

**State of New York  
Commission on Judicial Nomination**

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March 24, 2023  
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**FOR IMMEDIATE RELEASE**

**The Commission on Judicial Nomination Releases List of Seven Nominees In  
Connection with Upcoming Vacancy**

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 Court of Appeals of the State of New York. 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 resignation of Chief Judge Janet DiFiore, effective August 31, 2022, the Commission today 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 Chief Judge of the Court of Appeals and the State of New York.

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 and individual solicitations of applications. The Commission's outreach also included efforts to build on the substantial body of candidates who initially applied for the Chief Judge vacancy. These efforts resulted in the Commission's consideration of 54 applications for the seven now nominated by the Commission.

The applicant pool was diverse. Of the 54 candidates, 28 (52%) were women and 17 (31%) were of diverse backgrounds. Altogether, the Commission interviewed 25 candidates for the Chief Judge vacancy (which includes interviews of candidates in November 2022 who initially applied for the vacancy). Of those 25 candidates, 15 (60%) were women and 12 (48%) were ethnic minorities or otherwise diverse.

E. Leo Milonas, Chair of the Commission, stated: "I am gratified at the extraordinary quality and diverse backgrounds of the applicants received by the Commission. That so many exceptional candidates were motivated to apply demonstrates the remarkable strength and depth of the legal profession in the State of New York."

The Commission's seven nominees (in alphabetical order) to the Governor are:

- Hon. Anthony Cannataro, Associate Judge and Acting Chief Judge, New York Court of Appeals;
- Hon. Elizabeth A. Garry, Presiding Justice, Appellate Division, Third Department;
- Caitlin J. Halligan, Esq., attorney in private practice (Selendy Gay Elsberg PLLC);
- Corey L. Stoughton, Esq., Attorney-in-Charge, Special Litigation and Law Reform, The Legal Aid Society;
- Hon. Shirley Troutman, Associate Judge, New York Court of Appeals;
- Hon. Gerald J. Whalen, Presiding Justice, Appellate Division, Fourth Department;
- and,
- Hon. Rowan D. Wilson, Associate Judge, New York Court of Appeals.

By law, the Governor is required to make her appointment from among this list no sooner than April 8, 2023 nor later than April 23, 2023. The State Senate then, within 30 days after receipt of the Governor's choice, must confirm or reject the appointment.

The next vacancy on the Court of Appeals is scheduled to occur on December 31, 2027, in connection with the expiration of Associate Judge Jenny Rivera's 14-year term on the Court.

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March 24, 2023

The Honorable Kathy Hochul  
Executive Chamber  
State Capitol  
Albany, New York 12224

Dear Governor Hochul:

As Chair of the Commission on Judicial Nomination, it is my privilege 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 Chief Judge of the Court of Appeals and the State of New York. 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 the resignation of Chief Judge Janet DiFiore, effective August 31, 2022.

The work underlying this report — the second for the current Chief Judge vacancy — was triggered by the Clerk of the Court of Appeals notifying the Commission, by letter dated February 17, 2023, that such vacancy continued to exist following the Senate's rejection of a previously nominated individual. This obliged the Commission to take up the task anew of seeking recommendations and applications of persons who are qualified to serve as Chief Judge of the Court of Appeals, as well as Chief Judge of the State of New York.

Under Section 68(2) of the Judiciary Law, the Commission had 120 days from February 17, 2023 to solicit candidates, conduct its investigations, and complete its deliberations. (This is a shorter period than the time allowed for the Commission to complete the process in connection with scheduled vacancies that occur due to the completion of a Judge's term.) However, the Commission has been mindful of the extraordinary circumstance that Chief Judge DiFiore resigned nearly seven months ago, and the need to ensure her vacancy is swiftly filled. Accordingly, the Commission has promptly discharged its Constitutional and statutory responsibilities, especially given "the unique responsibilities of the chief judge of the court of appeals for policies of judicial administration." N.Y. Judiciary Law § 63(2)(a).

At the same time, the Commission was obliged to, and did, take 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. The Commission for a second time disseminated statewide notice of the vacancy and application procedure, including to the media, bar associations, New York law schools, and members of the judiciary. The notice also announced that candidates who previously submitted applications for the Chief Judge vacancy, would again be considered by the Commission, without the need for such applicants to resubmit their prior application materials. The Commission also engaged in individual solicitation of applications by qualified candidates.

Furthermore, the Commission extended its original deadline for submitting applications for this vacancy from March 7, 2023 to March 10, 2023 to ensure that the size and composition of the pool of applicants represented the broadest possible spectrum of qualified candidates, and provide applicants additional time to complete their applications.

