

# Table of Contents

<b>Exhibit 1</b> – Letter From Allison “Allie” Robbins	Page 1
<b>Exhibit 2</b> – Letter From CUNY Law Student Nicholas Widzowski	Page 3
<b>Exhibit 3</b> – Joint Letter From CUNY Law Faculty	Page 4
<b>Exhibit 4</b> – Joint Letter From CUNY Law Alumni	Page 7
<b>Exhibit 5</b> – Letter From Seeta Persaud	Page 11
<b>Exhibit 6</b> – Letter From Judy Edwards Greene	Page 13
<b>Exhibit 7</b> – Written Testimony From Ruthann Robson (submission #1)	Page 14
<b>Exhibit 8</b> – Written Testimony From Ruthann Robson (submission #2)	Page 16
<b>Exhibit 9</b> – Letter from Sandford J. Hausler	Page 19
<b>Exhibit 10</b> – Letter From Celina Eden Caban	Page 20
<b>Exhibit 11</b> – Letter From Lillian Llambelis	Page 22
<b>Exhibit 12</b> – Letter From Penelope Andrews, President and Dean of Albany Law School	Page 25
<b>Exhibit 13</b> – Letter From Carol Robles-Roman	Page 27
<b>Exhibit 14</b> – Letter From John Sexton	Page 29
<b>Exhibit 15</b> – Letter From Puerto Rican Bar Association	Page 31
<b>Exhibit 16</b> – Letter From Nitza Milagro Escalera	Page 34
<b>Exhibit 17</b> – Letter From Caesar Alvarez	Page 35
<b>Exhibit 18</b> – Letter From David Arroyo	Page 39
<b>Exhibit 19</b> – Letter From Douglas Dunham	Page 42
<b>Exhibit 20</b> – Letter From Hispanic National Bar Association	Page 44
<b>Exhibit 21</b> – THIS PAGE IS INTENTIONALLY LEFT BLANK	Page 47
<b>Exhibit 22</b> – Letter From Stephen Bergstein	Page 48
<b>Exhibit 23</b> – Anonymous Correspondence	Page 50
<b>Exhibit 24</b> – Letter From CUNY Chancellor	Page 62
<b>Exhibit 25</b> – Letter From John Downing, Esq.	Page 63

<b>Exhibit 26</b> – Testimony of Michelle J. Anderson, Dean of CUNY Law School	Page 67
<b>Exhibit 27</b> – Testimony of Michelle Jaffe, NYSTLA President	Page 69
<b>Exhibit 28</b> – Letter From Paul Mannix	Page 71
<b>Exhibit 29</b> – Letter From Joseph Bellacosa	Page 74
<b>Exhibit 30</b> – Letter From Elizabeth De Leon Bhargava, Esq.	Page 77
<b>Exhibit 31</b> – Letter From Stewart F. Hancock, Jr.	Page 79
<b>Exhibit 32</b> – Letter From Howard A. Levine	Page 81
<b>Exhibit 33</b> – Letter From Natasha Lycia Ora Bannan	Page 83
<b>Exhibit 34</b> – Testimony of Seymour W. James, Jr., President of NYSBA	Page 85
<b>Exhibit 35</b> – Testimony of Professor Jenny Rivera, NYS Court of Appeals Nominee	Page 93
<b>Exhibit 36</b> – Letter from John Downing	Page 99
<b>Exhibit 37</b> – Letter from Steven Beard	Page 100
<b>Exhibit 38</b> – Letter From Judge Judith S. Kaye	Page 101



Jenny Rivera  
Allie Robbins  
to:  
cherry  
02/03/2013 01:10 AM  
Hide Details  
From: Allie Robbins <allierobbins@gmail.com>  
To: cherry@nysenate.gov,

**EXHIBIT 1**

February 3, 2013

Allie Robbins

71-17 Woodside Ave Apt 2A

Woodside, NY 11377

NYS Senate Judiciary Committee

New York State Capitol Building

172 State Street

Albany, NY 12230

Senate Judiciary Committee Members,

I write in support of Jenny Rivera's confirmation as Associate Judge of the Court of Appeals. Jenny Rivera has been an ardent student of the law for decades. Her commitment to justice and equality is unwavering and unmatched.

As a former student at CUNY School of Law, I am keenly aware of Professor Rivera's reputation as a disciplined, dedicated, and artful teacher of the law. She has provided countless students not only with the skills necessary to practice law and advocate for clients, but with the ability to think about, question, and dismantle and then reassemble every sentence of law and judicial opinion and delve deep into its meaning. As a professor she is tough but fair, open to new pedagogical techniques, but always focused

on achieving the maximum educational benefit for all students. She has always been deeply devoted to CUNY Law School's dual mission of being an access institution and a center of learning focused on law in the service of human needs.

As her colleague, I have found Professor Rivera to be thoughtful, compassionate, and collegial. Working closely with her to mentor students studying for the bar exam, she was open-minded and meticulous. She held our students to the highest standard and gave them the tools necessary to reach it. It is evident in everything she does and every conversation in which she engages that her top priority has been creating opportunities for all students to succeed, particularly those who come from communities that are traditionally underrepresented in the legal profession.

Professor Rivera believes strongly in the power and importance of the law in creating a just society. She is deeply deferential to the language of the law, and understands the integral role it plays in the everyday lives of all people. As a judge she would be thoughtful and discerning, pursuing a just legal system for all New Yorkers. Her integrity and intellect are exemplary. She would make a fantastic judge and would be a tremendous asset to the State of New York.

Sincerely,

/s/Allie Robbins

Director of Student Affairs

CUNY Law School



**Confirmation of Jenny Rivera**

nick to: cherry

02/03/2013 09:56 AM

I write in support of Jenny Rivera's confirmation as Associate Judge of the Court of Appeals. Jenny Rivera has been an ardent student of the law for decades, and her commitment to justice and equality is unwavering and unmatched.

Professor Rivera believes strongly in the power and importance of the law in creating a just society. She is deeply deferential to the language of the law, and understands the integral role it plays in the everyday lives of people. As a judge she would be thoughtful and discerning, and would pursue a just legal system for all New Yorkers. Her integrity and intellect are exemplary, and she would make a fantastic jurist worthy of the gravitas of the Court of Appeals. Thank you.

Sincerely,  
Nicholas Widzowski  
CUNY School of Law 2L

*The City University of New York*  
**CUNY SCHOOL OF LAW**  
*Law in the Service of Human Needs*

2 Court Square

Long Island City, NY 11101

30 January 2013

We write to urge the Senate to confirm Jenny Rivera as an Associate Judge on our state's highest court.

In her years as a faculty member at City University of New York School of Law, one of our state's two public law schools, Jenny Rivera has been a stellar colleague who has devoted herself to the law.

Her teaching, her writings, and her community service exemplify the very best engagement with law our state has to offer. In her teaching of courses of Civil Procedure and Property, she integrates real world experience with complex legal rules, and in her teaching of Administrative Law she draws upon her experience as an administrative law judge. In her writing, she has considered conflicts among judicial decisions about equality and has considered methods of implementing the statutory protections relating to domestic violence. She offered workable solutions that are being adopted. In her community service, she has sought to clarify the law, increase the diversity of the legal profession, and bridge the gaps between legal professionals, law students, and lay persons.

She is brilliant, hard working, pragmatic, and collegial. She has the utmost integrity. She understands our state and its place in the nation. She loves the law and the people it serves. She is truly exceptional.

During her leave to serve in the Attorney General's Office, she was sorely missed at our law school and we know we will miss her if she becomes a Judge on the Court of Appeals. But what is our law school's loss will assuredly be our state's gain.

Respectfully,

Faculty Members of the City University of New York School of Law

(titles for identification purposes only)



*The City University of New York*  
CUNY SCHOOL OF LAW

Page 2 of 3

Alan White, Professor of Law  
Alex Berrio Matamoros, Associate Law Library Professor  
Allison Robbins, Director of Student Affairs  
Andrea McArdle, Professor of Law  
Beryl Blaustone, Professor of Law  
Caitlin Borgmann, Professor of Law  
Cynthia Soohoo, Associate Professor of Law  
Dave Fields, University Dean  
David Nadvorney, Director, Academic Support Programs  
Deborah Zalesne, Professor of Law  
Degna P. Levister, Clinical Law Professor/Supervising Attorney  
Donna H. Lee, Professor of Law  
Douglas Cox, Associate Law Library Professor  
Ellen Fried, Adjunct Professor of Law  
Florence Kerner, Instructor  
Frank Deale, Professor of Law  
Franklin Siegel, Distinguished Lecturer  
Janet M. Calvo, Professor of Law  
Jeffrey L. Kirchmeier, Professor of Law  
John Whitlow, Clinical Law Professor  
John Cicero, Associate Professor of Law  
Jonathan Saxon, Associate Professor  
Joseph Rosenberg, Interim Associate Dean for Clinical Programs and Professor of Law  
Julie Goldscheid, Professor of Law  
Julie Lim, Professor and Director of the Law Library  
K. Babe Howell, Associate Professor of Law  
Lisa Davis, Clinical Professor of Law  
Lynn D. Lu, Clinical Law Professor/Supervising Attorney  
Merrick T. (Rick) Rossein, Professor of Law  
Nancy Macomber, Associate Professor  
Natalie Gomez-Velez, Professor of Law  
Nicole Smith Futrell, Clinical Law Professor/ Supervising Attorney  
Nina Chernoff, Associate Professor of Law  
Pamela Edwards, Professor of Law  
Paula Berg, Professor of Law  
Ramzi Kassem, Associate Professor of Law  
Raquel Gabriel, Law Library Professor  
Rebecca Bratspies, Professor of Law  
Richard F. Storrow, Professor of Law  
Ruthann Robson, Professor of Law & University Distinguished Professor  
Ryan Dooley, Adjunct Professor  
Sarah Lamdan, Associate Law Library Professor

*The City University of New York*  
**CUNY SCHOOL OF LAW**

Page 3 of 3

Sarah Valentine, Interim Associate Academic Dean and Professor  
Shirley Lung, Professor of Law  
Stephen Loffredo, Professor of Law  
Steven Zeidman, Professor of Law  
Susan J. Bryant, Professor of Law  
Susan Markus, Director, Legal Writing Center  
Victor Goode, Associate Professor of Law  
Yasmin Sokkar Harker, Library Associate Professor

February 3, 2013

Senator John J. Bonacic  
Senate Standing Committee on Judiciary  
New York State Capitol Building  
172 State Street, Room 124 CAP  
Albany, NY 12247

Re: Nomination of Jenny Rivera to the Court of Appeals

Dear Senator John J. Bonacic and Members of the Senate Standing Committee on Judiciary:

As former law students of Jenny Rivera, now attorneys committed to the rule of law, we write to express our enthusiastic support for Governor Andrew Cuomo's nomination of Jenny Rivera to serve as Associate Judge on New York State Court of Appeals.

Our group includes both private law firm and public interest lawyers who believe that Professor Rivera's compelling multi-disciplinary background as practitioner, distinguished public servant, educator, and scholar make her an ideal selection to serve on our state's highest court. If confirmed, she would bring a thoughtful, nuanced, engaging and disciplined approach to the law that would greatly benefit the bench and the people of New York.

Known for her dynamic presence and formidable intellect, Professor Rivera is deeply admired and respected by her students for always demanding and nurturing excellence through rigorous questioning. Always open-minded, she sought out varying viewpoints from her students. Many of us took her civil procedure, property, and administrative law classes. While her in-depth knowledge of both doctrine and policy inspired awe in many, her command of the material and use of real-world examples made these complex areas of law accessible.

The daughter of a single mother, a Puerto Rican immigrant, she fought against the odds, the deck fully stacked against her, and achieved the seemingly impossible through tireless perseverance and hard work. She has been a champion to the mission of increasing access to justice to individuals from all walks of life. Indeed, she has inspired many of us to become public interest attorneys. The breadth of her multi-faceted experience will serve her well on the bench. We can attest that her intellectual curiosity, even-handedness, and level-headedness make her well-suited to serve from the bench.

Professor Rivera is a remarkable lawyer, educator, and scholar. She has demonstrated seasoned judgment and unimpeachable integrity in her work, and she has consistently shown her core commitment to justice and the rule of law. We strongly believe she is extraordinarily qualified to serve as Associate Judge to the Court of Appeals. We are confident that she will listen carefully and patiently to all those who come before her and that she will make thoughtful decisions based on the law. We urge her swift confirmation without hesitation or without reservation.

/s/ Laura Matthews-Jolly

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Laura Matthews-Jolly  
CUNY Law Class of 2010

/s/ Talia Peleg

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Talia Peleg  
CUNY Law Class of 2010

/s/ Annie Meredith

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Annie Meredith  
CUNY Law Class of 2010

/s/ Seeta Persaud

---

Seeta Persaud  
CUNY Law Class of 2009  
Staff Attorney, Legal Aid Bureau of Buffalo

/s/ Stephen Miller

---

Stephen Miller  
CUNY Law Class of 2009

/s/ Raul Pinto

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Raul Pinto  
CUNY Law Class of 2010

/s/ Laura Nixon

---

Laura Nixon  
CUNY Law Class of 2010

/s/ Insha Rahman

---

Insha Rahman  
CUNY Law Class of 2010

/s/ Mauricio Norona

---

Mauricio Norona  
CUNY Law Class of 2009

/s/ Jessica Reed

---

Jessica Reed  
CUNY Law Class of 2010

/s/ Bernadette O'Donnell

---

Bernadette O'Donnell  
CUNY Law Class of 2010

/s/ Michael Rivadeney

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Michael Rivadeney  
CUNY Law Class of 2010

/s/ Bradley Parker

---

Bradley Parker  
CUNY Law Class of 2010

/s/ Allie Robins

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Allie Robbins  
CUNY Law Class of 2009  
Director of Student Affairs for CUNY Law

Respectfully Submitted,

/s/ Anna Arstein-Kerslake

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Anna Arstein-Kerslake  
CUNY Law Class of 2010

/s/ Julia Hernandez

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Julia Hernandez  
CUNY Law Class of 2012

/s/ Reka Bala

---

Reka Bala  
CUNY Law Class of 2010

/s/ Alexandra Howell

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Alexandra Howell  
CUNY Law Class of 2010

/s/ Bridgette Bissonnette

---

Bridgette Bissonnette  
CUNY Law Class of 2010

/s/ Tajuana Johnson

---

Tajuana Johnson  
CUNY Law Class of 2007

/s/ Farah Diaz-Tello

---

Farah Diaz-Tello  
CUNY Law Class of 2009

/s/ Matthew Lamberti

---

Matthew Lamberti  
CUNY Law Class of 2009

/s/ Robyn Enes Link

---

Robyn Enes Link  
CUNY Law Class of 2009

/s/ Shirley Lin

---

Shirley Lin  
CUNY Law Class of 2010

/s/ Judy Edwards

---

Judy Edwards  
CUNY Law Class of 2011

/s/ Sin Yeng Ling

---

Sin Yeng Ling  
CUNY Law Class of 1999

/s/ Lily Goetz

---

Lily Goetz  
CUNY Law Class of 2007

/s/ Jessica Massimi

---

Jessica Massimi  
CUNY Law Class of 2010

/s/ Julia Seifer-Smith

---

Julia Seifer-Smith  
CUNY Law Class of 2010  
Miami Public Defender

/s/ Kerry Toner

---

Kerry Toner  
CUNY Law Class of 2009

/s/ Megan Stuart

---

Megan Stuart  
CUNY Law Class of 2009

/s/ Mia Unger

---

Mia Unger  
CUNY Law Class of 2009

/s/ Maria Thukral

---

Maria Thukral  
CUNY Law Class of 2009

/s/ Virginia Wilber

---

Virginia Wilber  
CUNY Law Class of 2010

/s/ Erin Tomlinson

---

Erin Tomlinson  
CUNY Law Class of 2010

cc:

Eric Adams  
John J. Bonacic  
Neil D. Breslin  
John A. DeFrancisco  
Martin Malavé Dilan  
Adriano Espaillat  
John J. Flanagan  
Charles J. Fuschillo Jr.  
Kemp Hannon  
Ruth Hassell-Thompson  
Brad Hoylman  
Andrew J Lanza  
Kenneth P. LaValle  
Betty Little  
Michael F. Nozzolio  
Thomas F. O'Mara  
Bill Perkins

Michael H. Ranzenhofer  
John L. Sampson  
Diane J. Savino  
Malcolm A. Smith  
Toby Ann Stavisky  
Lee M. Zeldin

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DAVID C. SCHOPP  
Executive Attorney

**CIVIL LEGAL SERVICES UNIT**  
LISA R. STRAND  
Chief Attorney

February 1, 2013

Senator Timothy M. Kennedy  
Albany Office  
Legislative Office Building, Room 506  
Albany, NY 12247

**Page 11**  
**EXHIBIT 5**

**RE: Nomination of Jenny Rivera to the Court of Appeals**

**Dear Senator Timothy M. Kennedy:**

As a former CUNY law student and mentee of Professor Jenny Rivera, I write this letter with tremendous pride to offer my wholehearted support for Governor Andrew Cuomo's nomination of Professor Rivera to serve on the Court of Appeals.

Speaking as a legal services attorney for the indigent, now residing in Buffalo (the poorest city in New York State and the third poorest city in the country), I fervently believe that Professor Rivera is not only a formidable intellectual powerhouse, but she is also a force of nature deeply committed to civil rights, access to justice, and integrity of process.

I had the distinct privilege of interning for Professor Rivera during her tenure as Special Deputy Attorney General for Civil Rights in 2007. This internship was a much coveted position by many: it was an awe-inspiring opportunity to be challenged and tested by the deeply respected Jenny Rivera. Almost six years later, I can say with utmost pride that Professor Rivera not only challenged me and helped me to become a better public service lawyer, but she also helped to cement my commitment to the historically disenfranchised and disempowered.

When discussing complex legal issues involving federal and state civil rights laws, her questions were always thoughtful, nuanced, and incisive. Under her instructive stewardship, I learned that being an excellent lawyer meant thinking critically, staying open-minded, and asking the right questions.

As someone who hails from a working class, immigrant family, I have always been deeply inspired by Professor Rivera's exemplary work ethic and life journey. Furthermore, Professor Rivera is tough, passionate, and wholeheartedly committed to the mission of increasing access to justice.

Simply put, Professor Rivera is a remarkable, extraordinary human being, whose presence on the Court of Appeals would only add further honor and integrity to our judicial system.



