

May 5, 2020

Via E-Mail & Facsimile

The Honorable Andrew M. Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Re: Judicial Vacancies in the Appellate Division, First Department

Dear Governor Cuomo,

Thank you for everything you are doing to keep New Yorkers safe and healthy during this challenging time. The task is extraordinary on so many levels, and we are grateful for and commend your leadership. And, while we understand and acknowledge that events surrounding COVID-19 require and deserve the highest level of attention by your Administration, we are hopeful that pending judicial vacancies in the Appellate Division, First Department can be filled expeditiously and without overly burdening you or your staff.

With a flood of cases expected back in the judicial pipeline by this Fall, we believe it is important that the First Department be fully staffed and prepared, and not operating under its current constraints. For instance, starting January 1, the court moved from three to two sittings per week. This development came as no surprise given the extent to which the First Department is shorthanded. Including Presiding Justice Rolando Acosta, and accounting for upcoming retirements, there will be 14 First Department judges come July 2020. If no vacancies are filled by that time, there will be six vacancies awaiting gubernatorial appointment.

First Department vacancies persist even as the court continues to face a caseload of nearly 3,000 cases per year. Prior to the COVID-19 crisis and court slowdown, to avoid calendar and disposition delays, the court had cut back from five-person to four-person panels, thus creating a much higher risk of split decisions. And, it is the First Department's practice to sit every week during the term, so there will be no room to schedule further sittings once full caseloads resume.

Even under the best of circumstances, court delays work an injustice on both individual and corporate litigants. In the case of the former, delaying justice can have significant consequences on someone's life, whether the matter in dispute pertains to that individual's financial or personal circumstances or, as is often the case, both. In the case of the latter, court delays negatively impact New York's business environment and the willingness of businesses to contractually stipulate to New York law and jurisdiction. A viable and productive business environment requires that disputes be heard efficiently and effectively, and it is well-known that the First Department hears a very high number of these business disputes.

All of these developments combine to deter judicial efficiency and create a demoralizing atmosphere for judges, litigants and lawyers. We understand that you have a diverse pool of candidates before you who have been approved by the judicial screening committee and that the committee has met with additional candidates. We remain hopeful that the vacancies will be filled

as expeditiously as possible so that the court can continue to fully, fairly and effectively play its role in New York's dispute resolution environment.

Thank you for your attention to this request and for everything you are doing to protect public health and to lead New Yorkers through these very challenging times.

Respectfully,

Armenian Bar Association
Asian American Bar Association of New York
Association of Black Women Attorneys
Caribbean Attorneys Network
Dominican Bar Association
Filipino American Lawyers Association of New York
Haitian American Lawyers Association of New York
Jewish Lawyers Guild
Korean American Lawyers Association of Greater New York
Latino Judges Association
LGBT Bar Association of Greater New York
Long Island Hispanic Bar Association
Macon B. Allen Black Bar Association
Metropolitan Black Bar Association
New York City Bar Association
New York Women's Bar Association
Puerto Rican Bar Association
Queens County Women's Bar Association
South Asian Bar Association of New York