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IN BRIEF

Court Will Hear State Appeal In Judicial 'Double Dipping'

The Court of Appeals said Tuesday it would hear the state's appeal of a lower court's finding that the court system sought illegally to block Supreme Court justices who stay on the bench past age 70 from receiving both judicial salaries and public pensions.

The court said that the state has a right to appeal in *Matter of Loehr v. Administrative Board of the Courts of the State of New York*, No. 2015-1112.

The motion did not elaborate on that finding, except to indicate that Chief Judge Jonathan Lippman took no part in the court's decision to accept the appeal.

An Appellate Division, Third Department, panel ruled that certificated judges such as the lead plaintiff, Westchester County Supreme Court Justice Gerald Loehr, cannot be prohibited from "double-dipping" and collecting both his judicial salary of \$174,000 and the \$66,576 annual pension he earned through previous service as a prosecutor, administrative hearing officer and judge (NYLJ, June 19).

The administrative board of the courts, which is composed of Lippman and the four presiding Appellate Division justices, decided in October 2013 that certificated judges should not be allowed to both collect their pensions and earn Supreme Court salaries.

Under certification, judges who have reached the courts' retirement age of 70 can remain on the bench with special administrative board approval for up to three two-year terms.

Robert Spolzino, a partner at Wilson Elser Moskowitz Edelman & Dicker in White Plains who is representing the plaintiffs, said Tuesday that the Court of Appeals' acceptance of the case was "not unexpected." Spolzino is a former Supreme Court and Appellate Division justice.

Other justices suing the state over the double-dipping prohibition are J. Emmett Murphy of Westchester County and William Miller of Brooklyn.

—Joel Stashenko