The Commission's outreach efforts were successful. Fifteen new candidates submitted applications. These applications, along with 39 candidates that previously applied,<sup>1</sup> provided the Commission with a pool of 54 candidates to consider for the Chief Judge vacancy. Of the 54 candidates, 28 (52%) were female and 17 (31%) were of diverse backgrounds.

The Commission met on March 22 and 23, 2023 to conduct interviews of 14 candidates (8 newly applied and 6 previously interviewed in November 2022) and relied on the prior interviews of 9 candidates. Of the 14 candidates, 9 (64%) were female and 6 (43%) were ethnic minorities. Altogether, the Commission interviewed 25 candidates for the Chief Judge vacancy (which includes interviews of candidates in November 2022 who initially applied for the vacancy). Of those 25 candidates, 15 (60%) were female and 10 (40%) were ethnic minorities. The Commission interviewed candidates from around the State, of varying personal and professional backgrounds, and drawing from the bench, the practicing bar and academia.

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<sup>1</sup> Two of the 41 applicants that originally applied for the Chief Judge DiFiore vacancy withdrew their names from consideration following the Commission's second call for applicants on February 17, 2023.

The Honorable Kathy Hochul

March 24, 2023

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Consistent with past practice, 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 Commission's seven nominees (in alphabetical order) to the Governor are as follows:

- Hon. Anthony Cannataro, Associate Judge and Acting Chief Judge, New York Court of Appeals;
- Hon. Elizabeth A. Garry, Presiding Justice, Appellate Division, Third Department;
- Caitlin J. Halligan, Esq., attorney in private practice (Selendy Gay Elsberg PLLC);
- Corey L. Stoughton, Esq., Attorney-in-Charge, Special Litigation and Law Reform, The Legal Aid Society;
- Shirley Troutman, Associate Judge, New York Court of Appeals;
- Hon. Gerald J. Whalen, Presiding Justice, Appellate Division, Fourth Department; and,
- Rowan D. Wilson, Associate Judge, New York Court of Appeals.

Each candidate recommended for the Office of Chief 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, Henry M. Greenberg.

Thank you.

Respectfully,



E. Leo Milonas  
Chair

## **NOMINEE BIOGRAPHIES (in alphabetical order):**

### **Hon. Anthony Cannataro**

Hon. Anthony Cannataro, Associate Judge of the New York Court of Appeals and Acting Chief Judge, was found by the Commission to be well qualified for the position of Chief Judge based on his character, temperament, professional aptitude, experience, qualifications and fitness for office. He was previously nominated by the Commission for the position of Chief Judge of the Court of Appeals in 2022. He was interviewed by the Commission for the Chief Judge vacancy on November 21, 2022.

Judge Cannataro was born in 1965 and received his undergraduate degree from Columbia University (cum laude) in 1993. He graduated from New York Law School (cum laude) in 1996. Upon graduation from law school, he served as an Assistant Corporation Counsel in the Manhattan Trial Unit of the New York City Law Department. He served as a law clerk to Hon. Carmen Beauchamp Ciparick, an Associate Judge of the Court of Appeals from 2000 to 2003 and Hon. Lottie E. Wilkins in Supreme Court, New York County from 2003 to 2011. In 2011, he was elected a Judge of the New York City Civil Court, New York County, and was Acting Judge of the Family Court in Kings County from 2012 through 2013. He then sat in the New York City Civil Court, Bronx County, from 2014 through 2015. In 2016, he was appointed Supervising Judge of New York City Civil Court, New York County. In 2017, he was elected a Justice of the Supreme Court from the First Judicial District, and, commencing in 2018, served as Citywide Administrative Judge for the Civil Court of the City of New York. On May 25, 2021, Governor Andrew M. Cuomo nominated him to the Court of Appeals, and the New York State Senate confirmed his appointment on June 8, 2021.

Judge Cannataro previously served as Co-Chair of the Richard C. Failla LGBTQ Commission of the New York State Courts and is a Commissioner on the Commission to Reimagine the Future of New York's Courts. He has served on various committees in several bar associations, including the New York State Bar Association and New York County Lawyers Association.

### **Hon. Elizabeth A. Garry**

Hon. Elizabeth A. Garry, the Presiding Justice of the Appellate Division, Third Department, was found by the Commission to be well qualified for the position of Chief Judge based on her character, temperament, professional aptitude, experience, qualifications and fitness for office. She was interviewed by the Commission for the Chief Judge vacancy on November 21, 2022 and March 22, 2023.

