

BEFORE THE NEW YORK STATE SENATE  
STANDING COMMITTEE ON JUDICIARY

---

In the Matter

- of -

A Meeting to Consider  
the Governor's Nomination of:

Susan Phillips Read  
Associate Justice of the  
Court of Appeals

---

The Capitol  
Room 124  
Albany, New York

January 22, 2003  
10:00 a.m.  
Wednesday

**PRESIDING:**

Senator John A. DeFrancisco  
Chairman,  
Senate Standing Committee on Judiciary

**PRESENT:**

Senator John J. Marchi  
Senator Guy J. Velella  
Senator Dale M. Volker  
Senator Hugh T. Farley  
Senator Guy J. Velella  
Senator Stephen M. Saland

COPY

**PRESENT** (Contg.)

**Senator Kenneth P. LaValle**

**Senator Raymond A. Meier**

**Senator Michael A.L. Balboni**

**Senator Serphin R. Maltese**

**Senator John Bonacic**

**Senator Dean G. Skelos**

**Senator Kemp Hannon**

**Senator Malcom A. Smith**

**Senator Neil D. Breslin**

**Senator John L. Sampson**

**Senator Thomas Duane**

**Senator Eric Schneiderman**

**Senator Carl Andrews**

**Senator Martin Connor**

**Senator Martin Malave-Dilan**

**ALSO PRESENT:**

**David Gruenberg  
Committee Counsel**

**Larry Rosen  
Minority Counsel**

INDEX OF SPEAKERS

	STATEMENTS
Hon. Susan Phillips Read Associate Justice of the Court of Appeals	5 – 11
Hon. Jonathan Lippman Chief Administrative Judge	11 – 18
Hon. Anthony V. Cardona Presiding Justice of the Supreme Court Appellate Division, Third Department	18 – 23
Hon. A. Gail Prudenti Presiding Justice of the Supreme Court Appellate Division, Second Department	23 – 27
Elena Ruth Sassower Co-founder of White Plains-based Center for Judicial Accountability	28 – 34

1 Justice Prudenti.

2 The last speaker who requested previous  
3 to this meeting the right to speak is Elena  
4 Ruth Sassower.

5 I don't know if you're going to need  
6 those boxes, Elena.

7 MS. SASSOWER: Everything I say is  
8 documented and, some of it, I'll need.

9 SENATOR DEFRANCISCO: Well, you can  
10 start.

11 MS. SASSOWER: Just give me one  
12 moment, please.

13 SENATOR DEFRANCISCO: Well, before  
14 you start, I'd like to remind you that the  
15 purpose of this hearing is to pass on the  
16 qualifications of Judge Read.

17 MS. SASSOWER: Absolutely.

18 SENATOR DEFRANCISCO: Okay.

19 MS. SASSOWER: Chairman DeFrancisco,  
20 Committee Members, Judge Read, good morning.  
21 My name is Elena Ruth Sassower and I'm the  
22 coordinator and cofounder of the Center for  
23 Judicial Accountability, a nonpartisan,  
24 nonprofit, citizens' organization dedicated

1 to safeguarding the public interest in  
2 judicial selection and discipline.

3 It is now more than 13 years that we  
4 have been examining how these essential  
5 processes work, which is to say documenting  
6 how dysfunctional, politicized and corrupted  
7 they are.

8 I am here today --

9 SENATOR DEFRANCISCO: Excuse me, Ms.  
10 Sassower. Excuse me. When you say  
11 corrupted they are, are you talking about  
12 the system that you're complaining about?

13 MS. SASSOWER: I'll be getting to  
14 that.

15 SENATOR DEFRANCISCO: The point is  
16 very simple. This is a hearing to determine  
17 --

18 MS. SASSOWER: Exactly.

19 SENATOR DEFRANCISCO: -- passing on  
20 the qualifications of one individual. So if  
21 you'd get to that issue.

22 MS. SASSOWER: I appear today with  
23 substantiating documentation in strong  
24 opposition to senate confirmation of

1 Governor Pataki's appointment of Court of  
2 Claims Presiding Judge Susan P. Read to the  
3 New York Court of Appeals. The basis for  
4 such opposition is twofold.

5 One: Judge Read's appointment is the  
6 product of a corrupted merit selection  
7 process such that her appointment is not  
8 even properly before this Committee as a  
9 matter of law; and, two, Judge Read's  
10 official misconduct as Governor Pataki's  
11 deputy counsel.

12 These grounds of opposition were  
13 identified to the Senate Judiciary Committee  
14 in advance of this hearing including by  
15 letters to Chairman DeFrancisco dated and  
16 faxed January 14th and January 17th as to  
17 which there has been no investigative  
18 response including no inquiry by Committee  
19 counsel.

20 Consequently, this Committee's duty  
21 upon conclusion of my testimony is to call  
22 upon Judge Read to publicly respond  
23 including as to whether she would not agree  
24 that any vote on her confirmation must

1 properly be deferred until the Committee  
2 examines the substantiating documentation on  
3 which this opposition is based.

4 The Center for Judicial Accountability,  
5 CJA's January 17th letter to Chairman  
6 DeFrancisco objected to this hearing as  
7 premature and requested that it be  
8 postponed.

9 As stated therein, Judge Read --

10 SENATOR DEFRANCISCO: Excuse me, Ms.  
11 Sassower. I don't want to be impolite. I  
12 gave you the opportunity to speak. I'm  
13 going to say it one last time. The issue is  
14 on the confirmation of one individual.

15 MS. SASSOWER: That's right.

16 SENATOR DEFRANCISCO: It is not  
17 concerning the procedures of the Office of  
18 Court Administration, the governor, the  
19 Senate Judiciary Committee or any other  
20 committee. That is not before us today.