It is with great honor and pride that I wholeheartedly support her nomination and urge you to confirm her as the next Associate Justice of the Court of Appeals.

Page 12

Respectfully Submitted,

A handwritten signature in black ink that reads "Seeta Persaud". The signature is written in a cursive style with a large, stylized initial 'S'.

Seeta Persaud, Esq.

Staff Attorney at the Legal Aid Bureau of Buffalo

237 Main Street, Suite 1602

Buffalo, NY 14203

(716) 853-9555 ext. 677 (phone)

[spersaud@legalaidbuffalo.org](mailto:spersaud@legalaidbuffalo.org)



Confirmation of Jenny Rivera to the Court of Appeals

Judy

to:

cherry

02/02/2013 09:52 PM

Sent by:

judy.elaine@gmail.com

Hide Details

From: Judy <jegjd13@gmail.com>

To: cherry@nysenate.gov,

Sent by: judy.elaine@gmail.com

I am writing to ask that you confirm the nomination of Jenny Rivera to the Court of Appeals. As a Heywood Burns Fellow, and a 2011 graduate of Cuny Law School, I have witnessed Jenny Rivera in many different roles. Jenny Rivera is an exceptional professor and advocate for those who cannot advocate for themselves. Her perspective, intellect and penchant for excellence will go a long way towards making the Court of Appeals an entity that is fair and unbiased for all New Yorkers.

Please confirm her nomination at once.

--

Judy Edwards Greene, JD

Written Testimony of Professor Ruthann Robson

for

**EXHIBIT 7**

New York State Senate Judiciary Committee

Senator John J. Bonacic, Chair Monday, February 4, 2013

Thank you for the invitation to provide testimony about Court of Appeals nominee Professor Jenny Rivera and her work. I regret that I cannot attend the hearing, and ask that you consider this written testimony.

I am Ruthann Robson, a Professor of Law and University Distinguished Professor at the City University of New York School of Law. I have known Professor Rivera since she began teaching at the City University of New York School of Law in 1997. I served as the Chair of her Tenure and Promotion Committee in 2001, a process that included reviews of her scholarship by legal scholars in New York and throughout North America. Her tenure and promotion to full Professor was granted and became effective the next year. In 2008, I reviewed Professor Rivera's article, *An Equal Protection Standard For National Origin Subclassifications: The Context That Matters* (2007) for readers of the Constitutional Law Professors Blog, which I co-edit. In November 2009, I organized and moderated a public "conversation" between Professor Jenny Rivera and CUNY Distinguished Professor of Literature Kimiko Hahn, a transcript of which was published as *Translating Equality: Language, Law And Poetry, A Conversation with Kimiko Hahn and Jenny Rivera* (2010).

Throughout her career, Professor Rivera's legal writing has been known for being useful. Scholars assessing her writings for her tenure and promotion review more than a decade ago repeatedly labeled it "pragmatic" and complimented it for making "practical suggestions" to remedy the problems she identified. Scholars editing anthologies, case books for student use in law schools, and their own articles have excerpted and included Professor Rivera's work. Looking back, I see legislatures and courts have since implemented many of the recommendations that she proposed. In 2001, as one of her articles was in press, a federal appellate court addressed a legal issue in a manner very similar to the approach Professor Rivera was recommending in that article.

Intellectually, Professor Rivera always extends herself to engage with other points of view. In the public conversation with an award-winning poet and Professor of Literature who writes in English and Japanese, Professor Rivera maintained her focus on the law while trying to "translate" legal doctrine and insights across disciplines. This is a quality that has not only made her an excellent writer, but also an excellent teacher. Her assessment for tenure and promotion also included review of her teaching evaluations from students and observations by other professors; the general verdict could be summed up by the phrase "tough but fair." She was also praised for her knowledge of difficult subjects such as property, administrative law, and civil procedure.

In sum, Professor Rivera's work exhibits great intellectual rigor, focuses on "real world" problems and practical solutions, and considers multiple points of view. Having been a law clerk to two federal judges and a practicing attorney, as well as an academic, I have no doubts Professor Rivera will be a superb addition to the New York Court of Appeals. I commend her in the highest terms possible.

*The City University of New York*  
**CUNY SCHOOL OF LAW**  
*Law in the Service of Human Needs*

**Ruthann Robson**  
Professor of Law & University Distinguished Professor

2 Court Square  
Long Island City, NY 11101

robson@law.cuny.edu  
(718) 340-4447 Tel

31 January 2013

Honorable John J. Bonacic  
Chairman, Senate Judiciary Committee  
Legislative Office Building  
188 State Street, Room 509  
Albany, New York 12247

Dear Chairman Bonacic and Members of the Senate Judiciary Committee:

Thank you for the invitation to discuss Court of Appeals nominee Professor Jenny Rivera and her work. I regret that I cannot attend the hearing, but submit these comments.

I have known Professor Rivera since she began teaching at the City University of New York School of Law in 1997. I served as the Chair of her Tenure and Promotion Committee in 2001, a process that included reviews of her scholarship by legal scholars in New York and throughout North America. Her tenure and promotion to full Professor was granted and became effective the next year. In 2008, I reviewed Professor Rivera's article, *An Equal Protection Standard For National Origin Subclassifications: The Context That Matters*, 82 Washington Law Review 897 (2007), for readers of the Constitutional Law Professors Blog, which I co-edit. In November 2009, I organized and moderated a public "conversation" between Professor Jenny Rivera and CUNY Distinguished Professor of Literature Kimiko Hahn, a transcript of which was published as *Translating Equality: Language, Law And Poetry, A Conversation with Kimiko Hahn and Jenny Rivera*, 13 New York City Law Review 233 (2010).

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*The City University of New York*  
**CUNY SCHOOL OF LAW**

Page 2 of 3

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In sum, Professor Rivera's work exhibits great intellectual rigor, focuses on "real world" problems and practical solutions, and considers multiple points of view. Having been a law clerk to two federal judges and worked with many state judges, I have no doubts Professor Rivera will be a superb addition to the New York Court of Appeals.

Sincerely,



Ruthann Robson  
Professor of Law  
University Distinguished Professor

cc Members of the Senate Judiciary Committee

Sen. John A. DeFrancisco  
Sen. John J. Flanagan  
Sen. Charles J. Fuschillo  
Sen. Kemp Hannon  
Sen. Andrew Lanza  
Sen. Kenneth P. LaValle  
Sen. Elizabeth Little  
Sen. Michael F. Nozzolio  
Sen. Thomas O'Mara  
Sen. Michael Ranzenhofer  
Sen. Diane Savino  
Sen. Malcolm Smith  
Sen. Lee Zeldin  
Sen. John L. Sampson  
Sen. Ruth Hassell-Thompson  
Sen. Eric Adam

*The City University of New York*  
**CUNY SCHOOL OF LAW**

Page 3 of 3

Sen. Neil D. Breslin  
Sen. Martin M. Dilan  
Sen. Adriano Espaillat  
Sen. Bill Perkins  
Sen. Toby A. Stavisky  
Sen. Brad Hoylman



Professor Jenny Rivera  
Sandy Hausler

to:

judiciary

01/30/2013 08:50 AM

Hide Details

From: Sandy Hausler <Hausler@cpslaw.com>

To: <judiciary@NYsenate.gov>,

I have run a Westlaw search on Professor Rivera to see what work she has done as a practicing attorney. My search came up with two matters – one in the Court of Appeals, Hurrell-Haring v. State, challenging the public defense system, and the other a case from the Supreme Court, New York County, Rivera v. Jobane, an Article 78 proceeding involving a claim that certain governmental had agencies consistently failed to provide public assistance applicants with the access required by law to public assistance case records. In the Hurrell-Haring case, Professor Rivera was one of many attorneys collaborating on an amicus brief.

This seems to me to be a very thin record of practical legal achievement on which to decide to appoint someone to the New York State Court of Appeals.

Now, I have not reviewed Professor Rivera's academic work, and it may well be that her scholarship does warrant appointment. And I also note that Justice Kagen of the United States Supreme Court, had little practical legal experience before ascending to the bench, and the experience she DID have came during her short tenure as Solicitor General, right before her appointment to the Court.

I do not oppose Professor Rivera's appointment to the Court of Appeals. I just think the Senate should make sure that she has the proper experience for the job. (I do not believe that you have had to sit on the Appellate Division or argue 100 cases in appellate matters to be suited for such an appointment, but this is an appointment of great importance and would be nice to know that the nominee is well versed in a diverse number of areas of law that she will have to face on the Court.) I fully trust the Senate to make the right decision on this matter.

Sanford J. Hausler, Esq.

Of Counsel

COX PADMORE SKOLNIK & SHAKARCHY LLP

630 Third Avenue, 19th Floor / New York, NY 10017

Phone: 212-953-6633 ext. 19 / Fax: 212-949-6943

[hausler@cpslaw.com](mailto:hausler@cpslaw.com)

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Blue Booking session she planned, painstaking exercises on the perfect heading, and the support of 3L students who had taken her for Lawyering Seminar their first year, all of us passed successfully.

The appellate brief that I wrote in Lawyering Seminar travels with me to this day: I used it as my writing sample for scholarships, internship applications, and a reminder of correct Blue Booking citations for my Law Review sessions. I was prepared for CUNY's 2012 Moot Court Competition this past summer. Students had to write appellate brief regarding the *voir dire* jury selection process, complete with a table of authorities, preliminary statement, and formal cover page. At that moment, the fourteen students in Professor Rivera's seminar were the envy of our class. My appellate brief from seminar was the foundation that allowed my partner and I to draft a strong brief and win fifth place out of thirty teams in the competition.

Now, as a member of her HNBA team, I am excited to once more put the skills that I have learned to good use and represent CUNY nationally. While I am thrilled with her success, it is bittersweet that Professor Rivera will be leaving CUNY's team of faculty and staff. In fact, it behooves me to persuade the nomination committee *not* to confirm Professor Rivera because then I could selfishly continue taking classes with her, such as her renowned Latinas/Latinos in the Law seminar. However, that would not be fair and would not be my place. I write to you today in support of her nomination so that students of color around the country like me can admire her, strive to be like her, and keep her as the North Star of our own career's horizon. Thank you for taking this testimony into consideration.

Sincerely,  
Celina Eden Caban  
2L at CUNY School of Law

Friday, February 1<sup>st</sup>, 2013

Celina Caban  
37-17 28<sup>th</sup> Avenue Apt. 3  
Astoria, NY 11103

Page 20  
**EXHIBIT 10**

To Whom It May Concern:

I have had the privilege of working with Professor Rivera in many capacities at the CUNY School of Law. The spring of 2012, my 1L year, she was my professor for Civil Procedure, a fundamental doctrinal class that teaches the Federal Rules of Civil Procedure with about sixty students, and Lawyering Seminar, a more intimate seminar of about fourteen students that teaches core lawyering skills such as how to write a brief, negotiate, and make effective oral arguments. In addition, I chose Professor Rivera as my advisor for academic planning and was selected to compete in the 2013 Hispanic National Bar Association (HNBA) Moot Court team that she is currently coaching. I hope to add an informative student's perspective.

Professor Rivera is the only professor I know that began class with music. It was a moment of fun that students understood to be the precursor to a class of participation and active learning. Maybe it was meant to stimulate our "thinking caps" before we were about to discuss Rule 15 for Amended Complaints or the complex standard of plausibility. I found Professor Rivera to be a mix of serious and no-nonsense, but also fair and kind. She was both committed to all of the students in her class, but partial to none, even those who may have doted on her with admiration. This would serve her well as an arbiter. Even if she did feel a certain special connection to a student, she never showed it. I believe she would use this same respectfully unattached attitude in her judicial decision-making process.

In my Lawyering Seminar, we had the most demanding assignments of our class. We had to write a claim letter, memorandum, district court brief, and an appellate brief for a Civil Procedure question based on plausibility; almost all of the other seminars had a memorandum, a district court brief, and a re-write of that same district court brief on a Family Law question. We were not the envy of the school (but we certainly had bragging rights). However, with Professor Rivera's unlimited office hours, a private

**DISTRICT ATTORNEY**  
OF THE  
**COUNTY OF NEW YORK**  
ONE HOGAN PLACE  
New York, N. Y. 10013  
(212) 335-9000

FEB 04 2013



**CYRUS R. VANCE, JR.**  
DISTRICT ATTORNEY

Page 22  
**EXHIBIT 11**

PERSONAL AND UNOFFICIAL

February 1, 2013

Senator John J. Bonacic  
Chairman  
Senate Judiciary Committee  
188 State Street, Room 509  
Legislative Office Building  
Albany, NY 12247

Dear Chairman Bonacic:

It is with great enthusiasm that I write in support of the confirmation of Professor Jenny Rivera to serve as an Associate Judge of the New York State Court of Appeals. I have known Professor Rivera for close to two decades and believe she is a superb choice for the State's highest court. By way of background, I currently serve as the Special Assistant District Attorney for Community Affairs at the New York County District Attorney's Office. In that capacity, I am responsible for the Office's Community Outreach efforts, with a primary focus on the crime victims' community, and community education as a vehicle for crime prevention.

I had the pleasure of working with Professor Rivera at the New York State Attorney General's Office, where she served as Special Deputy Attorney General for Civil Rights, and also supervised the Civil Rights Bureau. At the time, I was the Director of Intergovernmental and Community Affairs. During her tenure at the Attorney General's Office, Professor Rivera supervised investigations and cases involving discrimination in employment, predatory lending, and access to public accommodations. She also oversaw matters involving immigration fraud and worked with regional offices on developing their civil rights cases. In addition, she prepared and provided continuing legal education programs regarding New York State's Human Rights and other civil rights matters. She also served as one of the Attorney General's representatives on the New York State Human Trafficking Task Force. Together, we traveled the State of New York to meet with elected officials and community leaders to discuss local human and civil rights issues, community education and crime prevention.

I believe Professor Rivera will judge cases based on the record before her, will heed precedent and will apply the law fairly and impartially. Whether at the Attorney General's Office or as a Commissioner at the New York City Commission on Human Rights, she has worked to ensure that all parties are treated fairly under the law. Furthermore, her breadth of professional experience will serve her well as an appellate judge. She is able quickly to grasp complex legal issues and complicated fact-patterns, and in her years as an academic, she has developed a clear and concise writing style.

Professor Rivera is also a leader in the legal community. She is an active and well-respected member of the American Bar Association, Hispanic National Bar Association, and the Puerto Rican Bar Association. She is invited regularly to work on Bar Association projects, and has served as a panelist for member programs. As Director of the Center on Latino and Latina Rights and Responsibilities, she has designed and hosted joint programs on substantive legal matters. The ABA, HNBA and PRBA have recognized both her service and her scholarly contributions by awarding her their highest honors, and the ABA invited her to serve as both a Commissioner and the Reporter for its Commission on Hispanic Legal Rights and Responsibilities, an honor reserved for only the most-well respected members of the legal community. All three have reviewed and considered her work as part of their deliberative process in forming their organizational agendas. Professor Rivera is respected across communities.

Finally, I believe Professor Rivera has the ideal temperament to serve as a judge. She is a person of utmost integrity and a true pleasure to be around. Her colleagues from throughout her career admire and respect her. The New York Court of Appeals has a well-earned reputation for being a collegial environment that values serious debate and scholarship. From my time working with her at the Attorney General's Office, I believe Professor Rivera will excel as a jurist and exemplify all that is good and noble about this most revered Court.

Sincerely,



Lillian "Lee" Llambelis

cc:

Senator John A. DeFrancisco  
Senator John J. Flanagan  
Senator Charles Fuschillo  
Senator Kemp Hannon  
Senator Andrew Lanza  
Senator Kenneth P. LaValle  
Senator Elizabeth Little  
Senator Michael F. Nozzolio  
Senator Thomas O'Mara  
Senator Michael Ranzenhofer

Senator Diane Savino  
Senator Malcolm Smith  
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Senator Ruth Hassell-Thompson  
Senator Eric Adams  
Senator Neil D. Breslin  
Senator Martin M. Dilan  
Senator Adriano Espaillat  
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*Penelope Andrews*  
*President & Dean*  
pandr@albanylaw.edu

February 1, 2013

Chairman John J. Bonacic & Members of the NY State Senate Judiciary Committee  
188 State Street  
Legislative Office Building, Room 509  
Albany, NY 12247

I am pleased to be able to write this letter of recommendation to members of your committee in support of Governor Andrew Cuomo's nomination of Professor Jenny Rivera of the City University of New York (CUNY) Law School as an Associate Judge of the New York Court of Appeals.

Professor Rivera was my colleague at the City University of New York (CUNY) School of Law during the sixteen year period when I was a member of the CUNY Law School faculty, which ended when I assumed my current duties in July 2012 as President and Dean of the Albany Law School here in the capital of the State of New York.

At CUNY Professor Rivera performed a variety of functions. Chief, of course, among them was her role as professor. In this capacity she taught a variety of courses including property law, administrative law, civil procedure, lawyering, and a seminar on Latinas and the law. As a professor, she was extremely knowledgeable in her subjects, skillful in her teaching, well respected in how she engaged students and enlivened the classroom, and admired for demanding the best of her students.

For two of those 16 years I was her supervisor as the Associate Dean for Academic Affairs at CUNY Law School, and was therefore in a position to assess her character and professional skills. For the record, I should note that Professor Rivera became my friend during these years.

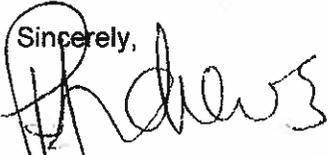
In addition to her work in teaching traditional legal courses, Professor Rivera was the founder and director of CUNY Law School's Center on Latino and Latina Rights and Equality (CLORE). This is one of the most innovative legal programs in the nation. It is designed to promote understanding and social justice through programs, teaching, scholarship, community service, and advocacy. For her pioneering work at CLORE, Professor Rivera has received several honors. Like her teaching of traditional law courses, her work at CLORE has been a testament to her brilliance and creativity.

As the members of your committee know, Professor Rivera is a national and internationally renowned scholar and advocate. She is a much sought after conference speaker. I have had the privilege of being the host at several conferences in which she was a featured speaker. One of the conferences was held here in New York State at Columbia Law School and another conference was held at La Trobe University in Melbourne, Australia.