Presiding Justice Garry was born in 1962 and received her B.A. from Alfred University in 1984, She graduated from Albany Law School in 1990. She served as Confidential Law Clerk to the Honorable Irad S. Ingraham, Justice of the Supreme Court, from 1990 to 1994. She engaged in private practice with the Joyce Law Firm from 1994 to 2006 and served as a Mortgage Foreclosure Referee from 1995 to 2001, and Town Justice in the Town of New Berlin, Chenango County from 2001 to 2005. In 2006, she was elected a Justice of the Supreme Court from the Sixth

Judicial District, and appointed to the Appellate Division, Third Department, in 2009, and as Presiding Justice of that Court in 2018.

Justice Garry is a Trustee of Albany Law School, member of the Richard C. Failla LGBTQ Commission of the State Courts, and board member of the International Association of LGBTQ+ Judges.

**Caitlin J. Halligan, Esq.**

Hon. Caitlin J. Halligan, a partner at the law firm of Selendy Gay Elsberg PLLC, was found by the Commission to be well qualified for the position of Chief Judge based on her character, temperament, professional aptitude, experience, qualifications and fitness for office. She was previously nominated by the Commission for the positions of Chief Judge of the Court of Appeals in 2015 and Associate Judge in 2015, 2016 and 2021 (twice). She was interviewed by the Commission for the current Chief Judge vacancy on March 23, 2023.

Ms. Halligan was born in 1966 and received her undergraduate degree from Princeton University in 1988. She graduated from Georgetown University Law Center (magna cum laude) in 1995, where she was Managing Editor of the Georgetown Law Review. Upon graduation from law school, she served as Law Clerk to Hon. Patricia Wald of the United States Court of Appeals for the District of Columbia Circuit from 1995 to 1996 and Hon. Stephen Breyer, Associate Justice of the Supreme Court of the United States from 1997 to 1998. She also served as an associate at Wiley, Rein, and Fielding in Washington, D.C. from 1996 to 1997 and Howard, Smith & Levin in New York City from 1998 to 1999.

From 1999 to 2000, Ms. Halligan served as head of the Internet Bureau in the Office of the New York State Attorney General. In 2001, she became First Deputy Solicitor General for the State of New York, and from 2001 to 2007 served as Solicitor General for the State of New York. Ms. Halligan returned to private practice in 2007 as a partner at Weil, Gotshal & Manges LLP. In 2009, she became General Counsel to the New York County District Attorney's Office. She remained in that post until 2013, when she became a partner at the law firm of Gibson, Dunn & Crutcher LLP. In 2019, she joined Selendy Gay Elsberg PLLC.

Ms. Halligan is a member of the American Law Institute and fellow of the American Academy of Appellate Lawyers. She served on the board of Princeton-in-Asia from 2017-2021. She currently teaches several classes as a Lecturer on Law at Harvard Law School, including a first-year course on statutory interpretation and administrative law, a workshop on Supreme Court and appellate advocacy, and a seminar on states and public law; next fall, she is teaching a course on state constitutionalism. She previously taught at Columbia Law School and Georgetown Law Center.

**Corey Lynn Stoughton, Esq.**

Corey Lynn Stoughton, Attorney-in-Charge, Special Litigation and Law Reform, The Legal Aid Society, was found by the Commission to be well qualified for the position of Chief Judge of the Court of Appeals based on her character, temperament, professional aptitude,

experience, qualifications, and fitness for office. She was previously nominated by the Commission for the positions of Associate Judge of the Court of Appeals in 2021, and Chief Judge in 2022. She was interviewed by the Commission for the Chief Judge vacancy on November 21, 2022.

Ms. Stoughton was born in 1976 and received her undergraduate degree from the University of Michigan (with high honors) in 1998. She graduated from Harvard Law School (magna cum laude) in 2002, where she was Lead Submissions Editor of the Harvard Civil Rights-Civil Liberties Law Review and President and Founding Member of the American Constitution Society, Harvard Chapter. She also received the 2002 Dean's Award for Community Leadership. Upon graduation from law school, she served as a law clerk for the Honorable Cornelia G. Kennedy of the United States Court of Appeals for the Sixth Circuit. She also was a civil rights fellow at Relman & Associates and a Karpatkin Fellow at the American Civil Liberties Union. From 2005 to 2015, Ms. Stoughton was a senior supervising attorney at the New York Civil Liberties Union. From 2007 to 2015, she was an adjunct clinical professor at New York University School of Law, where she taught the New York Civil Liberties Clinic. In 2015, she became senior counsel to the Assistant Attorney General for Civil Rights at the United States Department of Justice, Civil Rights Division. She remained in that post until 2017, when she became the advocacy director and acting director of UK Liberty (National Council for Civil Liberties). In 2020, she joined The Legal Aid Society as its Attorney-in-Charge, Special Litigation and Law Reform.