21 Now, if you want to raise an issue  
22 concerning the qualifications of this  
23 individual, you're free to do so.

24 MS. SASSOWER: Chairman DeFrancisco,

1 with all due respect, there is no reason for  
2 the Senate Judiciary Committee to rush ahead  
3 with a confirmation hearing when it has not  
4 yet developed rules of procedure for  
5 confirmation, including from verifying the  
6 legitimacy of --

7 SENATOR DEFRANCISCO: Ms. Sassower.  
8 Ms. Sassower. I indicated to you that was  
9 the last time I was going to remind you.  
10 Since you have said absolutely nothing about  
11 the qualifications of this Justice, despite  
12 repeated, repeated warnings to do so, your  
13 remarks are now closed.

14 I will now go to -- please pack up your  
15 bags and continue on with whatever other  
16 duties you have today --

17 MS. SASSOWER: Excuse me.

18 SENATOR DEFRANCISCO: -- for your  
19 committee. Excuse me.

20 MS. SASSOWER: It is normal and  
21 customary to give at least 10 minutes and  
22 I'd like to have those 10 minutes --

23 SENATOR DEFRANCISCO: Excuse me. You  
24 were given --



1 MS. SASSOWER: -- to make a  
2 presentation, because there is no reason for  
3 this confirmation hearing to be held. It  
4 was held without proper notice and --

5 SENATOR DEFRANCISCO: Once again --

6 MS. SASSOWER: -- without any  
7 investigation of her credentials by the  
8 Senate Judiciary Committee, including  
9 investigation of citizen opposition.

10 SENATOR DEFRANCISCO: Excellent. I  
11 understand your point. Your 10 minutes are  
12 up without any comments about the  
13 qualifications of this Justice. And if you  
14 do not pack your boxes, we will have you  
15 removed.

16 This is an interesting beginning to my  
17 first session as a judicial chair.

18 MS. SASSOWER: I will go directly to  
19 her misconduct as deputy counsel.

20 SENATOR DEFRANCISCO: Your remarks  
21 are concluded, ma'am.

22 MS. SASSOWER: I would like to --

23 SENATOR DEFRANCISCO: You were warned  
24 repeatedly. Now, please be civil.

1 MS. SASSOWER: I would like to  
2 testify as to her misconduct as deputy  
3 counsel.

4 SENATOR DEFRANCISCO: I think we have  
5 a marshall here or a deputy. I hate to make  
6 an embarrassing situation. Please --

7 MS. SASSOWER: Well, I would like to  
8 then make --

9 SENATOR DEFRANCISCO: Please refrain  
10 from speaking.

11 MS. SASSOWER: Well, would Judge Read  
12 like to --

13 SENATOR DEFRANCISCO: Please. Excuse  
14 me.

15 MS. SASSOWER: -- vindicate the  
16 public's rights to be heard at a public  
17 hearing?

18 SENATOR DEFRANCISCO: Could you  
19 please --

20 MS. SASSOWER: Would you like to show  
21 your courage and your integrity and your  
22 commitment to the public's rights --

23 SENATOR DEFRANCISCO: Are there any  
24 members -- excuse me.

1                   Are there any members that wish to  
2                   speak?

3                   SENATOR:       Chairman, I move the  
4                   nomination.

5                   SENATOR:       Second.

6                   SENATOR DEFRANCISCO:   All those in  
7                   favor?

8                   SENATORS:       AYE

9                   SENATOR DEFRANCISCO:   Opposed?

10                  The meeting is concluded. Thank you  
11                  very much.

12                  We're referring this matter to the full  
13                  senate.

14                  (Whereupon the meeting concluded).

15

16

17

18

19

20

21

22

23

24

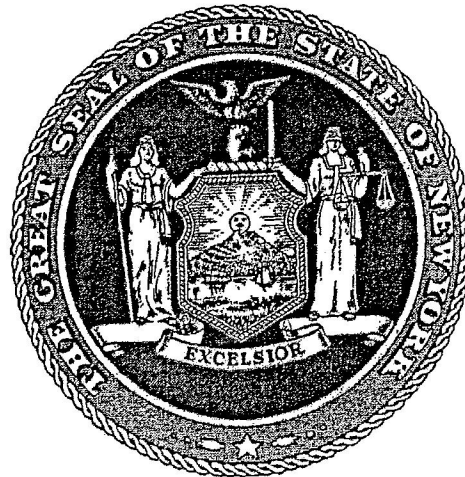
1  
2  
3 **NEW YORK STATE SENATE**

4  
5 **THE**  
6 **STENOGRAPHIC RECORD**

7 **Albany, New York**

8 **January 22, 2003**

9 **11:47 a.m.**



20 **REGULAR SESSION**

21  
22 **LT. GOVERNOR MARY O. DONOHUE, President**

23 **STEVEN M. BOGGESE, Secretary**

24

25

EXC-3

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator

DeFrancisco, from the Committee on Judiciary,  
reports the following nomination:

As Associate Judge of the Court of  
Appeals, Susan Phillips Read, of West Sand  
Lake.

THE PRESIDENT: Senator

DeFrancisco.

SENATOR DeFRANCISCO: I rise to  
move the nomination of Judge Susan Phillips  
Read to become an associate judge of the Court  
of Appeals, the highest court of this state.

We had a Judiciary Committee  
hearing this morning; we received information  
from the New York State Bar Association that  
indicated that she was well qualified, its  
highest rating. All speakers who spoke on her  
qualifications gave her glowing  
recommendations and glowing review. And the  
Judiciary Committee of the State Senate  
unanimously passed her nomination over to the  
full Senate.