Professor Rivera is thoughtful, knowledgeable, wise, compassionate, and tough. In her values, scholarship, teaching, advocacy, and service, she has demonstrated a strong and abiding commitment to the constitutional values of the United States and of the State of New York. Both as a Professor and as Director of CLORE, she has always been seen as fair and solicitous of advice, opinions, and objections. In her work, she has consistently shown that she embodies qualities that are essential to the work of an Associate Judge of the Court of Appeals. She has exceptional analytical skills and a deep respect for the law. Moreover, her life experiences and professional work are full of instances that exemplify her integrity and commitment to the rule of law.

Recently, as President and Dean of Albany Law School, I was invited to write an article in the Albany Law Review in honor of Associate Judge Carmen Ciparick of the Court of Appeals upon her retirement. This provided me with a splendid opportunity of reviewing significant portions of her work as an Associate Judge. I am especially grateful that the nomination of Professor Rivera has provided me with an opportunity to recommend her as an Associate Judge of the Court of Appeals and as successor to Judge Ciparick.

After your careful deliberations, I hope you will readily consent to her nomination.

Sincerely,  
  
Penelope (Penny) Andrews  
President and Dean

cc.

John A. DeFrancisco  
John J. Flanagan  
Charles J. Fuschillo  
Kemp Hannon  
Andrew Lanza  
Kenneth P. LaValle  
Elizabeth Little  
Michael F. Nozzolio  
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Michael Ranzenhofer  
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Bill Perkins  
Toby A. Stavisky  
Brad Hoylman



THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N.Y. 10007

FEB 04 2013

Page 27

**EXHIBIT 13**

CAROL ROBLES-ROMAN  
DEPUTY MAYOR FOR LEGAL AFFAIRS  
COUNSEL TO THE MAYOR

January 31, 2013

The Honorable John J. Bonacic  
Chairman, Senate Judiciary Committee  
Legislative Office Building  
188 State Street, Room 509  
Albany, NY 12247

Dear Senator Bonacic:

I am pleased to provide this letter in support for Governor Andrew Cuomo's nomination of Professor Jenny Rivera to the New York State Court of Appeals.

As Counsel to the Mayor of the City of New York, I have worked in the area of judicial selection for over 11 years. It is my experience that neutral and smart attorneys make neutral and smart judges. Professor Rivera is such an attorney. She presents a dignified and professional manner at all times. Her strong and diverse legal background as a law professor, litigator, public interest lawyer, former federal law clerk and Deputy Attorney General has prepared her for the scholarly rigors and judicial challenges of an appellate jurist. She will apply the law fairly, always mindful of her duty to decide only the issues in controversy and applying applicable precedent.

I can address firsthand Professor Rivera's character and professional ability based on the following: in 1986, Ms. Rivera was an attorney mentor at New York University School of Law when I was a law student. In 1997, we worked together on the Puerto Rican Bar Association Domestic Violence Project, which I chaired. The Committee prepared and presented a report to then Governor Pataki's Domestic Violence Fatalities Task Force. In 2002, as Counsel to the Mayor, I interviewed her for a position as a Commissioner on the NYC Human Rights Commission, and Mayor Michael Bloomberg appointed her soon thereafter. The functions of the Commission on Human Rights are set forth in Title 8 of the Administrative Code of the City of New York, the Human Rights

Law. The Commissioners, who are appointed by the Mayor to serve in a non-salaried position as a board, assist the Commissioner and Chair of the City Commission on Human Rights in addressing issues of discrimination citywide. She served with distinction until 2007. I also serve as a Trustee for the City University of New York and am aware of Professor Rivera's strong national reputation as a scholar and respected professor at the City University of New York School of Law.

Professor Rivera's impeccable undergraduate and legal education prepared her to excel as a law professor where she teaches core legal subjects such as property, administrative law and civil procedure. Her professorial background has well prepared her for the appellate court bench. As a distinguished law professor, she maintains a neutral persona who imparts a learned analysis of relevant case law and statutes in the coursework. Her experience with extensive and complex research coupled with her clear writing style will be a strong and welcome addition to the bench. As the state's highest court, this Court above all others must be transparent and clear in its determinations so to better inform all New Yorkers on its decisions that impact them.

In addition, her research and writings in the areas of civil rights, domestic violence and gender equality represent solid research and policy analysis that serve to assist local and federal court systems, policy makers and legislators to identify barriers to access to justice to these vulnerable constituencies and thus work to eradicate them.

I endorse Professor Rivera's nomination to serve on the New York State Court of Appeals based on her education, experience, scholarship and accomplishments.

Sincerely,



Carol Robles-Román

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FACSIMILE: (212) 995-4790

John Sexton  
President

February 1, 2013

Honorable John J. Bonacic  
Chairman, Senate Judiciary Committee  
Legislative Office Building  
188 State Street  
Room 509  
Albany, NY12247

Dear Chairman Bonacic and Members of the Senate Judiciary Committee:

I write in support of the confirmation of Professor Jenny Rivera to serve as an Associate Judge of the New York State Court of Appeals.

I have known Professor Rivera since her time as a law student at New York University, where she was a participant in the Root Tilden Kern Scholarship Program, the nation's premier public-interest legal scholarship. I directed the highly-selective program at the time, which provides a full scholarship to those students who show a commitment to public service, academic excellence, and potential for leadership. The program's mission is to nurture future public service leaders by providing unique educational, mentoring, and networking opportunities.

Professor Rivera stood out among her peers as an impressive student who possessed a first rate intellect and a deep sense of compassion. In addition to participating in the Root Tilden program, while at NYU Law Professor Rivera served as an articles editor of the *Annual Survey of American Law* and as a co-chair of the Latino Law Students Association. During her time at NYU, I witnessed Professor Rivera's unwavering commitment to a career advocating for the legal rights of New Yorkers. Her lifelong dedication to service has undoubtedly prepared her to become an outstanding judge.

Since her days at NYU, Professor Rivera has been a distinguished member of the bar and the legal academy, a champion of civil rights, and above all else, a dedicated public servant. In the years after her graduation, Rivera worked at organizations including the Legal Aid Society and the Puerto Rican Legal Defense Fund. In 1993 and 1994, Rivera was a clerk for Sonia Sotomayor, who was at the time a district court judge

in the Southern District of New York. Her professional accomplishments and awards are too lengthy to list here, but each speaks to her vast talents and intellectual ability.

I believe that having a member of the legal academy on the Court of Appeals will add intellectual integrity and diversity to the court. I am certain that Professor Rivera will judge each case before her on the merits, will show fidelity to precedent, and will judge all those before the court fairly and impartially. I urge the New York State Senate to confirm Professor Rivera.

Sincerely,

A handwritten signature in black ink, appearing to read "John Sexton". The signature is stylized with a large loop at the end of the last name.

John Sexton

cc Members of the Senate Judiciary Committee

- Sen. John A. DeFrancisco
- Sen. John J. Flanagan
- Sen. Charles J. Fuschillo
- Sen. Kemp Hannon
- Sen. Andrew Lanza
- Sen. Kenneth P. LaValle
- Sen. Elizabeth Little
- Sen. Michael F. Nozzolio
- Sen. Thomas O'Mara
- Sen. Michael Ranzenhofer
- Sen. Diane Savino
- Sen. Malcolm Smith
- Sen. Lee Zeldin
- Sen. John L. Sampson
- Sen. Ruth Hassell-Thompson
- Sen. Eric Adam
- Sen. Neil D. Breslin
- Sen. Martin M. Dilan
- Sen. Adriano Espaillat
- Sen. Bill Perkins
- Sen. Toby A. Stavisky
- Sen. Brad Hoylman



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Roberto Ramirez, Esq.  
Nilda Rivera, Esq.  
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Catherine Torres, Esq.  
Carmen Torrent, Esq.

January 31, 2013

Page 31

**EXHIBIT 15**

Chairman John J. Bonacic  
188 State Street Room  
509 Legislative Office Building  
Albany, New York 12247

Dear Chairman John J. Bonacic and Members of the Senate Judiciary Committee:

We are writing to support Professor Jenny Rivera's confirmation by the Senate for Associate Justice of the Court of Appeals. A visionary lawyer and scholar, Prof. Rivera is, by every measure, one of New York's most gifted legal minds. Moverover, Prof. Rivera has served as an exemplary advocate for underserved communities.

With Prof. Rivera's candidacy, New York is poised to appoint an uncommonly qualified Latina to this vital post. As a litigator and educator, Prof. Rivera has demonstrated profound insight into the issues facing diverse litigants through, among other things, her work as Bureau Chief of the Civil Rights Bureau of the New York State Attorney General's office and at the Puerto Rican Legal Defense and Education Fund (currently Latino Justice PRLDEF). Prof. Rivera would add a crucial voice to the Court's composition.

Prof. Rivera is the founder and director of the Center on Latino and Latina Rights and Equality (CLORE) at the City University of New York School of Law, where she currently

teaches. CLORE has emerged as a leading legal institution in the Latino community. For example, CLORE, together with the Hispanic National Bar Association and the Puerto Rican Bar Association, sponsor an annual symposium titled “Supreme Court Review: Impact on the Latino Community and Practitioners.” The event’s overwhelming popularity reflects Prof. Rivera’s focused and sustained effort to educate the legal community about Latino issues.

Prof. Rivera is widely published and lauded for her work in the field of domestic violence law. In recognition of her intellectual accomplishments, the American Bar Association invited Prof. Rivera to participate as a member of the Commission on Hispanic Legal Rights and Responsibilities, where she was charged with authoring a report on the Commission’s findings. She is the recipient of many legal awards and honors – a testament to her standing among her peers and colleagues (nine prestigious awards in the past eight years).

We are extremely proud of Prof. Rivera’s lifelong commitment to the inclusion and expansion of minorities in the legal profession. At every opportunity, Prof. Rivera mentors students ranging from high school to law school and beyond. Her tireless promotion of the profession is illustrated by the fact that during summers she conducts moot court competitions with pre-law candidates in actual courtroom settings. By exposing her students to the practice of law, Prof. Rivera inspires them to embrace their full potential.

Prof. Rivera is a person of superior moral character. We are confident that she will carry out her duties according to the highest ethical standards. We are excited by the prospect of her potential contributions to the Court and endorse her candidacy in the strongest possible terms.

Very truly yours,



Elena Goldberg Velazquez  
President, Puerto Rican Bar Association

Page 32

cc: Members of the Senate Judiciary Committee  
Sen. John A. DeFrancisco  
Sen. John J. Flanagan  
Sen. Charles J. Fuschillo

Sen. Kemp Hannon  
Sen. Andrew Lanza  
Sen. Kenneth P. LaValle  
Sen. Elizabeth Little  
Sen. Michael F. Nozzolio  
Sen. Thomas O'Mara  
Sen. Michael Ranzenhofer  
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Sen. John Sampson  
Sen. Ruth Hassell-Thompson  
Sen. Eric Adams  
Sen. Neil D. Breslin  
Sen. Martin M. Dilan  
Sen. Adriano Espaillat  
Sen. Bill Perkins  
Sen. Toby A. Stavisky  
Sen. Brad Hoylman



**Fw: [NYsenate.gov Contact] Confirmation Hearing of Professor Jenny Rivera**

John J Bonacic to: Tonya Speckhardt  
Sent by: Barbara Clifford

02/04/2013 09:32 AM

## EXHIBIT 16

----- Forwarded by Barbara Clifford/senate on 02/04/2013 09:32 AM -----

From: nescalera@law.fordham.edu  
To: bonacic@nysenate.gov  
Date: 02/03/2013 10:15 AM  
Subject: [NYsenate.gov Contact] Confirmation Hearing of Professor Jenny Rivera  
Sent by: webmaster@senate.state.ny.us

---

John J. Bonacic,

Anonymous user "Nitza Milagros Escalera" has sent you a message via your contact form (<http://www.nysenate.gov/senator/john-j-bonacic/contact>) at New York State Senate.

Address:  
291 Garfield Place , 11215  
Brooklyn

Phone:  
718-857-0148

Email:  
nescalera@law.fordham.edu

Related Issues:  
Courts

Voting:  
Registered at this Address

Message:  
Dear Chairman Bonacic:

I write to respectfully request that you vote for the confirmation of Professor Jenny Rivera to New York State's Court of Appeals. I am a member of the New York State Bar Association, I have handled client matters when I worked for the New York City Commission on Human Rights and the Community Service Society. Currently I also have the honor of serving on a committee that screens applicants to the family and criminal courts. I outline this background in order to provide some context as to why I believe that Professor Rivera is highly qualified to serve on the New York Court of Appeals. I have also had the privilege of working on law related projects with Professor Rivera. Professor Rivera is intelligent, ethical, a hard worker, a collaborator and is dedicated to public service and her family. She has "strong analytical ability and research skills, she is strong writer, is a fast learner and has an outstanding work ethic." I am confident that if confirmed, she will be an impartial jurist that will administer justice to the citizens of New York State.



**CESAR L. ALVAREZ**  
 Executive Chairman  
 Direct Line: 305.579.0668  
 cadirect@gtlaw.com

## EXHIBIT 17

February 1, 2013

Honorable John J. Bonacic  
 Chairman, Senate Judiciary Committee  
 Legislative Office Building  
 188 State Street, Room 509  
 Albany, NY 12247

Re: Jenny Rivera - Confirmation to New York State Court of Appeals

Dear Chairman John J. Bonacic and Members of the Senate Judiciary Committee:

First, I would like to thank you, Mr. Chairman, and the Judiciary Committee for the opportunity to share my very favorable views on Jenny Rivera for the position of Justice in the highest appellate court of New York.

I have known Professor Rivera for over 3 years. This may not seem like a long time, but the intensity of the time and work we have done together during these last 3 years would be equivalent to those experienced in a very long relationship in a more normal context.

As Chair of the American Bar Association's Commission on Hispanic Legal Rights and Responsibilities ("Commission"), one of my first tasks was to select a Reporter for our work. Professor Rivera was recommended to me among many other qualified candidates. During the interview process, I was very impressed by her intellect, total honesty, sense of fairness, commitment to the rule of law and independent judiciary, collaborative personality, and her very strong work ethic. She is passionate about her profession, her Latino community, and all of the good things that our Country does and can do for all of its people, including Latinos and Hispanics. She simply wants to play a role in making things better for all. After working intensively with her for the last 3 years, I can tell you that my initial impressions were just right.

I, together with the 24 members of our Commission and its Advisory Board, have seen Professor Rivera's work first-hand. Please see Exhibit A to this letter for a brief description of the work of the Commission. She is all that you would hope a justice in your highest court would be. She is a strong believer in and is passionate about the rule of law and an independent judiciary, and she understands and values legal precedent and equally understands the few cases when conditions have changed and legal precedent needs to be re-examined. We have seen first-hand how her very high intellect worked hand in hand with her understanding of policy and her collaborative personality to bring people of different views together. She is respectful, very open to different points of views, collaborative, but at the same time, she knows how to select the proper input to make her decision, and once made, become a strong advocate of a well-reasoned decision.

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 ZURICH\*\*

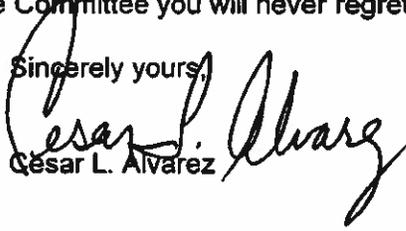
Honorable John J. Bonacic  
Chairman, Senate Judiciary Committee  
February 1, 2013

Although Professor Rivera does not have prior judicial experience, I view that as a positive, particularly since Professor Rivera has the qualities that are essential to an appellate justice and can add a perspective that is different from a sitting judge and bring the knowledge and humanity that years in the outside world can provide. Equally important, through her work in the Commission, she has exhibited all of the key qualities that, in my opinion, are needed for a justice in your highest court.

In her work with the Commission, I personally observed her ability to effectively and collaboratively bring together people with different views to reach a consensus, a critical aspect of her new job as a justice in your highest court. Similarly, in her work in the Commission, she exhibited remarkable intellectual honesty and refused to be influenced by what was easy to achieve but would have been intellectually dishonest and not right.

With this as background, I can give Professor Rivera the highest recommendation for service as a justice in your highest court. A better choice would be hard to imagine. This is a choice, I can assure the Chairman and the Committee you will never regret.

Sincerely yours,

  
Cesar L. Alvarez

CLA/il

cc Members of the Senate Judiciary Committee

Sen. John A. DeFrancisco

Sen. John J. Flanagan

Sen. Charles J. Fuschillo

Sen. Kemp Hannon

Sen. Andrew Lanza

Sen. Kenneth P. LaValle

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## EXHIBIT A

BRIEF DESCRIPTION OF THE WORK OF THE  
ABA COMMISSION ON HISPANIC LEGAL RIGHTS AND RESPONSIBILITIES

In October 2010, American Bar Association President Stephen N. Zack announced the formation of the ABA Presidential Commission on Hispanic Legal Rights and Responsibilities, composed of national and local leaders reflecting a broad range of the public and private legal sectors, including government, civil rights organizations, educational institutions and the judiciary, and including lawyers and non-lawyers. President Zack appointed Cesar L. Alvarez, Executive Chairman of Greenberg Traurig LLP, as the Commission's Chair, and as Honorary Chairs the Honorable William Richardson, Honorable Mel Martinez, and Emilio Estefan. The Commission's mandate was to explore and report on the urgent legal issues and challenges facing the Latino population, the largest ethnic/racial population group in the United States. The Commission was also charged with reporting on the efforts of Latinas and Latinos to address the legal hurdles which impede their full participation in America's civic life.

In furtherance of its mandate, the Commission embarked on a series of public hearings across the country, as part of its fact finding, in order to identify the most pressing issues facing the Latino Community in the United States and how the ABA could best address these issues.

The Commission selected six hearing locations, which provided Commission Members with an opportunity to collect information on Latinos from different regions of the country and allow access to the diverse national origin groups, which constitute the Latino Community in the United States.

To encourage broad participation in the hearings, the Commission issued public announcements of the hearings in the respective regions and solicited requests to submit and present testimony before the Commission, including providing electronic submission forms which were featured on the Commission's webpage.

Over the course of the year, the Commission received testimony from approximately 80 individuals. The testimony addressed a range of issues that reflect matters of region-specific concern, as well as issues of national urgency for the broad Latino Community.

