmental law. In 2010, Ms. Vullo served as Executive Deputy Attorney General for Economic Justice in the Office of New York Attorney General Andrew M. Cuomo.

Ms. Vullo has served as a member of the First Department Judicial Screening Committee since March 2007. She serves as Vice Chair of the National Organization of Italian American Women, Director of The Fund for Modern Courts, Inc., and Director of NARAL Pro-Choice America.

Rowan D. Wilson, Esq.

Rowan D. Wilson, currently a partner at the law firm of Cravath, Swaine & Moore in New York City, was found by the Commission to be well-qualified for the position of Associate Judge based on his character, temperament, professional aptitude, experience, qualifications and fitness for office. He was interviewed by the Commission on January 14, 2013.

Mr. Wilson received his undergraduate degree (*cum laude*) from Harvard College in 1981. He graduated from Harvard Law School (*cum laude*) in 1984, where he was a member of the Civil Rights/Civil Liberties Law Review. Following law school, from 1984 to 1986, Mr.

Wilson served as Law Clerk to Hon. James R. Browning, Chief Judge of the U.S. Court of Appeals for the Ninth Circuit. Thereafter, Mr. Wilson joined Cravath as an associate, and became a partner in 1992.

In his litigation practice, Mr. Wilson has handled cases in the areas of antitrust, intellectual property, contract, securities fraud, civil rights and employment law. Mr. Wilson has also been actively involved in *pro bono* matters, including representation of a class of employees of Jefferson County, Alabama, in an ongoing lawsuit alleging non-compliance with a consent decree designed to assure fair hiring practices and opportunities for career advancement for minorities.

Since 1996, Mr. Wilson has served as Chairperson of the Neighborhood Defender Service of Harlem.

EXHIBIT A

N.Y.S. Commission on Judicial Nomination

Data on New York Court of Appeals Applicants (1997-2013)

	Richard D. Simons Vacancy (1997)		Vito J. Titone Vacancy (1998)		Joseph W. Bellacosa Vacancy (2000)		Howard A. Levine Vacancy (2002)		Richard C. Wesley Vacancy (2003)		George Bundy Smith Vacancy (2006)		Albert M. Rosenblatt Vacancy (2006)*	
Total Applicants:	38		41		32		27		46		26		47	
Total Female Applicants:	5	13%	7	17%	7	22%	4	15%	11	24%	2	8%	10	21%
Total Ethnic Minority Applicants:	2	5%	6	15%	2	6%	4	15%	1	2%	5	19%	11	23%
Applicants Interviewed:	22		18		24		18		23		16		24	
Interviewees Who Were Female:	4	18%	3	17%	7	29%	3	17%	4	17%	2	13%	7	29%
Interviewees Who Were Ethnic Minorities:	2	9%	4	22%	2	8%	3	17%	0	0%	3	19%	6	25%
Candidates on Nomination List:	7		7		7		7		7		7		7	
Nominees Who Were Female:	1	14%	0	0%	3	43%	3	43%	1	14%	1	14%	1	14%
Nominees Who Were Ethnic Minorities:	1	14%	2	29%	1	14%	1	14%	0	0%	1	14%	2	29%

	Judith S. Kaye Vacancy (2007)		Carmen B. Ciparick Vacancy (2007)		Judith S. Kaye Vacancy (2008)		Totals 1997-2008	
Total Applicants:	25		15		17		314	
Total Female Applicants:	4	16%	5	33%	3	18%	58	18%
Total Ethnic Minority Applicants:	5	20%	4	27%	7	41%	47	15%
Applicants Interviewed:	14		9		12		180	
Interviewees Who Were Female:	3	21%	3	33%	3	25%	39	22%
Interviewees Who Were Ethnic Minorities:	3	21%	3	33%	4	33%	30	17%
Candidates on Nomination List:	7		5		7		68	
Nominees Who Were Female:	1	14%	2	40%	0	0%	13	19%
Nominees Who Were Ethnic Minorities:	1	14%	1	20%	1	14%	11	16%

