

NEW YORK
STATE
SENATE



August 30, 2022

Commission on Judicial Nomination
c/o Henry M. Greenberg, Counsel
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54 State Street, 6th Floor
Albany, New York 12207

To the Commission on Judicial Nomination:

As Senators who will have the responsibility to evaluate the nominee to be the next Chief Judge of the Court of Appeals and the State of New York, we write to urge you to recommend seven candidates who represent the professional and cultural diversity of our state and have demonstrated commitment to providing justice to the most vulnerable.

Past lists of candidates for Chief Judge have, regrettably, fallen far short of the Commission's formal "commitment to considering nominees for the Court of Appeals with outstanding personal and professional qualifications who reflect the diversity of New York's citizenry including, but not limited to, diversity in race, ethnicity, gender, religion, sexual orientation, community service, nature of legal practice or professional background and geography" (22 NYCRR § 7100.8[e]). The last Chief Judge list, for example, consisted of three long-time prosecutors, three partners at large commercial law firms, and one former administrative judge—but not one civil rights attorney, public defender, or tenant advocate. Indeed, career advocates for vulnerable New Yorkers have been conspicuously absent from eight of the last ten lists the Commission has generated. Accordingly, we urge you to recommend to the Governor candidates with the following qualities:

- **A commitment to delivering justice for the most vulnerable in their role as head of the New York State Unified Court System.** Courts that serve the most vulnerable have been repeatedly starved of resources and are now in a state of crisis following the disruptions of the Covid-19 pandemic. We intend to closely scrutinize candidates' understandings of how New York's court system functions in practice, and their commitment to ensuring that it upholds the values of equal justice under the law. New York deserves a Chief Judge who can deliver a court system that works for everyone, not just the wealthy.
- **A breadth of professional backgrounds.** Since the Commission was established in 1977, it has recommended 241 candidates to the Court of Appeals. Fewer than ten have been career civil rights attorneys or public defenders. New York has the finest public interest bar in the nation, many members of which have made significant contributions to the law as judges on the federal District Courts and the Second Circuit Court of Appeals. We urge the Commission to include on its list multiple lawyers who have spent their careers defending New York's most vulnerable, whether through criminal defense, housing advocacy, or impact litigation.
- **A commitment to New York's tradition of independent state constitutional interpretation.** In the face of a federal judiciary increasingly hostile to New Yorkers' constitutional rights, it is more important than ever that the Court of Appeals understand and use its power to make decisions based on New York's own Constitution and laws, particularly where they offer protections above and beyond federal

law. In the last several years the Court of Appeals has regressed, increasingly narrowing its reading of New York's Constitution to simply mirror the U.S. Supreme Court's interpretation of the U.S. Constitution. We intend to carefully evaluate candidates' understandings of New York's rich constitutional history, and we urge you to do likewise, so our state can be guaranteed a Chief Judge who understands the unique role that our state's Constitution plays in protecting the rights of all New Yorkers.

- **The independence required to effectively lead our independent third branch of government.** In order to preserve our state's balance of powers, it is imperative that the next Chief Judge not be beholden to any of the state's political power brokers but instead be wholly committed to advancing impartial justice for all. We intend to scrutinize candidates to ensure they will be fair and impartial jurists, no matter which powerful interests come before them. New Yorkers deserve a judiciary that can be trusted to be an honest broker of impeccable integrity, and we encourage the Commission to select candidates accordingly.

The appointment of the next Chief Judge is a generational opportunity for New York to commit to an independent judiciary that promotes equal justice for all. We implore the Commission to take the factors above into account when considering applicants and creating its list of candidates for the Governor's selection.

Sincerely,



Senate Deputy Leader Michael Gianaris



Senator Brad Hoylman
Chair, Senate Judiciary Committee



Senator Liz Krueger



Senator Jabari Brisport



Senator Kevin Thomas



Senator Andrew Gounardes



Senator Gustavo Rivera



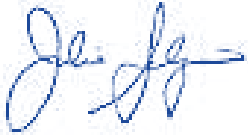
Senator Kevin Parker



Senator Michelle Hinchey



Senator Jessica Ramos



Senator Julia Salazar



Senator Cordell Cleare



Senator Elijah Reichlin-Melnick



Senator Robert Jackson



Senator Rachel May



Senator Neil Breslin



Senator Jeremy Cooney



Senator Samra Brouk



Senator Zellnor Myrie



Senator Alessandra Biaggi

CC: Governor Kathy Hochul