The Commission received testimony on the following topics: the housing crisis, foreclosures and homelessness; criminalization of immigrants; access to the courts; issues impacting Lesbian, Gay, Bisexual, Transgender Latinos; issues facing disabled Latinos; the legal landscape and its impact on Latinos; voting rights and responsibilities; Latino youth and the educational pipeline; Latino farmers' rights; discrimination against Latinas at the workplace; legal services access; the DREAM Act; transnational Latino communities, including the issues affecting Puerto Ricans and Dominicans; criminal consequences of immigration law and policy; violence against Latinos; domestic violence; health care access, including access for Spanish speakers; environmental justice; Latinos in the military; incarceration and Latinos in the media. The hearing venues and dates appear below:

1. **Midwest Hearing - Chicago.** The Commission held its first public hearing in the Midwest in Chicago, Illinois at Loyola University Chicago Law School on November 12, 2010.

2. **West Coast Hearing - San Francisco.** The Commission held its second public hearing and first West Coast hearing in San Francisco, California at the San Francisco Unified School District on January 13, 2011.

3. **East Coast Hearing - New York City.** The Commission held its third public hearing on the East Coast in New York City at New York University School of Law on March 25, 2011.

4. **Southeast Hearing - Miami.** The Commission held its fourth public hearing in the Southeast in Miami, Florida at Miami Dade College on May 20, 2011.

5. **Southwest Hearing - Austin.** The Commission held its fifth public hearing in the Southwest in Austin, Texas at Austin City Hall on June 20, 2011.

6. **West Coast Hearing - Los Angeles.** The Commission held its sixth public hearing and second West Coast hearing in Los Angeles, California at the University of California Los Angeles School of Law on July 12, 2011.

7. **Many smaller hearings and discussions occurred with stakeholders.** These were less formal but just as critical to the work of the Commission.

The final report of the American Bar Association Commission on Hispanic Legal Rights and Responsibilities is expected to be presented at the mid-year meeting of the ABA on February 8, 2013.

**EXHIBIT 18**

**David Arroyo**  
128 Willow Street  
Apartment 2A  
Brooklyn, New York 11201

---

February 1, 2013

Honorable John J. Bonacic  
Chairman, Senate Judiciary Committee  
Legislative Office Building  
188 State Street  
Room 509  
Albany, NY12247

Dear Chairman Bonacic and Members of the Senate Judiciary Committee:

I write in support of the confirmation of Jenny Rivera, Governor Cuomo's nominee for the New York Court of Appeals. I have known Jenny for many years and can recommend her to you without reservation. She is smart, hard-working, and ethical, and she would well serve the people of the State of New York on the high court.

I am an attorney at Scripps Network Interactive, a cable television programmer whose flagship assets include Food Network, HGTV, and Travel Channel, among other networks. Food Network is located in New York City and we have hundreds of employees in the greater metropolitan area. My responsibilities are for the litigation, intellectual property, real estate, and programming functions of our law department.

In addition, I serve on the board of Latino Justice PRLDEF, formerly the Puerto Rican Legal Defense and Education Fund, recently concluding a four year stint as chairman of the board. I also serve on Senator Chuck Schumer's judicial screening panel by appointment of the Senator, on New York City's Committee on City Marshals by appointment of New York City Mayor Michael Bloomberg, and on the Disciplinary Committee of the New York Appellate Division, First Department, by appointment of the Presiding Justice.

Given my position in the private sector, I have a strong appreciation for the importance of the judiciary to the litigation of disputes arising from the transaction of commerce. I also know that social justice is possible only to the extent that we have judges who are fair, unbiased, and intellectually rigorous in resolving the controversies that come before them.

I have no doubt that Jenny has these qualities and can expertly adjudicate both the commercial and constitutional docket of the Court of Appeals.

My personal dealings with Jenny have only reinforced this. Every year, PRLDEF conducts a program "How to Succeed in Law School" for college students who will soon be matriculating in law school. Because of the shortage of Hispanic attorneys, this pipeline program is critically important in making sure that there are a sufficient number of attorneys to meet the needs of the sizable Hispanic population in New York City and elsewhere. Jenny has been very much involved in the program, conducting mock law school classes for students, instructing them on how to prepare for the Socratic method, teaching them how to write memos and briefs, and generally offering them advice on what to expect in law school. This program has been a tremendous success with hundreds of students having participated over the years. Jenny does this without compensation and treats the program as seriously as she does her teaching responsibilities at CUNY. I have attended these programs and can vouch for the fact that Jenny has been a resource to aspiring lawyers who have gone on to careers of distinction.

I also had the good fortune of serving alongside Jenny on the elections committee for the Hispanic National Bar Association. As members of this committee, we, along with other appointees, would resolve issues in connection with the annual race for the national presidency of the HNBA. Thus, I had the opportunity to observe as Jenny fairly and impartially worked to give guidance to the candidates regarding what they could and could not do under the organization's bylaws and election rules in the course of their campaigns. I found Jenny to adhere faithfully to those bylaws and election rules and to apply mainstream interpretive principles in construing them – giving the words of the documents their plain meaning where possible, not reading the documents in a way that would lead to absurd results, and acting conservatively in exercising the committee's jurisdiction.

On a personal note, Jenny is a good and decent person with compassion for people. She is not a theoretician and understands that our laws have an impact on lives and businesses and that this pragmatic reality must orient how those laws are applied. Combined with her varied experiences as a civil rights lawyer at PRLDEF, as an academic at CUNY, and as a prosecutor in the Attorney General's office, she will bring a valuable perspective to the Court of Appeals if confirmed.

Please feel free to contact me if you wish to discuss Jenny further.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David Arroyo". The signature is written in a cursive, flowing style with a long, sweeping tail on the final letter.

David Arroyo

cc: Members of the Senate Judiciary Committee

Sen. John A. DeFrancisco  
Sen. John J. Flanagan  
Sen. Charles J. Fuschillo  
Sen. Kemp Hannon  
Sen. Andrew Lanza  
Sen. Kenneth P. LaValle  
Sen. Elizabeth Little  
Sen. Michael F. Nozzolio  
Sen. Thomas O'Mara  
Sen. Michael Ranzenhofer  
Sen. Diane Savino  
Sen. Malcolm Smith  
Sen. Lee Zeldin  
Sen. John L. Sampson  
Sen. Ruth Hassell-Thompson  
Sen. Eric Adam  
Sen. Neil D. Breslin  
Sen. Martin M. Dilan  
Sen. Adriano Espaillat  
Sen. Bill Perkins  
Sen. Toby A. Stavisky  
Sen. Brad Hoylman

FEB 04 2013

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TORONTO  
VIENNA

February 1, 2013

Page 42

Senator John J. Bonacic, Chair,  
Senate Standing Committee on Judiciary  
188 State Street  
Room 509 Legislative Office Building  
Albany, NY 12247

**EXHIBIT 19**

RE: Jenny Rivera

Dear Senator Bonacic:

I am writing in support of the nomination of Jenny Rivera for the New York Court of Appeals. I am a litigator at the law firm of Skadden, Arps, Slate Meagher & Flom LLP in New York City. I have come to know Ms. Rivera very well through our work together on Governor Cuomo's Judicial Screening Committee for the Second Department, of which I am chair.

Through my close work with Ms. Rivera on the committee, I have found her to be extremely intelligent, hardworking and personable. She has been a calm presence during the committee's lengthy deliberations on judicial applicants, and she has worked hard to build a consensus on the committee regarding applicants. She is a person of integrity and high ethical standards, which are reflected in the quality of her work and the high standards she sets for herself.

Ms. Rivera has a keen analytical mind, and her writing is superb. She also possesses those extra qualities of good judgment and a real sense of commitment to whatever she undertakes. I am sure that, if confirmed, she will be a fine addition to New York's highest court and will be able to see and evaluate fairly all sides of the issues presented before the Court.

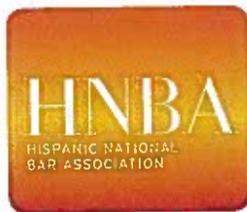
Senator John J. Bonacic, Chair,  
Senate Standing Committee on Judiciary  
February 1, 2013  
Page 2

In short, I give her my highest recommendation for confirmation to the Court of Appeals.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Dunham", with a long horizontal flourish extending to the right.

Douglas W. Dunham



Peter M. Reyes, Jr.  
National President

Page 44

February 1, 2013

**EXHIBIT 20**

Chairman John J. Bonacic and Members  
Senate Judiciary Committee  
New York State Senate  
188 State Street  
Room 509  
Legislative Office Building  
Albany, NY12247

**RE: Hispanic National Bar Association Endorsement and Support of the  
Confirmation of Professor Jenny Rivera to New York Court of Appeals**

Dear Senator Bonacic and Judiciary Committee Members:

On behalf of the Hispanic National Bar Association (HNBA), I write to support the confirmation of Professor Jenny Rivera as judge for the New York Court of Appeals. The HNBA has previously endorsed Professor Rivera for this judicial appointment.

The HNBA is a non-profit, non-partisan national membership association that represents the interests of the more than 100,000 Latino attorneys, judges, law professors, law students, and legal professionals in the United States and its territories. The HNBA also has 42 affiliated local and state bar associations nationally – the Puerto Rican Bar Association of New York, Latino Lawyers Association of Queens County, Long Island Hispanic Bar Association, and Dominican Bar Association among them. As required by our *Policies and Procedures Governing Judicial Endorsements (2008)*, prior to and in conjunction with endorsement of Professor Rivera, the HNBA conducted appropriate due diligence. We considered Professor Rivera's background and qualifications carefully and in context of the requirements for the New York Court of Appeals.

Based upon our review, it is evident that Professor Rivera is exceedingly qualified to become New York's next Court of Appeals judge. Professor Rivera combines a commitment to public service, and vast pro bono experience, especially in the area of litigation. Among members of the legal community, our due diligence revealed that Professor Rivera is an excellent choice for the state bench; she has an excellent reputation for her superior intellect, integrity and fairness.

References also uniformly commented on Professor Rivera's dedication to public service. Professor Rivera was born in 1960 in New York City. She received her Bachelor of Arts degree in history from Princeton University in 1982. Professor Rivera received her Juris Doctorate from

New York University School of Law in 1985, where she served as articles editor for the ANNUAL SURVEY OF AMERICAN LAW and as Co-Chair of the Latino Law Students Association. Professor Rivera went on to receive her LL.M. from Columbia University in 1993.

Professor Rivera has had a distinguished career as a public servant, litigator and law professor. Professor Rivera currently is a tenured professor of law at the City University of New York ("CUNY") School of Law, where she has taught since 1997. Professor Rivera also is the Director of the CUNY School of Law Center on Latino and Latina Rights and Equality ("CLORE"), which she founded in 2008. CLORE focuses on issues impacting the Latino community in the United States, with the goal of developing progressive strategies for legal reform. Professor Rivera also has been an assistant professor of law at Suffolk University Law School in Boston, Massachusetts from 1994-97, and a visiting professor of law at American University, Washington College of Law, in 2011.

Professor Rivera worked as a staff attorney with the Homeless Family Rights Project of the Legal Aid Society of New York City from 1987-88. Professor Rivera next worked as an associate counsel for LatinoJustice PRLDEF (formerly known as the Puerto Rican Legal Defense and Education Fund), handling impact litigation, from 1988 through 1992. In addition, from 2007-2008, Professor Rivera served as Special Deputy Attorney General for Civil Rights for the Office of the Attorney General for the State of New York. In that position, she served under the current Governor of New York, Andrew Cuomo who was the Attorney General of New York at that time.

Accordingly, the HNBA supports and recommends Professor Rivera's confirmation as Judge to the New York State Court of Appeals. We ask for your support of Professor Rivera's confirmation as you carry out your constitutional role and advice and consent on Gubernatorial nominations. We stand ready to assist in your deliberations should there be any questions. Please feel free to contact me through our National Office at (202) 223-4777 or directly at (952) 742-5395. Thank you for your consideration.

Sincerely,



Peter M. Reyes, Jr.  
National President-Elect

cc: DeFrancisco, John A.  
Flanagan, John J.  
Fuschillo, Charles J.  
Hannon, Kemp  
Lanza, Andrew  
LaValle, Kenneth P.

Little, Elizabeth  
Nozzolio, Michael F.  
O'Mara, Thomas  
Ranzenhofer, Michael  
Savino, Diane  
Smith, Malcolm  
Zeldin, Lee  
Sampson, John L.  
Hassell-Thompson, Ruth  
Adams, Eric  
Breslin, Neil D.  
Dilan, Martin M.  
Espaillat, Adriano  
Perkins, Bill  
Stavisky, Toby A.  
Hoylman, Brad

**EXHIBIT 21**

**BERGSTEIN & ULLRICH, LLP**

~ ATTORNEYS AT LAW ~

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**EXHIBIT 22**

Stephen Bergstein  
Helen G. Ullrich

February 4, 2013

Hon. John J. Bonacic  
New York State Senate  
Legislative Office Building  
Room 509  
Albany, New York 12247

*Re: Nomination of Jenny Rivera to the New York Court of Appeals*

Dear Senator Bonacic:

I am writing this letter in support of the nomination of Jenny Rivera to the New York Court of Appeals.

I graduated from CUNY Law School in 1993. I am a partner at Bergstein & Ullrich, LLP, a law firm in Chester, New York. I have argued more than 100 appeals in the state and federal courts. I do not know Ms. Rivera personally.

I have reviewed Ms. Rivera's *curriculum vitae* as well as the press coverage on her nomination, including the article in the New York Law Journal, published in January 24, 2013. I am convinced that Ms. Rivera will be an excellent addition to the Court of Appeals.

Although Ms. Rivera never served as a State Supreme Court Justice, that is no barrier to exemplary service on the Court of Appeals. Some of the most prominent jurists in American history, including William O. Douglas, Judith Kaye, William H. Rehnquist, Lewis Powell, Earl Warren and Felix Frankfurter, served for decades with distinction without prior judicial experience. Like Justice Frankfurter, Ms. Rivera has an academic background, as does Justice Elena Kagan. The courts need this kind of professional diversity.

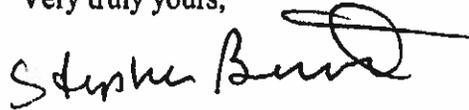
One concern raised in the New York Law Journal article is that Ms. Rivera does not have the doctrinal background to hear and resolve cases on the Court of Appeals. This is not true. As posted on her web page, Ms. Rivera's *curriculum vitae* shows that she has taught administrative law, civil procedure, property and wills and trusts, areas that arise frequently in the state court system. She earned her undergraduate degree from Princeton and her law degree from New York University Law School. She also clerked for then-district judge Sonia Sotomayor. That

academic and professional background makes it a certainty that Ms. Rivera will quickly master any of the issues that come before the Court of Appeals.

An infrequently mentioned quality of good judging is knowing how to draw fair inferences in cases at the summary judgment stage. This skill deserves far more attention than it currently receives. In many instances, the court is not asked to interpret statutes or constitutional provisions, but to determine what inferences a jury may draw in deciding whether the lower court properly granted or denied summary judgment. This is no easy task. It requires the judge to put himself in the shoes of the jury and logically decide whether the proof supports a claim in the absence of direct evidence. In cases alleging employment discrimination and other claims requiring proof of intent, the judge must employ “real world” thinking in assessing whether the totality of the evidence supports liability. Ms. Rivera’s background in civil rights litigation in New York City makes her well-suited to fairly interpret the complicated factual records that come before the Court of Appeals. Relatedly, while Ms. Rivera attended elite universities, I am sure that her lengthy academic career at CUNY Law School – an institution focused on public interest law – has well-acquainted her with the practical approach to legal problem-solving that is the hallmark of any good appellate judge. CUNY is not an “ivory tower” law school. It trains the students to approach the law in a practical manner.

For these reasons, I urge the State Judiciary Committee to recommend that the State Senate appoint Jenny Rivera to the New York Court of Appeals.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stephen Bergstein". The signature is fluid and cursive, with a prominent loop at the end of the last name.

Stephen Bergstein

## EXHIBIT 23

There are many judges throughout our NY State Judicial system who are dismayed at the recent selection by Governor Cuomo of Professor Jenny Rivera to a spot on the Court of Appeals. While we recognize the plenary power of the Governor to appoint and while we recognize and indeed applaud the fact that diversity was recognized by this selection, many of us feel that Prof. Rivera's legal background is ~~xxx~~ so thin and marginalized as to make her a totally unqualified candidate to sit on the high court of this state. The fact that the Commission on Judicial Nomination tapped her as one of seven candidates speaks more about the role of the Commission in promoting favored candidates than it does about merit. In short, this candidate should not be permitted to hide behind the "cover" of being reported out by the Commission.

We respectfully request that in the confirmation process you respectfully but forcefully interrogate this candidate about her actual legal experience, her political views (as expressed in her writings) and her far left of center views on society which most assuredly will weave themselves into her judicial work product.

Make no mistake about this appointment. It is a defiant act by a Governor who has been able (thus far) to put his imprint on anything he wants without much opposition by the opposition. This hearing provides a small opportunity to reign this in.

There have been a few candidates who have gone directly to the Court of Appeals without first having been a judge in the lower courts. Former Chief Judge Judith Kaye comes to mind. She however had a varied career as a commercial litigator before coming on to the Court of Appeals. So did present Judge Smith. Believe it or not Benjamin Cardozo ~~was~~ first elected to our State Supreme Court but about 2 months after his election he was designated to the Court of Appeals and never left! Of course, Prof. Rivera wouldn't compare herself to Judge Cardozo who tried hundred of cases in the trial court as a lawyer. While there is nothing wrong with an academic seeking high judicial office, a candidate like Prof. Rivera, who has such a marginal speciality and little actual experience, is ill-suited to sit on the Court of Appeals.

Some notes and material are appended. Hopefully this confirmation hearing will not be a walk in the park as others have been.

Writings

- \* Why has the candidate written on such a narrow area of scholarship (gender diversity);
- \* Why has the candidate published in such undistinguished law reviews;
- \* every article seems to merely be a rewrite of another article. It appears that the scholarship is "one-note" over and over again;
- \* why has the candidate never written on any substantive legal subject (for example, some aspect of torts, real property, evidence, New York Practice)
- \* Is racism reflected in the make-up of legislative bodies (such as in New York) because people of color don't have a significant voice and are unable to secure full representation (see 50 Maine L. Rev 283, 286 attached). If so, domestic violence legislation in your view, is illegitimate, correct? Following up on this, is it your view that since communities of color are not adequately represented in legislative structures, its legislative

pronouncements are inherently racist? If that is so, how could you properly sit on cases dealing with the application of legislative powers. Wouldn't your views in this regard always be colored by these views of yours?

