

Attorney Nominated to Ethics Panel as Its Validity Is Before NY's Top Court

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Body

New York Gov. Kathy Hochul has moved to fill a vacancy on the state's replacement ethics watchdog, even as two courts have agreed with lawyers for ex-Gov. Andrew Cuomo that the body was unconstitutionally created by lawmakers.

Hochul on Wednesday announced the nomination of retired longtime New York City public-sector attorney James Caras to the Commission on Ethics and Lobbying in Government.

COELIG, created in July 2022, has since been struck down by the Appellate Division, Third Department.

Hochul's administration nevertheless nominated Caras, subject to a seven-day comment period and vetting by an Independent Review Committee comprised of New York's law school deans.

Caras retired last year as special counsel to the speaker of the New York City Council.

Earlier, he served as a lawyer at Simpson Thacher & Bartlett and Akin Gump Strauss Hauer & Feld. He presently teaches a class on legislation at New York Law School.

The law deans vetting Caras was central to Cuomo's legal challenge of COELIG.

The appellate court, affirming a trial court ruling by state Supreme Court Justice Thomas Marcelle of Albany, found that COELIG's creation unconstitutionally violated "bedrock" separation-of-powers principles.

Cuomo had sued to halt COELIG's continuation of an investigation into whether he should forfeit \$5 million he received for writing a book about his administration's

After the appellate court ruling, COELIG officials took the necessary legal steps to ensure its work continues uninterrupted as it appeals the decision to the state's highest court, the New York Court of Appeals.

A New York Law Journal reporter asked Hochul's administration about nominating Caras despite COELIG's lame-duck status, and was told by a spokesman that it doesn't comment on pending litigation.

"The Commission on Ethics and Lobbying in Government is a crucial body to hold government accountable and increase transparency," Hochul said in a statement. "I am pleased to nominate James Caras for the Committee's review and look forward to continuing our work to restore trust in government."

Democratic lawmakers created COELIG as an overhaul of the commission vetting process in reaction to scrutiny of the former 14-member ethics panel, called the Joint Committee on Public Ethics (JCOPE), amid allegations of corruption, conflicts and leaking confidential information to the media.

The former body was often referred to scornfully as "J-JOKE."

In a statement to the Law Journal, Richard Azzopardi, a spokesman for Cuomo, blasted Hochul's move to nominate Caras.

"A pre-holiday weekend garbage dump about an appointment to a broken 'ethics panel' that multiple courts have already deemed unconstitutional screams of confidence in the bride of J-JOKE. Good luck and Godspeed, I guess," he said.

Caras would be the ninth member to the 11-member COELIG.

Hochul gets to pick three members. The term of former Hochul nominee Kaylin Whittingham ended late in 2023, according to a COELIG spokesperson.

Another former COELIG member, Edward Carni, resigned last summer.

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The Senate and Assembly Republican minority leaders each have a vacancy.

Meanwhile, Marcelle, the same trial court judge who originally eliminated COELIG's authority, has since ordered the body to halt a sexual misconduct investigation into former state Sen. Jeffrey Klein. The ex-senator had filed a lawsuit earlier this year that, like Cuomo's complaint, questions COELIG's authority and adherence to the state constitution.

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