### **Hon. Shirley Troutman**

Hon. Justice Shirley Troutman, an Associate Justice of the Court of Appeals, was found by the Commission to be well qualified for the position of Chief Judge based on her character, temperament, professional aptitude, experience, qualifications and fitness for office. She was interviewed by the Commission for the Chief Judge vacancy on November 22, 2022 and March 22, 2023.

Justice Troutman was born in 1959 and received her undergraduate degree from the State University of New York at Buffalo in 1982. She graduated from Albany Law School in 1985. From 1986 to 1989, she served as an Assistant District Attorney with the Office of the Erie County District Attorney. From 1989 to 1992, she served as an Assistant Attorney General with the Office of the New York State Attorney General. From 1992 through 1994, she served as an Assistant United States Attorney for the United States Attorney's Office for the Western District of New York. From 1994 to 2002, she served as a City Court Judge for the City of Buffalo. From 2003 to 2009, she served as an Acting Supreme Court Justice for Erie County. In 2009, she was elected a Justice of the Supreme Court from the Eighth Judicial District, and was appointed to the Appellate Division, Fourth Department in 2016. In November of 2021, Governor Kathy Hochul nominated her to serve on the New York State Court of Appeals, and the New York State Senate confirmed her appointment on January 12, 2022.

Justice Troutman has served as an Adjunct Professor at Buffalo State College and SUNY Buffalo Law School. She has taught seminars regarding diversity and inclusion in the courts, New York criminal and civil law and procedure, and judicial ethics. Justice Troutman is currently co-



Chair of the Franklin Williams Commission, and is President-Elect of the National Association of Women Judges, New York Chapter.

**Hon. Gerald J. Whalen**

Hon. Gerald J. Whalen, the Presiding Justice of the Appellate Division, Fourth Department, was found by the Commission to be well qualified for the position of Chief Judge based on his character, temperament, professional aptitude, experience, qualifications and fitness for office. He was previously nominated by the Commission for the position of Associate Judge of the Court of Appeals in 2017. He was interviewed by the Commission for the current Chief Judge vacancy on March 22, 2023.

Presiding Justice Whalen was born in 1956 and received his undergraduate degree from Canisius College in 1977. He graduated from SUNY Buffalo Law School in 1983. Following law school, he became an associate at Offerman, Mahoney, Cassano, Pigott, Greco & Whalen, where he became partner in 1988. From 1993 to 2001 he was principal trial counsel in the defense and prosecution of personal injury, labor law, products liability, complex commercial and criminal matters as a shareholder at Williams, Stevens, McCarville & Frizzell, P.C., and then at Hiscock & Barclay, LLP, where he was a partner until 2005 and served on the firm's Diversity Committee. In 2006, he was elected a Justice of the Supreme Court from the Eighth Judicial District, and was appointed to the Appellate Division, Fourth Department in 2012, and as Presiding Justice of that Court in 2016.

Presiding Justice Whalen has served as an Adjunct Professor and member of the Pre-Law Advisory Committee at Canisius College, and a lecturer on constitutional law at SUNY Buffalo. He was elected and served as President of the Supreme Court Justices Association, Eighth Judicial District, in 2012. He also served as Chair of the Bar Association of Erie County Judges' Committee from 2011 to 2012. From 2002 to 2012, he served on the Fourth Department, Eighth Judicial District Committee on Character and Fitness. For twenty-five years, he was a member of the Judge John J. Hillery Memorial Scholarship Foundation, which provides scholarships for students in need.

**Hon. Rowan D. Wilson**

Hon. Rowan D. Wilson, an Associate Justice of the Court of Appeals, was found by the Commission to be well qualified for the position of Chief Judge based on his character, temperament, professional aptitude, experience, qualifications and fitness for office. He was previously nominated by the Commission for the position of Chief Judge of the Court of Appeals in 2015, and Associate Judge in 2013, 2014 (twice), and 2015. He was interviewed by the Commission for the current Chief Judge vacancy on November 22, 2022 and March 23, 2023.

Mr. Wilson was born in 1960 and 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 United States Court of Appeals for the Ninth Circuit. He then joined Cravath, Swaine & Moore LLP as an associate, and became a partner in 1992. On January 15, 2017, Governor Andrew M.

Cuomo nominated him to serve on the New York Court of Appeals, and the New York State Senate confirmed his appointment on February 6, 2017.

While in private practice, Judge Wilson handled numerous *pro bono* matters. He also served as Trustee for the Lawyers Committee for Civil Rights Under Law and for the National Center for Law and Economic Justice, and for twenty-one years as Chairman of the Neighborhood Defender Service of Harlem, which provides legal representation and community-based public defense services to the Harlem community.