- \* Do you believe that police and other law enforcement officials and judges offer violent responses to Latinas causing them to remain with their batterers rather than seek another solution;

(see 8 NY City L. Rev. 495, 501, attached)

- \* If you believe that police and judges offer such a violent response, how would that affect your disposition of cases involving the police? Do you think your future judicial colleagues are racist in general or only to Latinas in the context of domestic violence.

- \* Is our society racist?

- \* Are Latinas discriminated against by Latino males

14 Boston College Third World L.J. 231

- \* You say that the Latina is denied individuality by Latino male on the basis of gender. What do you mean by that?

- \* "Latinos in the United States have a long, acrimonious history of interaction with local police and federal law enforcement agencies. This history is marked by abuse and violence suffered by the Latino community at the hands of police officers who have indiscriminately used excessive physical force against Latinos." (p 246)

If this is your view, how can you offer us an assurance that you can treat prosecutors in a fair and neutral manner?

- \* You diminish the role of judges in dealing with domestic violence issues (pg 250). You basically assert that judges trivialize domestic violence cases? Is that your view today?

- \* You maintain (pg 250) that the shortage of bilingual and bicultural personnel (including judges) means that the claims of Latinas are not being addressed. Can only a judge "of color" provide "justice" to a Latina or only a bilingual jurist?

- \* same article: You assert that in the context of domestic violence cases in the judicial arena, Latinas are "devalued and dehumanized." Is that your present position?

- \* (pg 255) "Latinas are physically, emotionally and psychologically abused on a daily basis by the men who are closest to them." Is that your present position. Should

Latinos males fear you as a judge?

\* 28 Fordham Urb L.J. 505

" ... police misconduct victims ... are disproportionately black and Latino. For these individuals, police misconduct, especially law enforcement intrusion into their daily lives, is so commonplace as to be expected." Your present thoughts on this. How might this view affect your disposition of criminal cases.

\* 9 West New England L. Rev 19

In the classroom, you identify yourself as a Puerto Rican woman. Will you identify yourself as a Puerto Rican judge?

\* You mention (p 34) that you bring to class articles that talk about the oppression of people of color and women of color. Will you do the same on the bench? Will you intersperse your heritage and gender into your day-to-day judicial duties. How will you maintain a neutral outlook?

\* Your writings evidence a passionate commitment to the welfare of women, especially Latinas. In view of the pronouncements in your writings wouldn't a political platform be more suitable to your background rather than a judicial position?

Questions About Legal Experience

- \* How many appeals have you, yourself argued? In what courts. Please describe the matters.
  
- \* Have you been the lead trial counsel in any trials? Jury or non-jury? Please describe the matters.
  
- \* Have you conducted depositions, drafted pleadings, drafted wills or trusts.
  
- \* Have you appeared in the following New York courts as the principal attorney in a litigated matter. If so, describe the matter.  
  
Landlord-Tenant Court  
Civil Court  
Supreme Court  
Appellate Division, Supreme Court  
Court of Appeals
  
- \* Have you ever represented a client in a private real estate closing;
  
- \* How many briefs have you written where you were the

principal draftperson;

Recent New York Law Journal Article

A recent article appearing in the New York Law Journal (1-24-2013) entitled, "Rivera's Record Runs Deep but Is Limited To Social Justice Issues."

Some well-known individuals weighed in on your background and credentials. For example, former Court of Appeals Judge Stewart Hancock stated, that he thought you might be "someone who can look at the sophisticated problems that come up in perhaps a different way than those who came up from the Appellate Division adds breadth to the court, and I think this is a positive."

Do you agree with Judge Hancock? What ways do you think you might look at complex insurance or re-insurance appeals or complicated commercial appeals that might differ from the way say a judge who worked herself through the Appellate Division might undertake. Can you provide us with a concrete example of how the perspective you bring with you might assist you in deciding such matters and might add a fresh dimension to the court;

- \* Judge Hancock seems to devalue the usual training grounds for Court of Appeals judges – the trial courts and the intermediate appellate courts. Do you agree with him? Do you think your background offers more than the three appellate division judges you beat out for this position;
  
- \* You were the moving force in CUNY Law Schools Center for Latina and Latino Rights and Equality. Can you describe the litigated cases you initiated. What was your role in these cases?
  
- \* Dean Salkin of Touro Law School said that professors may be better suited for an appeals bench than “the average transactional lawyer.”  
  
{maybe, but is the academic better suited than a practitioner steeped in a litigation practice or a judge of 10 to 20 years experience who has presided over every conceivable type of case.

Dean Salkin was also quoted as saying that appellate judges on “hot benches” are like academics engaging in the Socratic method. Do you believe that her observation is accurate?

[N.B. it totally misses the mark]

# New York Law Journal

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[Back to Article](#)

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## Rivera's Record Runs Deep but Is Limited to Social Justice Issues

John Caher

New York Law Journal

01-24-2013

ALBANY - A review of Court of Appeals nominee Jenny Rivera's scholarly writings portrays an attorney intensely proud of her Puerto Rican heritage and deeply concerned with social justice, women's rights and feminist issues, especially as they impact the Hispanic population.

But while the writings offer strong evidence that Rivera is a political and social liberal, they give little indication of whether she would be an activist willing to bend the law to accomplish her goals, a restrained judge reluctant to meddle in the affairs of the other branches of government, a judge prone to dissents, or some combination of the various traits, habits and approaches that make up a judicial philosophy.

Unlike most nominees for New York's highest court, Rivera, a 52-year-old City University of New York law professor, has a paper trail of academic articles that provides personal insight different from what can be gleaned from the judicial opinions and dissents of an appellate division judge.

One observer said Rivera's writings are replete with phrases and liberal buzzwords that could raise red flags with conservatives and Republicans—idioms such as "national origin sub-classification," "multiple consciousness of gender equity," "ethnic and racial colonies," "paradigmatic challenges to race-based theory," "accent discrimination" and "environmental and food justice."

But one of her articles suggests Rivera might not be inclined to stretch the limits of the law to achieve her social objectives and may favor restraint over activism.

In a 2010 article in the Hispanic National Bar Association Journal of Law & Policy, Rivera notes that then-U.S. Supreme Court nominee Sonia Sotomayor's voting record as a judge of the U.S. Court of Appeals for the Second Circuit was similar to her Foley Square colleagues in civil rights issues, "generally unfavorable to the plaintiff."

Yet Rivera, who clerked for Sotomayor for a year in the mid-1990s when the justice was a trial court judge in the Southern District, wrote with approval that Sotomayor's decisions show a "commitment to close and faithful reading of the plain language of federal statutes," an "opposition to judicial overreaching" and a recognition of the "role of the judiciary and required level of deference to public officials in cases involving the government."

The state Senate Judiciary Committee, which will hold a confirmation hearing sometime in the next two weeks, is likely to seek assurances from Rivera that she will show appropriate deference to the political branches. Republican Senators frequently ask Court of Appeals nominees about their judicial approach, expressing concern that the judges a block down from the Capitol are not always as deferential as the legislators would like, and often want to know where the nominee stands on various issues of law.

They will have an extensive body of academic work at their disposal, but almost all of the professor's law review articles and other writings deal with feminism, domestic violence, language discrimination and Latino/Latina issues. Rivera has written little or nothing on criminal law (with the exception of hate crimes), commercial law, torts or the other types of

cases that dominate the Court of Appeals' caseload. Her writings do not provide the broad perspective that would be more evident if she was coming from the Third Branch rather than the ivory tower.

#### Civil Rights Issues

She has written about the "obvious disparity for women," noting that women as of 2003 were still earning less than men, had higher rates of poverty, made up a "strikingly small" portion of the judiciary and "constitute a disheartening small number of the nation's deans and law professors" ("Moving the Margins: Assimilation and Enduring Marginality," 12 *Columbia Journal of Gender & Law* 473, 2003).

She has bemoaned attacks "on reproductive rights and the related ongoing diminution in quality health care services for poor women and women of color" ("The Violence Against Women Act of 1994: A Promise Waiting to Be Fulfilled," 4 *Journal of Law and Policy*, 1996).

Rivera also has written about equal protection and argued that in addition to race, ethnicity, culture, language and history should factor into affirmative action jurisprudence.

"The question of the appropriate legal consideration owed to these factors in determining the lawfulness of national origin classifications is of immediate urgency to Latinos, who, as a group, are targets of discrimination based on national origin as well as racial animus," Rivera wrote in 2007 ("An Equal Protection Standard for National Origin Subclassifications: The Context That Matters," 82 *Washington Law Review* 897, 2007). "The success or failure of affirmative action legislation intended to help remedy this discrimination may hinge on this analysis."

Additionally, Rivera has written that Hispanics are routinely subjected to "violence by public officials" in the form of police brutality, unwarranted stop-and-frisks, prosecutorial bias resulting in higher charges and longer sentences and a seeming indifference to domestic crimes suffered by Latinas.

"While these forms of violence by public officials stand apart from violence by private individuals, both are intricately connected and arguably codependent," Rivera wrote in 2009 ("The Continuum of Violence Against Latinas and Latinos," 12 *New York City Law Review* 399, 2009). "Inflammatory media stereotypes that propagate inaccurate images of Latinos as a danger to the United States government and economy are an integral part of this continuum of violence."

She further complained that authorities as well as private individuals "have turned their anger towards one sector of the Latino community, Latino workers who are undocumented," a hostility "made possible by a new, yet all too familiar, wave of anti-immigrant rhetoric."

#### Academic Perspective

If Rivera is confirmed, which seems likely because no Court of Appeals nominee has ever been rejected by the Senate, she would bring the perspective of a career academic to the court—a perspective it has rarely, if ever, had.

While many renowned scholars have sat on the U.S. Supreme Court, including the late Felix Frankfurter and incumbent Elena Kagan, none of the current or recent judges of the state's top court came from academia. Many were former Appellate Division justices, some were lower court judges, a few were practicing lawyers.

Court watchers and staff were unable to identify any judge who moved directly from a law professorship to Eagle Street.

Retired Court of Appeals Judge Stewart Hancock Jr. said the addition of an academic to the court would increase its intellectual diversity. Hancock said since judges are more commonly elevated from the Appellate Divisions—as was he—they tend to have similar experiences, and the experiences of litigators follow a trajectory similar to that of trial and mid-level appellate judges.

"To have someone who can look at the sophisticated problems that come up in perhaps a different way than those who came up from the Appellate Divisions adds breadth to the court, and I think that is a positive," said Hancock, now of counsel at Goris & O'Sullivan in Cazenovia.

Although Rivera worked early in her career as a Legal Aid attorney and administrative law judge and spent a year and a half as a special deputy state attorney general for civil rights, she has primarily worked in academia.

Rivera, a history major at Princeton before earning law degrees at New York University School of Law (J.D.) and Columbia (LL.M), was an assistant professor at Suffolk University Law School in Boston in the mid-1990s, a visiting professor at American University in Washington and has been on the CUNY faculty since 1997.

And unlike most judges, Rivera did not arise from politics. She is a registered Democrat like the governor who nominated her, Andrew Cuomo, and she worked for Cuomo when he was attorney general, but she has never held elective office.

#### 'Practical and Pragmatic'

Rivera's writings seem to combine theoretical and pragmatic themes.

For instance, she has written about domestic violence from an abstract viewpoint and has also offered suggestions on how best to serve Latina victims ("The Availability of Domestic Violence Services for Latinas in New York State," 21 Buffalo Journal of Public Interest Law 37, 2002-2003). She has written about intimate partner violence and possible remedies ("Intimate Partner Violence Strategies: Models for Community Participation," 50 Maine Law Review, 283, 1998). And she has addressed notice in §1983 claims against municipalities, concluding that recent federal court rulings have reduced the effectiveness of the statute and suggesting that notice should not be based just on inference ("Extra! Extra! Read All About It: What a Plaintiff 'Knows or Should Know' Based on Officials' Statements and Media Coverage of Police Misconduct for Notice of a §1983 Municipal Liability Claim," 28 Fordham Urban Law Journal 505, 2000).

"The one thing I think is very interesting about her work is it is very practical, bridging the gap between traditional academic scholarship and talks about a problem and solving a problem," said Ruthann Robson, a CUNY law professor who has collaborated with Rivera on several articles. "She is very solution-oriented and practical: 'Here is what the law should be. Here is what the state could do. Here are some recommendations.' She is not someone who just complains and spins thing in an ivory tower sort of way. She is very grounded."

Christine Ortiz, a third-year student at CUNY Law who worked with Rivera at the Center for Latina and Latino Rights and Equality, which Rivera founded, said Rivera is committed to her students.

"She always makes sure to have that one-on-one connection with us, and to take the time with her students," Ortiz said. "It shows how humble she is."

The center, which focuses on social justice and Latina/Latino issues, examines matters from a scholarly perspective but also offers practical solutions to the problems it identifies. For example, it advocated for greater Federal Communications Commission activity in combating hate crimes, and students under Rivera's tutelage meet with and strategize with litigators.

"She is very practical, and pragmatic, and has an engagement in the law," Robson said.

But some practitioners, academics and judges, all of whom requested anonymity, expressed concern that Rivera's academic writing as well as her practical experience are largely geared toward a narrow part of the law—civil rights and Latino/Latina affairs—and not the panoply of issues that arrive at the Court of Appeals. They said they see no evidence yet of an uncommon intellect, originality or any traits that would distinguish her from many other law professors, let alone experienced Appellate Division justices.

Others observers, however, are unconcerned, noting that many of the tribunal's best judges had focused on a relatively narrow field of law prior to their ascension. Former Chief Judge Judith Kaye, for example, had never been a judge, spent most of her career as a commercial litigator and yet authored landmark opinions in areas of the law she had never practiced.

Cuomo has said little about why he chose Rivera over the other six candidates (Appellate Division, First Department Justice Rolando Acosta; First Department Justice Sheila Abdus-Salaam; Fourth Department Justice Eugene Fahey; David Schulz of Levine Sullivan Koch & Schulz; Kathy Chin of Cadwalader, Wickersham & Taft; and Margarita Rosa, the executive director of the Grand Street Settlement). In a press release, the governor cited Rivera's "legal expertise and passion for social justice."

#### Theory Versus Practice

Paul Horwitz, a professor at the University of Alabama School of Law, said that historically academics have ended up on courts when a president or governor is eager to appoint someone with a particular philosophy or point of view.

Horwitz said scholars potentially bring to the judiciary "a breadth of vision, a command of legal materials, a capacity to deal with complex legal issues, a capacity to read and write a great deal and hopefully occasionally write well. Those are the strengths."

The weakness, he said, is whether a judge who came from the academy may be stranded in theory and remote from practical, real-world considerations.

"There is an element of 'it works in theory but does it work in practice,'" Horwitz said. "I think that potential criticism or concern is absolutely fair and important and perhaps speaks to things we as law professors ought to be doing more, but hopefully an appellate bench has a diversity of approaches."

Patricia Salkin, dean of Touro Law Center, said the work of an academic is not unlike the work of an appellate judge and suggested that professors may be better suited for an appeals bench than the "average transactional practitioner."

"What a law professor does in the classroom is question students about the facts of the case and the application of the law and then they will change it up, to change the facts slightly and to seek different interpretations based on past precedent," Salkin said. Appellate judges on "hot" benches do the same thing, she added.

"They are trying to get to the nuanced distinctions between the facts in each new case before them and how the law should apply to those distinctions and the facts in those cases," Salkin said.

Stewart Schwab, dean of Cornell Law School, said he was pleased that Cuomo "recognized the talents of one of the law professors in our state and validated that. We try hard not to just be up in the ivory tower and are happy that the governor can recognize the transferrable skills that we professors have."

Schwab said that sitting on the Court of Appeals is an intellectual exercise not all that different from the scholarly pursuits of a law professor.

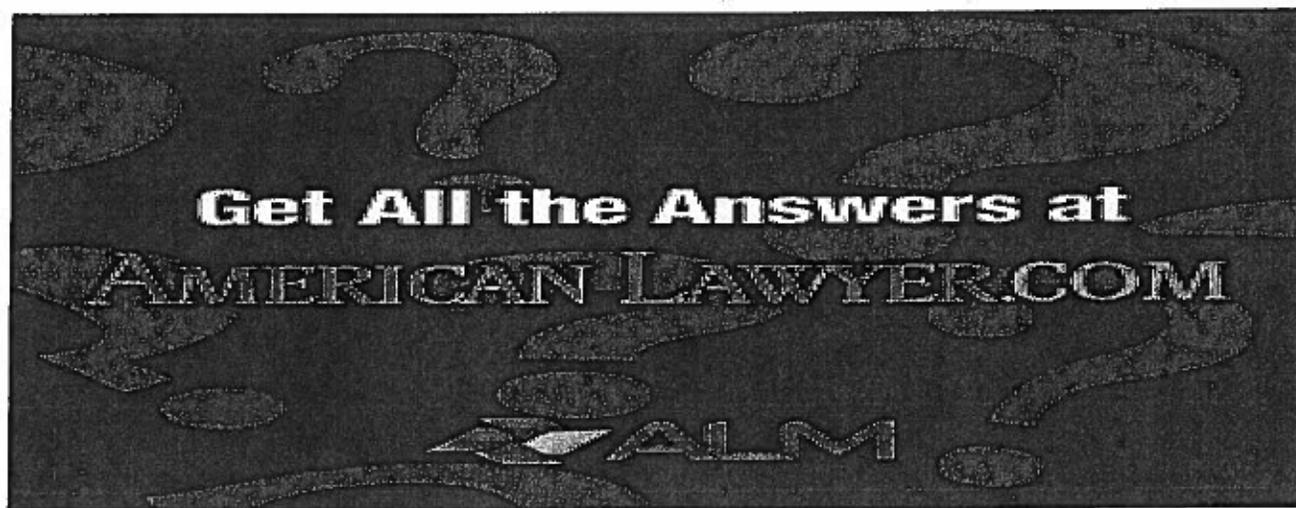
Court of Appeals' judges "get the issue and try to figure it out from all sides and angles and what the best result is and then they have to explain their decision and their thought process," Schwab said. "Professors, particularly in their writings, approach their jobs in very much the same way."

Vincent Bonventre, a professor at Albany Law School, said the court has had its share of towering intellects. But Bonventre, a former clerk and longtime observer of the court, said some of its greatest judges were known less for their scholarship than their "basic fairness, decency, courage, and reliable wisdom."

It remains to be seen what Rivera, who according to colleagues is bright, committed, energetic and ethical, will bring to the court.

Rivera did not respond to a request for an interview.

@|John Caher can be contacted at [jcaher@alm.com](mailto:jcaher@alm.com). Joel Stashenko contributed to this report.