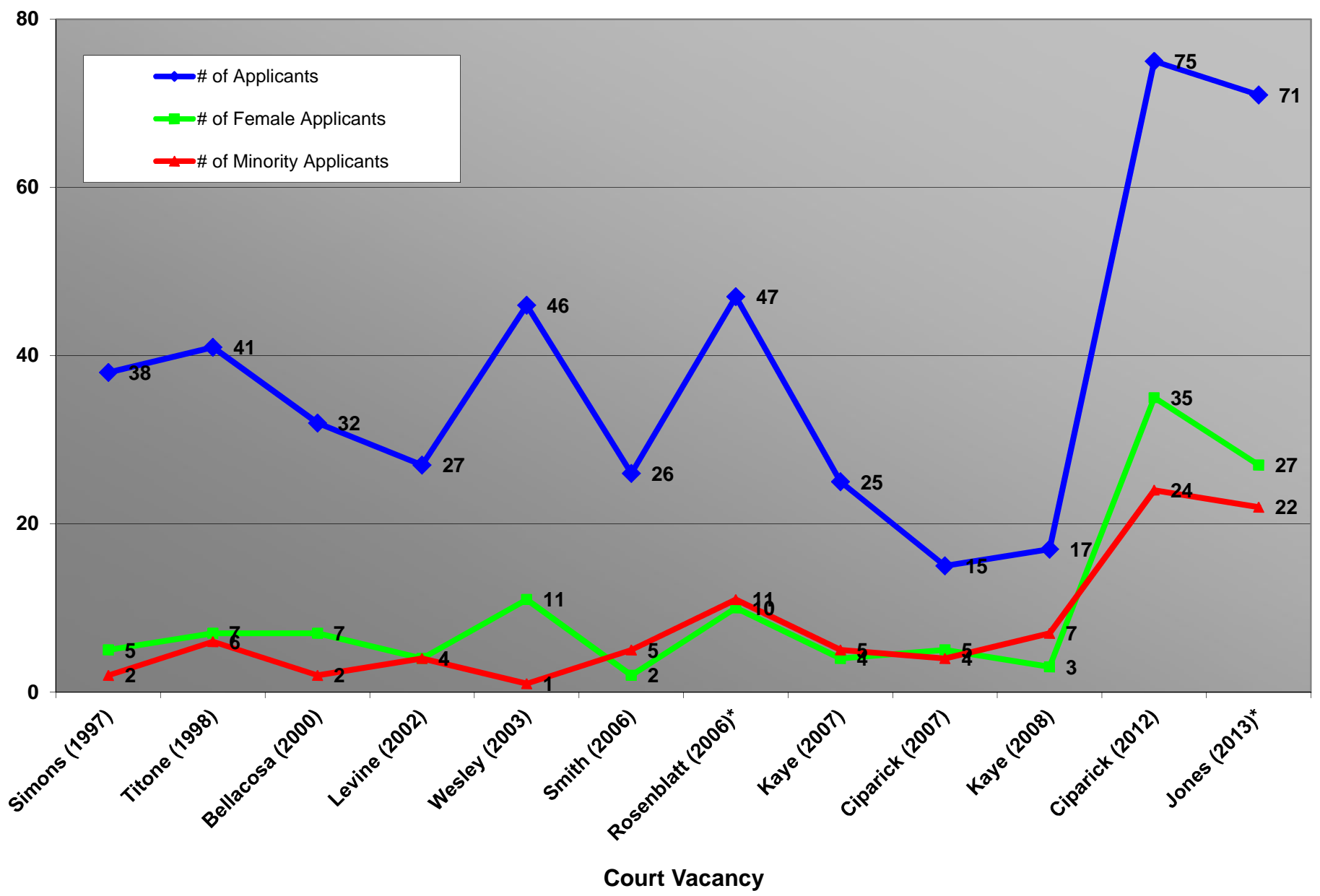
Carmen B. Ciparick Vacancy (2012)	
75	
35	47%
24	32%
36	
17	47%
18	50%
7	
4	57%
5	71%

Theodore T. Jones Vacancy (2013)**	
71	
27	38%
22	31%
37	
15	41%
15	41%
7	
3	43%
3	43%

* Rosenblatt vacancy figures include 25 candidates who applied for the Rosenblatt vacancy, and 22 candidates who applied for the 2006 Smith vacancy, and whose applications were reconsidered for the Rosenblatt vacancy.

** Jones vacancy figures include 16 candidates who applied for the Jones vacancy, and 55 candidates who applied for the 2012 Ciparick vacancy, and whose applications were reconsidered for the Jones vacancy.

Applications to Court of Appeals, 1997-2013



* Rosenblatt figures include new Rosenblatt applicants, and candidates reconsidered from the 2006 Smith vacancy. Jones figures include new Jones applicants, and candidates reconsidered from the 2012 Ciparick vacancy.