The Chancellor

**EXHIBIT 24**

February 1, 2013

The Honorable John J. Bonacic  
Chairman, New York State Senate Judiciary Committee  
188 State Street  
Room 509, Legislative Office Building  
Albany, NY 12247

Dear Chairman Bonacic and Members of the Senate Judiciary Committee:

On behalf of The City University of New York, I write to support the confirmation of Professor Jenny Rivera as an associate judge on the New York State Court of Appeals.

Since joining the faculty of the CUNY School of Law, Professor Rivera has exemplified the school's mission to prepare and motivate students for successful careers serving the public interest, both through her practice of law and her scholarship. Professor Rivera's courses are known for their intellectual and analytical rigor and have taught countless students how to apply complex doctrine to the real-life situations they will face in the legal profession. While at the law school, Professor Rivera also founded the Center on Latino and Latina Rights and Equality. As director of the center, she has helped many students understand the nuts and bolts of public-interest law while working on cases affecting the Latino community.

Professor Rivera's legal background extends far beyond the classroom. She took a leave of absence from the law school to serve as a special deputy attorney general for civil rights in New York. She has also served as a commissioner of the New York City Commission on Human Rights. These positions, in addition to many others she has held, have enabled Professor Rivera to develop the requisite skills to be an excellent jurist on the state's highest bench. I have no doubt that she will apply the law fairly and impartially in all cases.

As a highly regarded scholar and teacher, Professor Rivera will bring an impressive breadth of professional experience and judgment to the New York State Court of Appeals. She is highly qualified for this position, and I believe that our state's justice system, and indeed all New Yorkers, will be served well by her confirmation. I urge the senate to act swiftly on this appointment. Thank you.

Sincerely,



Matthew Goldstein

cc: Members of the Senate Judiciary Committee

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BRIAN A. McLOUGHLIN  
CHRISTIAN J. KUBIC\*\*  
BRIAN E. GUNTHER

January 29, 2013

**EXHIBIT 25**

Hon. John J. Bonacic  
New York State Senate  
Legislative Office Building, Room 509  
Albany, New York 12247

Re: Court of Appeals Nominee Professor Jenny Rivera

Honorable Senator Bonacic:

I must vigorously object to the appointment of Professor Rivera to the New York State Court of Appeals.

Professor Rivera lacks the qualifications to serve on New York's highest court.

A lifelong academic, Professor Rivera has devoted her career to writing about domestic violence and the status of Latina women in the United States, especially with regard to the role of language for Latinos in the country.

Professor Rivera has never been a County Court, Civil Court or Supreme Court judge, and hardly practiced law as an attorney. She even quipped that her brother, who is a practicing attorney, is the "real lawyer in the family."

Professor Rivera has no experience with New York Civil Practice Law and Rules or the New York Criminal Procedure.

She has no experience with the process of trials, appellate practice, or the long process of taking a case from inception to trial, to the Appellate Division and the Court of Appeals.

She is not familiar with the attorneys or the judges that shape a case, molding it into the final form that reaches the Court of Appeals. She is not versed in the divergent approaches that the various Appellate Divisions have on certain issues.

Professor Rivera is a social scientist or more accurately, a social engineer, rather than a practicing attorney or jurist.

Her entire career has been devoted to administering advocacy and social policy-making groups.

She has never tried a case and is unfamiliar with the nuances and subtleties of the law of evidence, jury trials, matrimonial, tort or commercial disputes that make up a large portion of the Court's docket.

As stated in a January 24, 2013 article in the New York Law Journal, "Rivera has written little or nothing on criminal law (with the exception of hate crimes), commercial law, torts, or the other types of cases that dominate the Court of Appeals' caseload."

Even her limited time working in chambers prepared her little for this important seat.

As director of Latino and Latina Rights and Equality at C.U.N.Y. Law School Professor Rivera was recently interviewed for the television program "One To One" hosted by Sheryl McCarthy.

When Ms. McCarthy asked Prof. Rivera what a law clerk does (regarding Prof. Rivera's clerkship with then Federal District Judge Sonia Sotomayor), Professor Rivera stated that the law clerk "prepares whatever the judge needs, makes sure that files are ready and that attorneys are in when they need to be." She stated that as a law clerk she obtained any kind of "research that needed to be pulled."

While she clerked for the Judge Sotomayor, Judge Sotomayor had a "lot of conversations about what the law means."

Judges must be expert on what the law says, and apply the law to the facts.

While Prof. Rivera was an Administrative Law Judge she had a "handful of cases," including a sexual harassment case against a private company, a whistleblower case and an AIDS discrimination case.

Professor Rivera's writing reflects biased and unclear thinking: She has used the following phrases in her work, "national origin sub-classification," "multiple consciousness of gender equity," "ethnic and racial colonies," "paradigmatic challenges to race-based theory," "accent discrimination" and "environmental and food justice." How can judges and attorneys, let alone laypersons understand such language?

Professor Rivera demonstrates clear bias against prosecution, police, and employers.

She stated in the *One to One* program that Latina women, "don't feel comfortable calling the police because law enforcement has not been hospitable to Latinas."

Professor Rivera also stated that Latinas are reluctant to call police for this reason.

As quoted by the New York Law Journal on January 23, 2013, "Rivera has written that Hispanics are routinely subjected to 'violence by public officials' in the form of police brutality, unwarranted stop-and frisks, prosecutorial bias resulting in higher charges and longer sentences and a seeming indifference to domestic crimes suffered by Latinas."

She did not provide any evidence or statistics for these conclusions.

She has complained that Justice Sotomayor's record on the U.S. Court of Appeals for the 2<sup>nd</sup> Circuit was "generally unfavorable to the plaintiff" in civil rights cases.

The most memorable portion of her job as Administrative Law Judge was seeing the attorneys before her "pushing the law in a particular direction."

Justices, especially, Court of Appeals Judges, should not "push the law in a direction" but apply the law justly and objectively.

Professor Rivera has been at C.U.N.Y. Law School since 1997.

She wanted to become a professor to "find a way to get the students to think about law in a way that is focused on social justice issues."

Rivera stated in the interview that the primary purpose of the C.U.N.Y. Law School is to "train students to become public interest lawyers." Prof. Rivera stated almost apologetically that some of C.U.N.Y. Law graduates go on to "what I will call business and commercial work."

Professor Rivera has passionate goals, but the purpose of the Court of Appeals is to review cases from the Appellate Divisions and apply the statutes and case authority of the law of New York, no matter who the parties before them are, and not concentrate on or "push" the law to advance the Judge's favored "social justice issues."

Professor Rivera's single-minded, dogmatic views of racial issues border on the paranoid.

Prof. Rivera has stated that "Authorities and private individuals have turned their anger towards one sector of the Latino community, the Latino workers who are undocumented," a hostility "made possible by a new yet all too familiar wave of anti-immigrant rhetoric."

Given such overbroad pronouncements one wonders how Prof. Rivera could be objective in any action involving a Latino litigant.

A judge must listen to both sides objectively.

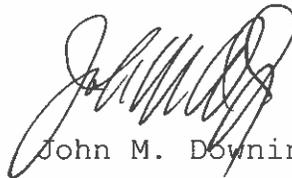
Professor Rivera's work and writings indicate that she has not had any ear for, let alone objectivity for any causes other than those she has espoused so fervently during her career.

Professor Rivera would have to recuse herself from a large percentage of the cases before her.

I respectfully submit that this would be an historically disastrous choice for the Court of Appeals.

I respectfully request that you share these objections with your colleagues in the Senate.

Very truly yours,



John M. Downing, Jr.

Testimony of Michelle J. Anderson  
Dean, the City University of New York School of Law

Before

New York State Senate Judiciary Committee  
Senator John J. Bonacic, Chair

**EXHIBIT 26**

Monday, February 4, 2013

Good afternoon. My name is Michelle J. Anderson, and I am the Dean of CUNY School of Law. I would like to thank the Chairman of the New York State Senate Judiciary Committee, Senator John Bonacic, for inviting me to participate today and for this opportunity to speak in support of Governor Andrew Cuomo's nominee for Associate Judge of the New York State Court of Appeals, Professor Jenny Rivera.

CUNY School of Law is one of two public law schools in New York State. Our program is unique among the 200 law schools across the country in its commitment to fostering both public service and diversity in the legal profession. We have a strong program that teaches students the skills to be effective advocates. *U.S. News and World Report* ranks CUNY Law's clinical program fourth in the nation. *Princeton Review* ranks CUNY tenth in the nation for "Best Law Professors." *National Jurist* ranks CUNY the second most diverse law school in the nation. And a higher percentage of our graduates enter public service and public interest practice than any other law school in the country.

Professor Rivera has been a distinguished and well-respected member of the faculty at CUNY School of Law since 1997. She primarily teaches civil procedure, property, wills and trusts, lawyering, and administrative law. Her students see her as a tough but fair teacher who holds them to very high standards. On many occasions, I have heard students comment that they deeply admire Professor Rivera, and that they are a tad bit afraid of her because she is a demanding professor in the classroom. She uses the traditional Socratic method in class. She brings to her teaching an understanding of the relationships between legal rules and lived experiences, incorporating ongoing litigation and the most recent judicial decisions in her syllabi and analysis.

Professor Rivera is active in the CUNY Law community. She founded and now directs the Center on Latina/o Rights and Equality (CLORE) at CUNY Law. She shoulders a heavy load on Law School committees and participates in community panels and projects. Professor Rivera serves as an elected member of the American Law Institute. She is also a member of the National Conference of Bar Examiners Diversity Issues Committee.

Professor Rivera's understanding of the practice of law and judicial decision-making has both depth and breadth. Before becoming a faculty member, she clerked for then-federal District Court Judge Sonia Sotomayor. She litigated at the Homeless Family Rights Project and then the Puerto Rican Legal Defense and Education Fund. She served as an Administrative Law Judge.

She served as a Commissioner on the New York City Commission on Human Rights. In 2007, she also took a leave of absence from her professorship at CUNY Law to serve as Special Deputy Attorney General for Civil Rights in New York.

Professor Rivera will make an outstanding judge. Many distinguished jurists did not have experience as judges before they were appointed to appellate courts. On the Supreme Court, there was Chief Justice Earl Warren and Justices Louis Brandeis, Byron White, and Thurgood Marshall. Today there is Justice Elena Kagan. Here in New York, of course, Chief Judge Judith Kaye stands as one of the most revered judges to have ever served on the Court of Appeals, and she had no experience as a judge before her appointment.

Throughout her academic career, Professor Rivera has remained deeply connected to practice. Even setting aside her work as Special Deputy Attorney General, New York City Commissioner for Human Rights, Administrative Law Judge, and clerk to then-Judge Sotomayor, experientially, I think Professor Rivera's work as an academic makes her very well-suited to sit on the New York Court of Appeals. Professor Rivera has spent a significant amount of time in her career looking at sophisticated problems, analyzing them, and writing about them. She has demonstrated commitment to the study of law and to examining and researching legal issues rigorously. She is invested in the world, in the law, and in the affects the law has on real people.

Professor Rivera will bring intellectual rigor to the Court. She has a keen sense of how the law evolves over time and the reasons it does so. Appellate courts flourish when a team of judges brings a range of experiences to the bench. When there is a balance between former trial court judges, former appellate court judges, former academics, and former litigators, new and helpful perspectives can emerge.

Professor Rivera brings energy, engagement, insight, pragmatism, and organizational sophistication to every task she undertakes. She is a person of integrity and character, and will make an excellent judge on the Court of Appeals.

On behalf of the CUNY School of Law faculty and administration, I urge you to confirm Jenny Rivera for the position of Associate Judge on the New York State Court of Appeals. It would be a tremendous gain for the Court of Appeals and the people of New York.

Testimony of Michael Jaffe, President  
New York State Trial Lawyers Association (NYSTLA)

**EXHIBIT 27**

*Before*

**New York State Senate Judiciary Committee**  
Senator John J. Bonacic, Chair

Monday, February 4, 2013

My name is Michael Jaffe. I am the President of the New York State Trial Lawyers Association, and I appear here today on behalf of the NYSTLA Board of Directors and our 3500 attorney members who practice in trial and appellate courts throughout the state. We thank Chairman Bonacic for inviting us to participate today and for this opportunity to speak in support of Governor Cuomo's nominee for Associate Justice of the New York State Court of Appeals, Jenny Rivera.

NYSTLA's members pay close attention to the work of the Court of Appeals. Many of them argue appeals before the Court and all are impacted on a day-to-day basis by the effect of the Court's rulings on the legal rights of the hundreds of thousands of ordinary New Yorkers they represent. We are also keenly aware of the Court of Appeals' national prominence; the Court's decisions are closely watched in other states and shape legal opinion across the country. As such, we heartily endorse the nomination of Jenny Rivera, a thoughtful, knowledgeable and experienced attorney and legal scholar, to this State's highest court.

In December, NYSTLA's Judiciary Committee had the honor of interviewing all seven candidates recommended by the New York State Commission on Judicial Nomination to fill the vacancy created by the retirement of Senior Associate Judge Carmen Ciparick. Each of the Commission's nominees, from the bench, the bar and academia, boasted impressive credentials. New York's legal community should be proud to be able to offer so many capable candidates for such a critical position. Even among such a distinguished field, Jenny Rivera stands out for her scholarship, commitment to standing for the rights of the individual and dedication to a just and accessible legal system.

Ms. Rivera will bring a breadth of experience to the Court and a long history of fighting for the rights of all New Yorkers. She has been an attorney with the Legal Aid Society of New York City and with the Puerto Rican Legal Defense and Education Fund, has adjudicated claims as an Administrative Law Judge for the New York State Division of Human Rights, and has

prosecuted cases as a Special Deputy Attorney General for Civil Rights for the Office of the New York State Attorney General.

As an academic, Ms. Rivera's extensive scholarship further demonstrates her broad knowledge and understanding of the law, and her continued dedication to a fair, just and accessible legal system. NYSTLA is confident that Ms. Rivera's experience and clear commitment to equality and social justice will prove valuable to the Court.

Ms. Rivera's background in academia and public service as a practicing attorney further adds to the diversity of the Court and her qualifications to serve. Nor is it without precedence for a Court of Appeals Judge to be appointed from without the court system – our illustrious former Chief Judge Judith Kaye, and current Associate Judge Robert Smith, both began their judicial careers at the Court of Appeals. Ms. Rivera also brings her inside knowledge of courts and the judiciary, with her experience as a law clerk to the Honorable Sonia Sotomayor at the U.S. District Court for the Southern District of New York and as an Administrative Law Judge.

In conclusion, NYSTLA commends Governor Cuomo for his nomination of Jenny Rivera to the Court of Appeals, and looks forward to Ms. Rivera bringing the insight and skill she has developed through the years to the work of the Court.

Thank you again for the opportunity to testify today.

Senator John Bonacic

Judiciary Committee Chair

Legislative Office Building Room 509

Albany, NY 12247

**EXHIBIT 28**

Dear Senator Bonacic:

I am writing to you regarding the nomination of Jenny Rivera to the NYS Court of Appeals. I wanted to present some facts that may be relevant that you may not be aware of.

On January 18<sup>th</sup>, three days after she was nominated by Governor Cuomo, I met with Ms. Rivera and another CUNY Law school professor, Merrick T. Rossein. The meeting was held to discuss concerns my advocacy group has regarding Equal Employment Opportunity practices in the FDNY. Mr. Rossein was appointed in January 2012 as the Independent EEO Consultant for the FDNY and since May of 2012 Ms. Rivera has been his Associate in this post.

I am an active FDNY Deputy Chief but do not represent the FDNY in an official capacity in this letter. I am also the President of the group mentioned above, Merit Matters. We are an advocacy group for NYC residents and firefighters concerned with equal treatment, equal opportunity and the maintenance of standards for hiring and promotion. We enjoy Amicus status in the ongoing Department of Justice lawsuit against NYC and the FDNY and filed an Amicus brief in support of the city's Appeal last January. We are currently awaiting a decision on the Appeal.

Because Ms. Rivera has never been a judge, those considering her nomination cannot look to her opinions or rulings for guidance on her beliefs, and those supporting her must point to her accomplishments and efforts in their advocacy. One such accomplishment is her role as a CUNY Law professor, and that leads to a review of the CUNY Law School's record.

In 2011 the school's pass rates for first time takers of the New York Bar exam was 67% - well below the statewide average of 86%. In a NY Post article dated February 3, 2012 it was reported that administrators were urging struggling students not to take the July 2012 exam, but to wait until the one given in February 2013. Reportedly, grants would be given to those students who agreed to the postponement. (This was also discussed in a column on the website "abovethelaw.com" on the same date written by Staci Zaretsky, who noted that readers had voted CUNY Law as the second worst law school in the New York metropolitan area)

A possible reason for this action would be to avoid serious sanctions from the Bar Association if CUNY Law had consecutive years of pass rates below 75%. I can't help but wonder if another reason may have been to avoid anything that may get in the way of Ms. Rivera's appointment.

The person she may be replacing – Carmen Ciparick – faced mandatory retirement at the end of 2012. Ms. Rivera had been one of Andrew Cuomo’s top aides when he was Attorney General, serving as the Special Deputy A.G. for Civil Rights. Was it understood that she would be nominated for this post upon Judge Ciparick’s mandatory retirement? If so, were attempts made to burnish her tenure at CUNY Law as much as possible so as to offset any questions about her lack of judicial experience? Serious sanctions levied by the Bar Association for the immediate two years prior to her nomination would not look good.

Another concern I have is how Ms. Rivera’s career has tracked Sonia Sotomayor’s. She clerked for Ms. Sotomayor at the District Court level in 1993 and 1994, and then made numerous media appearances and authored parts of a report urging her confirmation to the Supreme Court in 2010. They also served together at the Puerto Rican Legal Defense and Education Fund from 1988-1992.

Ms. Sotomayor was an integral part of the PRLDEF from 1980 to 1992, holding numerous positions with wide influence on its operations, and during that time they advocated for race based promotions in NYC civil service (at the NYPD and Department of Sanitation). She later ruled in what became a famous Supreme Court case - the New Haven 20 – that was entirely about race-based promotions; Ms. Sotomayor held that race should be a factor in promotions. Common sense and decency should have forced her recusal from this case. In fact, the handling of the New Haven 20 case so disturbed another judge serving on the Second Circuit, Bill Clinton appointee Jose Cabranes, that he took action that helped to ensure the Supreme Court reviewed this decision and ultimately overturned it.

Ms. Rivera is not Ms. Sotomayor, but their close professional if not personal relationship, including even both attending Princeton University, should not be ignored. Ms. Rivera’s entire career focus seems to be on special-interest, race and gender based preferences; will this affect her rulings as it seems to have affected Ms. Sotomayor’s? Writer Jonah Goldberg has noted that empathy is another word for bias. “Justice” is always depicted with a blindfold on her eyes; can and will Ms. Rivera turn away from a lifetime of seeming to look first at race and gender when deciding cases?

My interest in this is also both professional and personal. My NYPD career was very negatively affected by the actions of the PRLDEF in that the NYPD Sergeant test I was scheduled to take in December 1985 was pushed back in fits and starts to Summer, 1988 – a 2 ½ year time period during which my life was placed on hold. I wanted to be free to study for the test, but also wanted to continue my college career. When the PRLDEF was ultimately successful in getting minority Police Officers promoted to Sergeant utilizing a quota system, I was subjected to supervisors who were incompetent and who made a dangerous job more so. I now head a group that advocates the sentiment contained in the FDNY EEO Policy Statement, that employment decisions are to be made without regard to gender, race, etc. Nominees to the State’s highest court should also hold to that sentiment, not one that seeks to reward – or punish – because of race or gender.

I welcome contact to expand on the points made in this letter. Please do not hesitate to contact me at any time.

Paul Mannix



**EXHIBIT 29**

JOSEPH W. BELLACOSA  
Regency @ Ridgefield  
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Honorable John J. Bonacic  
Chairman, Senate Judiciary Committee  
Legislative Office Building, Room 509  
188 State Street  
Albany, NY12247

February 4, 2013

Re: Confirmation of Jenny Rivera

Dear Chairman Bonacic and Members of the Senate Judiciary Committee:

I write in support of the confirmation of Professor Jenny Rivera to serve as an Associate Judge on the New York State Court of Appeals. The particular relevance I proffer springs from my service as a law professor who later was privileged to serve on the Court of Appeals. I confidently believe that confirming someone with professional academic credentials to the State's Highest Court will contribute significantly and importantly to the work of the Court and to the New Yorkers whom the Court and its members ultimately serve.

I was given the honor of serving as a Senior Associate Judge on the Court of Appeals, upon virtually completing my fourteen year term on the Court from 1987 to 2000. Prior to that capstone role of my legal and judicial career, I also served as the Chief Administrative Judge for the New York State Unified Court System, Chairman of the New York State Sentencing Guidelines Commission, and Clerk of the Court and Counsel at the Court of Appeals. The span of that service was 1975 to 2000, the last quarter of the last Century. From 1970 to 1975, however, I had also been the Assistant Dean and a Professor of Law at St. John's University School of Law, and following my time on the bench, I returned to St. John's to serve as Dean and Professor Law at the Law School from 2000 to 2004. While I was on the Court I also served for ten years on the American Bar Association's Accreditation Committee of Law Schools rising to national Chairperson of the ABA Section on Legal Education and Admission to the Bar.

From these perspectives, I write to inform you as part of the exercise of your confirmation responsibility that my twenty five years of direct experience in various capacities at the Court of Appeals taught me many lessons. One particularly relevant feature that you may find helpful is my acute awareness and understanding of the exquisite collegial, i.e., collective, role each of the seven Judges on the Court brings to the decision-making table and process. The synergistic

wisdom that comes from diverse professional backgrounds and life experiences is an enormous benefit to the fairness and correctness of the ultimate decisions in the individual cases and in the institutional promulgation of settled principles of law, consistent with the high standards and long distinguished history of New York's Highest Court.

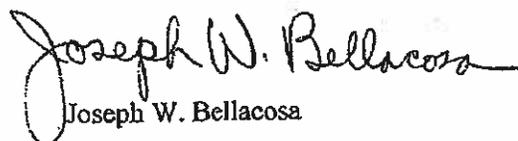
I wish to call particularly to your attention the instances where my distinct professorial course work and experience with students, and my academic writings of the CPL Practice Commentaries for McKinney's for ten years brought something useful and distinct to the table at the Court's conference discussions, to the actual decisions, and to the opinions of the Court, whether my own or those of others in which I concurred. Equally important in my estimation were the contributions of all seven Colleagues on the Court, some of whom came from the private sector as litigators or from prior trial and appellate judicial service, as well as myself in part from the academic life. All these prisms and perspectives taken together in the functional operation of a collegial "Court of Last Resort," comprised of seven members working *en banc* in all matters, resulted in what I considered to be more reliable consilience of shared wisdom, not a patchwork of individual viewpoints. The distinct parts surely added up to a greater and better whole.

In my opinion, based on my lengthy actual experience, and my lifelong study of the Court of Appeals' work and processes even before and after my judicial service, this unique give-and-take of such diverse perspectives and talents provides an extraordinarily value-added benefit and dimension to the overall process of final adjudication in the fair administration of equal justice.

I have personal knowledge of Professor Rivera's professional credentials and experience and I am pleased, therefore, to tender to you for whatever help it may provide to your important consideration of this particular confirmation that I believe she would contribute a useful and unique set of perspectives and talents that will play a significant role in helping the Court as an Institution to reach thoroughly considered and fair decisions in articulating the law of New York, as applied to its many appeals. It is my privilege, by your leave in accepting this letter as part of your record, to add my voice to that of the Commission on Judicial Nominations and many others in urging confirmation of Professor Rivera's nomination.

Thank you.

Respectfully submitted,

  
Joseph W. Bellacosa

cc Members of the Senate Judiciary Committee

Sen. John A. DeFrancisco  
Sen. John J. Flanagan  
Sen. Charles J. Fuschillo  
Sen. Kemp Hannon  
Sen. Andrew Lanza  
Sen. Kenneth P. LaValle  
Sen. Elizabeth Little  
Sen. Michael F. Nozzolio  
Sen. Thomas O'Mara  
Sen. Michael Ranzenhofer  
Sen. Diane Savino  
Sen. Malcolm Smith  
Sen. Lee Zeldin  
Sen. John L. Sampson  
Sen. Ruth Hassell-Thompson  
Sen. Eric Adam  
Sen. Neil D. Breslin  
Sen. Martin M. Dilan  
Sen. Adriano Espaillat  
Sen. Bill Perkins  
Sen. Toby A. Stavisky  
Sen. Brad Hoylman

FROM THE DESK OF  
Elizabeth De León Bhargava, Esq.

---

February 1, 2013

Honorable John J. Bonacic, Chairman  
New York State Senate Judiciary Committee  
188 State Street  
Legislative Office Building, Room 509  
Albany, NY 12247

**EXHIBIT 30**

Dear Senator Bonacic:

I write to express my enthusiastic support of the confirmation of Professor Jenny Rivera, Governor Andrew Cuomo's nominee for Associate Judge of the New York State Court of Appeals.

I am currently serving as the Deputy Commissioner for the New York City Department of Small Business Services. Previously, I served as the Associate Commissioner for the New York State (NYS) Department of Labor and Assistant Deputy Counselor at the NYS Office of the Attorney General (OAG).

I have known Professor Rivera for approximately thirteen years. During this time, Professor Rivera has been an extraordinary role model and mentor to me as an attorney working in the pursuit of justice and civil rights. While working at the OAG, I had the pleasure of working closely with Professor Rivera, where she served as Special Deputy Attorney General for Civil Rights, and also supervised the Civil Rights Bureau. Under her supervision, we worked on a number of investigations and prosecutions concerning civil rights matters, including housing and employment discrimination, immigration fraud, human trafficking and consumer frauds. She also led the team responsible for reviewing and analyzing newly enacted and proposed legislation on cases handled by the OAG for potential impact on affirmative and defensive litigation. Professor Rivera is an outstanding attorney who brings professionalism and strength of character to all of her work. She has a sharp intellect and great capacity for dispassionate, incisive legal analysis. Moreover, she translates her research and thought into clear writing. Together, these qualities make her particularly well-suited to be a judge.

Professor Rivera's breadth of legal experience has prepared her well for the appellate bench and makes her a strong addition to the Court. As an Associate Judge, she will be able to draw on her work as a litigator, law clerk, Special Deputy Attorney General, and professor. Professor Rivera understands the immense responsibility and honor that comes with being an officer of the court. This comes through in her generosity as a mentor, something I have benefited from personally, and her devotion as a professor to ensuring that the next generation of attorneys is prepared to take on the challenge of their chosen profession.

FROM THE DESK OF

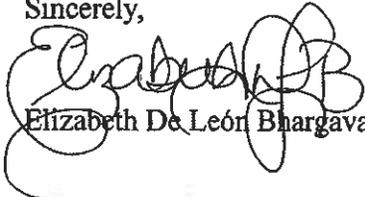
Elizabeth De León Bhargava, Esq.

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Professor Rivera is a pleasure to work with. Her serious and rigorous approach to the law is balanced by a charisma that brings others to her with ease to develop the most complete and cohesive legal analysis to the issues at hand. The Court of Appeals has a reputation of being a place where intensity of debate is matched with true collegiality. Professor Rivera would both foster and preserve that collegiality.

Finally, I believe Professor Rivera will be an exemplary judge in that she will carefully consider the record in cases before her, be mindful of the guidance of precedent, and adhere to the language of the law in making decisions. I unreservedly advocate in favor of her confirmation.

Sincerely,



Elizabeth De León Bhargava, Esq.

Cc: Members of the New York State Senate Judiciary Committee:

Hon. John A. DeFrancisco  
Hon. Adriano Espaillat  
Hon. John J. Flanagan  
Hon. Charles J. Fuschillo  
Hon. Kemp Hannon  
Hon. Andrew Lanza  
Hon. Kenneth P. LaValle  
Hon. Betty Little  
Hon. Michael F. Nozzolio  
Hon. Thomas O'Mara  
Hon. Michael Ranzenhofer  
Hon. Diane Savino  
Hon. Malcolm A. Smith  
Hon. Lee Zeldin  
Hon. John L. Sampson  
Hon. Ruth Hassell-Thompson  
Hon. Eric Adams  
Hon. Neil D. Breslin  
Hon. Martin M. Dilan  
Hon. Bill Perkins  
Hon. Toby A. Stavisky  
Hon. Brad Hoylman

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*Of Counsel*  
STEWART F. HANCOCK, JR.\*

*\*Associate Judge New York  
State Court of Appeals, Retired*

February 4, 2013

Honorable John J. Bonacic  
Chairman, Senate Judiciary Committee  
Legislative Office Building  
188 State Street  
Room 509  
Albany, NY 12247

Dear Chairman Bonacic and Members of the Senate Judiciary Committee:

I write in support of the confirmation of Professor Jenny Rivera to serve as an Associate Judge of the New York State Court of Appeals.

I had the honor of serving as an Associate Judge on the New York Court of Appeals from 1986 to 1993, and, prior to that, as a trial court judge and as a justice on the Fourth Department's Appellate Division. I was pleased to hear that Governor Cuomo nominated an academic to the New York Court of Appeals, and I strongly believe that confirming Professor Rivera will add a dimension to the Court that will benefit it greatly.

It is my opinion that if all judges on the New York Court of Appeals came to the Court in the same manner as I did—with a long career as a judge—the State's highest court would be lesser for it. Not only does having a professor on the Court add intellectual heft, but also having a diversity of perspectives on the Court is of the utmost importance. Different perspectives create a richness to the Court's debate and dialogue that leads to well-reasoned, thoughtful judicial opinions.

Professor Rivera is a highly accomplished jurist whose experience as a law professor will serve her well as an appellate judge. She is certainly prepared for the role; she has spent a significant amount of her career rigorously studying and writing about the law. Her experience in the classroom further prepares her for the bench. Much of what law professors do is challenge their students to think critically about the law and apply it to various scenarios and fact-patterns. An appellate court does much of the same with the litigators before it. I know this from my own experience in teaching a seminar in Problem Analysis at Syracuse Law School for eighteen years since retiring from the Court of Appeals.

Honorable John J. Bonacic  
Chairman, Senate Judiciary Committee  
February 4, 2013  
Page 2 of 2

It is my belief that adding a law professor to the New York Court of Appeals will add a dimension and perspective to the Court that will be celebrated for years to come. I strongly urge the New York State Senate to confirm Professor Rivera.

Sincerely,



Stewart F. Hancock, Jr.

cc Members of the Senate Judiciary Committee

Sen. John A. DeFrancisco  
Sen. John J. Flanagan  
Sen. Charles J. Fuschillo  
Sen. Kemp Hannon  
Sen. Andrew Lanza  
Sen. Kenneth P. LaValle  
Sen. Elizabeth Little  
Sen. Michael F. Nozzolio  
Sen. Thomas O'Mara  
Sen. Michael Ranzenhofer  
Sen. Diane Savino  
Sen. Malcolm Smith  
Sen. Lee Zeldin  
Sen. John L. Sampson  
Sen. Ruth Hassell-Thompson  
Sen. Eric Adam  
Sen. Neil D. Breslin  
Sen. Martin M. Dilan  
Sen. Adriano Espaillat  
Sen. Bill Perkins  
Sen. Toby A. Stavisky  
Sen. Brad Hoylman

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February 4, 2013

Senator John Bonacic  
Chair, Senate Judiciary Committee  
Legislative Office Bldg.  
188 State Street, Room 509  
Albany, NY 12247

Dear Chairman Bonacic and Members of the State Senate Judiciary Committee:

It has come to my attention that some sources have challenged the qualifications of Professor Jenny Rivera for service on the Court of Appeals on the ground that an academic legal career provides insufficiently broad professional experience adequately to address and resolve the myriad of legal issue that come before the State's highest court.

I respectfully disagree. analytical reasoning is the bedrock of appellate judging. And no matter what subject in a law school curriculum a professor teaches, analytical reasoning is the essential skill to be imparted to law students. Judges, like law professors have to be scholars, always learning, always acquiring new insights.

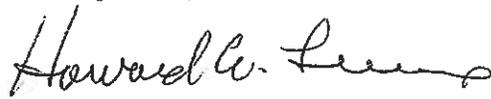
While I certainly would not like to see the Court of Appeals composed only of law professors, an academic careerist certainly would be a valuable contributor to the work product of a collegial Appellate Court where the members have had a diversity of legal experiences and the Court benefits from the mutual sharing of the insights gained from those individual experiences.

My own experience on the Court of Appeals confirms this. Most of my years on the Court were served with Judge Joseph Bellacosa. The vast majority of Judge Bellacosa's legal career was spent as a law professor at St. Johns and Albany Law Schools. There is no question that he was a valuable member of the Court, as shown not only by the opinions he authored but, less visibly, in the insights he shared at the conference table.

Judge Bellacosa was not unique in this regard. I cite to Justice Stephen Breyer and Justice Ruth Bader Ginsburg as two other examples of former law professors who became outstanding members of the United States Supreme Court.

I sincerely and strongly urge the Committee to reject any challenge to Professor Rivera's qualification based upon her chosen career path as a legal academician.

Respectfully,

A handwritten signature in cursive script that reads "Howard A. Levine". The signature is written in dark ink and is positioned above the printed name.

Howard A. Levine



Support for Jenny Rivera  
Natasha Lycia Ora Bannan  
to:  
cherry, bonacic  
02/04/2013 01:00 PM  
Cc:  
scousins  
Hide Details  
From: Natasha Lycia Ora Bannan <lyciaora@gmail.com>  
To: cherry@nysenate.gov, bonacic@nysenate.gov,  
Cc: scousins@senate.state.ny.us

The Hon. John J. Bonacic  
Chairman, New York State Senate Judiciary Committee  
188 State Street  
Room 509, Legislative Office Building  
Albany, NY 12247

February 4, 2013

Chairman Bonacic and Members of the Senate Judiciary Committee,

I write in support of Jenny Rivera's nomination to the Court of Appeals and to encourage the Senate Judiciary Committee to confirm Governor Cuomo's nomination.

As an alumna of CUNY Law School and a former fellow of the Center on Latino/a Rights and Equality (CLORE), which Professor Rivera is Director of, I know Professor Rivera will be a tremendous addition to our state's highest court. Professor Rivera's knowledge of the law is vast and includes not only a practitioner's ease with litigation, but an academic's ability to break down and build up legal concepts and explain those concepts in a digestible way for students, as well as a scholar's skill in analyzing and

understanding the law and impact of our legal system on particular communities. Professor Rivera's standard for excellence and insistence on thorough, reasoned analysis was well known among her students. Her ability to draw on her diverse experiences as a practitioner, law clerk, staff attorney, bureau chief and law professor gives her unique insight into both the theory and implications the law, which should be essential for any member of the bench. Professor Rivera's commitment to public interest work would be a welcome addition to the Court of Appeals.

I urge the Committee to act swiftly on Professor Rivera's nomination and confirm her.

Sincerely,

Page 84

Natasha Lycia Ora Bannan

60 Caterson Terrace

Hartsdale, NY 10530



TESTIMONY OF  
SEYMOUR W. JAMES, JR.  
PRESIDENT, NEW YORK STATE BAR ASSOCIATION  
CONCERNING THE APPOINTMENT OF  
PROFESSOR JENNY RIVERA AS  
ASSOCIATE JUDGE OF THE COURT OF APPEALS  
NEW YORK STATE SENATE JUDICIARY COMMITTEE

FEBRUARY 4, 2013

ALBANY, NEW YORK

Senator Bonacic, members of the Senate Judiciary Committee, ladies and gentlemen:

My name is Seymour W. James, Jr., and I am President of the New York State Bar Association. It is my privilege to appear before you today in support of the appointment of Professor Jenny Rivera as Associate Judge of the New York State Court of Appeals. On behalf of the Association, I thank you for the opportunity to appear before you concerning Professor Rivera's qualifications for the Court of Appeals.

Since 1967, our Association, presently comprised of over 76,000 attorneys licensed to practice in New York State, has evaluated candidates for the Court of Appeals. During the past 32 years, since New York amended its Constitution to provide for the appointment of Court of Appeals judges, we have provided the Governor with our ratings of the candidates whose names have been submitted to the Governor by the State Commission on Judicial Nomination.

The integrity of our justice system and the administration and development of the law are matters of paramount concern to our Association. As a result, we have a strong interest in the process of selecting the members of our state's highest court and we appreciate the opportunity to provide input in that process. With respect to the present nomination, we have found Professor Rivera to be Well Qualified to serve as an Associate Judge of the Court of Appeals.

I would like to outline for you the process by which our Association evaluates Court of Appeals candidates. We appoint a Committee to Review Judicial Nominations, made up of seventeen members (and four alternate members) from across New York State. The rules governing the committee's operation mandate that every judicial district be represented on the committee. Committee members are experienced practitioners, selected to reflect diversity in race, ethnicity, gender and area of practice. Their practice settings range from solo practitioners to large law firms. Upon the announcement by the Commission on Judicial Nomination of its list of candidates for appointment to the Court of Appeals, the committee's chair appoints subcommittees to investigate the qualifications of each candidate and to make a report at a

meeting of the full committee. These subcommittees review biographical material provided by the candidates, read samples of the candidates' writings, and interview the candidates' colleagues. Finally, the subcommittees meet with the candidates. Based on the information gathered during the investigation process, the subcommittees prepare reports and recommendations concerning the candidates to present to the full committee.

After the completion of the investigations, the committee meets as a whole to review the subcommittee reports concerning the qualifications of each candidate and to personally interview the candidates. The committee then votes to determine whether the candidates shall be rated "well qualified," "qualified," or "not qualified" for appointment to the Court of Appeals. In making their evaluations, the committee members are asked to consider the candidates' professional ability and experience, character, temperament, and the possession of special qualities necessary or desirable for the judicial office sought. Under the committee's guidelines, a "qualified" candidate is one who affirmatively demonstrates qualifications the committee regards as necessary for judicial

office. A “well qualified” candidate is one who, in addition, possesses pre-eminent qualifications for judicial office.

After being selected as a candidate by the Commission on Judicial Nomination, Professor Rivera’s qualifications were evaluated by our committee in accordance with these procedures. She met with our full committee on December 13, 2012. As a result of this investigation and interview, it was the opinion of our committee that Professor Rivera is well qualified for the Court of Appeals. She has years of experience as a law professor at CUNY School of Law and Suffolk University Law School as well as a visiting professorship at American University Washington College of Law, during which she has taught a variety of courses including administrative law, civil procedure, property, lawyering, and civil rights. She has served as a Special Deputy Attorney General for Civil Rights, as an administrative law judge, and as a Commissioner of the New York City Commission on Human Rights. Additional public service includes the New York State Second Department Judicial Screening Committee as well as the Advisory Council for the Housing Part of the New York City Civil Court.

A judge on the Court of Appeals must possess the intellect to analyze and resolve complex legal issues and the ability to write opinions in a clear, persuasive manner. Professor Rivera's large body of scholarly writings demonstrates skilled legal analysis and the ability to convey her points of view in a clear manner. Moreover, her colleagues and references have indicated that she possesses the ability to work in a collaborative manner with individuals from different disciplines and with divergent viewpoints. She possesses a temperament and demeanor which will serve her well in working with her colleagues on the court, as well as in dealing with counsel appearing before the court. She further has demonstrated an understanding of the distinction between working as a lawyer and serving as a judge, where her focus will be on applying precedent and interpreting the law. Given her background, it is the opinion of our committee that Professor Rivera possesses the abilities, character and temperament to serve ably as an Associate Judge of the Court of Appeals.

In 2012, Professor Rivera won our Association's Diversity Trailblazer Lifetime Achievement Award, which is awarded during our Annual Meeting by our

Committee on Diversity and Inclusion, in recognition of exceptional efforts to promote the full and equal participation of diverse people at all levels of the legal profession. In 2010, Professor Rivera was the recipient of our Kay Crawford Murray Award, which is presented by our Association's Committee on Women in the Law in honor of a member of the bar who has worked to enhance diversity in the bar and to advance the professional development of women attorneys. Her professional achievements also are being recognized this month by the 400,000-member American Bar Association with its prestigious Spirit of Excellence Award, in recognition of her efforts to promote a more racially and ethnically diverse legal profession.

Her overall breadth of experience leads us to conclude that Professor Rivera will serve the State of New York well as an Associate Judge of the Court of Appeals. Jenny Rivera would bring to the Court of Appeals her keen intellect, insightful legal scholarship and a commitment to equal justice for all New Yorkers. Accordingly, on behalf of the New York State Bar Association, I am pleased to endorse Professor Rivera's appointment to the Court of Appeals and urge the confirmation of her appointment.

Thank you for your attention and for inviting participation by the New York State Bar Association in this important process.

**STATEMENT OF JENNY RIVERA  
NOMINEE FOR ASSOCIATE JUDGE TO THE NYS COURT**

**BEFORE THE NEW YORK STATE SENATE JUDICIARY COMMITTEE**

**FEBRUARY 4, 2013**

**THANK YOU MR. CHAIRMAN, SENATOR SAMPSON, AND MEMBERS OF THE SENATE JUDICIARY COMMITTEE. I WOULD LIKE TO THANK MY FAMILY AND FRIENDS WHO ARE HERE WITH ME TODAY. I WANT TO RECOGNIZE AND GIVE SPECIAL THANKS TO MY LIFE PARTNER, AUDIE SERRANO. HE HAS BEEN MORE THAN MY BETTER HALF AND HIS SUPPORT AND COUNSEL HAVE BEEN CRITICAL TO MY SUCCESS AND HAPPINESS.**

**I AM GRATEFUL AND HONORED THAT GOVERNOR ANDREW CUOMO HAS NOMINATED ME TO THE NEW YORK STATE COURT OF APPEALS. MY ENTIRE PROFESSIONAL CAREER HAS FOCUSED ON PUBLIC SERVICE, AND IF CONFIRMED I RECOGNIZE THE PRIVILEGE THAT THIS OPPORTUNITY PROVIDES ME TO SERVE THE PEOPLE OF THE STATE OF NEW YORK AS A MEMBER OF OUR STATE'S ESTEEMED HIGHEST COURT.**

**MY FAMILY STORY IS LIKE THAT OF MANY OTHER NEW YORK FAMILIES FOR WHOM EDUCATION AND HARDWORK WERE GUIDING PRINCIPLES. I AM THE DAUGHTER OF A PUERTO RICAN MOTHER WHO,**

**LIKE SO MANY OTHER NEW YORKERS, CAME TO OUR STATE LOOKING FOR A BETTER LIFE. SHE LOVED HER NEW HOME AND SPENT HER LIFE HERE FROM THE 1940s UNTIL SHE PASSED AWAY IN 2008.**

**I WAS BORN IN NEW YORK CITY AND GREW UP ON THE LOWER EAST SIDE. MY MOTHER SUPPORTED HER FAMILY BY WORKING IN FACTORIES, MAKING HATS AND GLOVES, WORKING UNTIL ARTHRITIS SO DISABLED HER THAT SHE WAS NO LONGER ABLE TO DO MANUAL LABOR.**

**WE LIVED IN TENEMENTS UNTIL I WAS A TEENAGER AND THEN MOVED TO THE BARUCH HOUSES BY THE FDR DRIVE IN LOWER MANHATTAN. WE GREW UP POOR BUT MY MOTHER BELIEVED EDUCATION AND HARD WORK WOULD PROVIDE GREATER OPPORTUNITIES. SHE ENCOURAGED ME TO WORK HARD TO ACHIEVE WHATEVER I WANTED. AS SOON AS I COULD WORK I GOT A JOB, WORKING IN A TOWEL FACTORY, WHICH PAID FOR PART OF MY CATHOLIC HIGH SCHOOL EDUCATION. I DEVELOPED A STRONG WORK ETHIC OBTAINING A SCHOLARSHIP TO PRINCETON, AND WORKED THROUGHOUT COLLEGE AND LAW SCHOOL.**

**AFTER GRADUATING LAW SCHOOL I PURSUED MY DREAM OF WORKING IN THE PUBLIC INTEREST AS A LAWYER, AND EVENTUALLY**

**A LAW PROFESSOR. I BEGAN MY CAREER AS A PRO SE LAW CLERK IN THE SECOND CIRCUIT COURT OF APPEALS, THEN WORKED AS AN ATTORNEY FOR THE LEGAL AID SOCIETY'S HOMELESS FAMILY RIGHTS PROJECT, AND LATER FOR THE PUERTO RICAN LEGAL DEFENSE AND EDUCATION FUND. I TOOK A LEAVE TO PURSUE A MASTERS OF LAW WHILE SIMULTANEOUSLY WORKING AS AN ADMINISTRATIVE LAW JUDGE FOR THE NYS DIVISION OF HUMAN RIGHTS. AFTER, I CLERKED FOR JUSTICE SOTOMAYOR WHEN SHE WAS A DISTRICT JUDGE IN THE SOUTHERN DISTRICT OF NEW YORK. I THEN BEGAN MY CAREER AS A LAW PROFESSOR.**

**I JOINED THE FACULTY OF THE CITY UNIVERSITY OF NEW YORK SCHOOL OF LAW, WHERE I TEACH CORE COURSES ON PROPERTY, ADMINISTRATIVE LAW, AND CIVIL PROCEDURE, AS WELL AS SEMINARS ON ANTIDISCRIMINATION LAW AND THEORY. I HAVE EXAMINED THE LAW AS A SCHOLAR, FOCUSING PRIMARILY ON WOMEN'S RIGHTS, CIVIL RIGHTS AND ACCESS TO JUSTICE FOR DOMESTIC VIOLENCE SURVIVORS AND VICTIMS OF VIOLENCE.**

**IN 2007 I TOOK A LEAVE OF ABSENCE TO SERVE AS THE SPECIAL DEPUTY ATTORNEY GENERAL FOR CIVIL RIGHTS IN THE OFFICE OF THE NYS ATTORNEY GENERAL. I PROSECUTED CASES INVOLVING A**

**BROAD RANGE OF ISSUES, INCLUDING PREDATORY LENDING AND OTHER FORMS OF HOUSING AND EMPLOYMENT DISCRIMINATION.**

**I RETURNED TO CUNY SCHOOL OF LAW TO BECOME DIRECTOR OF THE LAW SCHOOL'S CENTER ON LATINO AND LATINA RIGHTS AND EQUALITY. THE CENTER FOCUSES ON EXPLORING THE ISSUES FACING THE GROWING LATINO COMMUNITY IN THE UNITED STATES, AND ENGAGING LEGAL PROFESSIONALS AND LAY PERSONS IN EFFORTS TO INCREASE ACCESS TO JUSTICE THROUGH COMMUNITY EDUCATIONAL EVENTS, SCHOLARLY PROJECTS, AND PIPELINE PROGRAMS THAT INTRODUCE YOUNG PEOPLE TO THE LEGAL PROFESSION.**

**MY PROFESSIONAL EXPERIENCES HAVE PREPARED ME WELL TO SERVE ON OUR COURT OF APPEALS. I WOULD APPROACH JUDICIAL DECISIONMAKING ALWAYS FOCUSED ON THE MERITS OF THE INDIVIDUAL CASE BEFORE THE COURT, APPLICABLE PRECEDENT, AND THE PLAIN LANGUAGE OF THE LAW. I HAVE SPENT MY ENTIRE PROFESSIONAL CAREER FOCUSED ON ENSURING THAT INDIVIDUALS ARE TREATED FAIRLY AND JUSTLY BY OUR JUDICIAL SYSTEM, AND I WOULD GIVE ALL WHO COME BEFORE THE COURT A FAIR HEARING, BASED ON THOROUGH, METICULOUS RESEARCH AND ANALYSIS.**

**MUCH OF THE WORK AND THE SKILLS OF A SCHOLAR ARE LIKE THE WORK AND ESSENTIAL SKILLS OF AN APPELLATE JUDGE. BOTH REQUIRE WELL-REASONED, PERSUASIVE LEGAL WRITING BASED ON EXTENSIVE RESEARCH. A JUDGE MUST ADHERE TO PRECEDENT AND DEAL WITH THE LAW AS IT STANDS. IF CONFIRMED I WOULD APPROACH MY WORK AS A JUDGE ON OUR COURT OF APPEALS WITH A COMMITMENT TO HARD WORK AND ON AN INTELLECTUALLY HONEST APPLICATION OF THE RULE OF LAW.**

**MY SUCCESS IS DUE IN PART TO MY ABILITY TO WORK WITH PEOPLE FROM DIFFERENT BACKGROUNDS AND PERSPECTIVES. I HAVE WORKED WITH CLIENTS, OTHER LAWYERS, JUDGES, POLICYMAKERS, PROFESSORS AND STUDENTS. THESE EXPERIENCES HAVE ALLOWED ME TO HONE MY STRONG LISTENING SKILLS AND BE OPEN TO AND QUICKLY UNDERSTAND DIFFERENT PERSPECTIVES AND POINTS OF VIEW. I AM CONFIDENT THIS WOULD HELP GUIDE ME TO THE MOST BALANCED AND LEGALLY SOUND CONCLUSIONS EVEN ON THE MOST DIFFICULT ISSUES.**

**SENATORS, IF CONFIRMED, I WOULD BRING TO THE COURT OF APPEALS A DEEP COMMITMENT TO THE RULE OF LAW, AN ENTHUSIASM FOR LEGAL DISCOURSE, AND MY BELIEF IN THE INTEGRITY OF THE**

**COURT AND ITS OBLIGATION TO TREAT ALL PERSONS WHO APPEAR  
BEFORE IT FAIRLY AND WITH RESPECT.**

**THANK YOU AND I LOOK FORWARD TO ANSWERING YOUR QUESTIONS.**



**Fw: [NYsenate.gov Contact] Prof. Jenny Rivera**  
John J Bonacic to: Tonya Speckhardt, Jessica Cherry  
Sent by: Barbara Clifford  
Cc: Committee Judiciary

02/05/2013 08:22 AM

----- Forwarded by Barbara Clifford/senate on 02/05/2013 08:20 AM -----

From: DowningJr@aol.com  
To: bonacic@nysenate.gov  
Date: 02/04/2013 10:30 PM  
Subject: [NYsenate.gov Contact] Prof. Jenny Rivera  
Sent by: webmaster@senate.state.ny.us

---

John J. Bonacic,

Anonymous user "John Downing" has sent you a message via your contact form (<http://www.nysenate.gov/senator/john-j-bonacic/contact>) at New York State Senate.

Address:  
17 Battery Place , 10004  
New York

Phone:  
212-514-9190

Email:  
DowningJr@aol.com

Related Issues:  
Judges or Judicial

Voting:  
Not Registered at this Address

Message:  
Dear Senator Bonacic:

Thank you for fighting the good fight in the Judiciary Committee Hearing on Feb. 4, 2013.

Professor Rivera never once mentioned the words "corporation," or "business," or "prosecution" in her testimony.

It is abundantly clear from the hearing that she is an extreme partisan to the core and could never be fair in any litigation wherein an individual was adverse to a prosecutor, a corporation, a business, a landlord, or an employer.

In addition, she would be biased in favor of women in any divorce or family matter.

Again, I respectfully request that the Senate not confirm this appointee.

John Downing

Steven Beard  
46-18 30<sup>th</sup> AVE APT#2R  
Astoria, NY 11103  
917-623-2764  
[steven.beard87@gmail.com](mailto:steven.beard87@gmail.com)

New York Senate Judiciary Committee  
Senate Capitol Building  
172 State Street, Room 124 CAP  
Albany, NY 12247

Dear Chairperson Bonacic and members of the Senate Judiciary Committee:

I am writing to support and encourage the appointment of Professor Jenny Rivera to the NY Court of Appeals. As someone had the pleasure of having Professor Rivera as a professor at CUNY School of Law, I know firsthand that she is more than qualified to serve as a Judge on our State's highest court.

Professor Rivera is well versed in various areas of law, including Property and Civil Procedure. Her tenure as a professor has prepared her for the task of questioning attorneys appearing before the Court. Professor Rivera is someone who will be independent minded and carefully consider and question all theories and arguments presented to the Court. She will be a hot bench, and no attorney appearing before the Court, no matter what side they are on, will be spared.

She is not a judicial activist and she is not the type of Judge to legislate from the bench, as she is someone who will consider all arguments made, and will base her decision on the law. As a Professor, she expected well reasoned arguments based on the law from her students. I know that as a Judge, she will expect the same from parties before the court. No party will prevail in a Court with Jenny Rivera on the bench unless their position is grounded in law.

I know there is concern among members of the Judiciary Committee over the fact that Professor Rivera has not previously served as a Judge in the Judicial branch.. There have been many great Judges on high courts who had not previously served as Judges before their appointment. The great late Chief Justice William Rehnquist of the U.S. Supreme Court did not serve as a Judge prior to his appointment to the Supreme Court. He had clerked for U.S. Supreme Court Justice Robert Jackson and had served as an Assistant Attorney General at the Justice Department. In fact, Professor Jenny Rivera has a similar legal background to that of Chief Justice Rehnquist. Professor Rivera served as Special Deputy Attorney General during Andrew Cuomo's tenure as New York Attorney General. Professor Rivera also clerked for now-Justice Sonia Sotomayor when she a Judge for the U.S. District Court for the Southern District of New York. Jenny Rivera will join the likes of Chief Justice William Rehnquist and Justice Lewis Powell as high court Judges who had not previously served as a Judge for the Judiciary.

Furthermore, Professor Rivera has previously served as an Administrative Law Judge, providing her with adjudicatory experience similar to that as a Judge in the judiciary. I know that Professor Rivera's broad experience will make her an excellent addition to the NY Court of Appeals. I hope all members of the committee, and the New York Senate as a whole, vote to confirm Professor Jenny Rivera to the New York Court of Appeals.

Sincerely,  
Steven Beard

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February 5, 2013

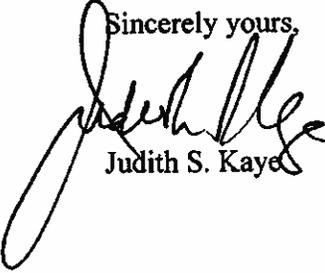
Re: Nomination of Professor Rivera for the Court of Appeals

Dear Senator Bonacic:

You did indeed extend an invitation to me to appear before the Senate Judiciary Committee yesterday, and I spoke with a member of your staff in response. I explained that I serve as Chair of the Commission on Judicial Nomination, which is established by the New York State Constitution, and as such wished to make clear that it would be inappropriate for me to testify about any particular candidate. After extensive outreach and investigation, the twelve-member Commission put before the Governor a list of seven candidates, each of whom we concluded was "well qualified" for the judicial office. (NYS Constitution, Article VI §1(d)(4).) As you noted in your remarks at the Committee hearing, I did offer to come to explain the process generally, but I was told that would not be necessary.

I would like this letter added to the record regarding the nomination of Professor Rivera.

Sincerely yours,



Judith S. Kaye