

# New York Law Journal

Select '**Print**' in your browser menu to print this document.

**Copyright 2009. Incisive Media US Properties, LLC. All rights reserved. New York Law Journal Online**

Page printed from: <http://www.nylj.com>

[Back to Article](#)

---

## **Free: Senate Confirms Lippman as Chief Judge**

Joel Stashenko  
02-13-2009

ALBANY - Confronting concerns about the process that led to his nomination to the state's highest judicial office, Jonathan Lippman, on Wednesday, promised state senators who confirmed him that he would make expanding diversity in the judiciary one of his principal goals.

"We all have to work together on this issue and recognize why it's important, that the courts reflect the great diversity of this state," he told the Senate Judiciary Committee prior to his confirmation as chief judge by the full Senate. "A diverse judiciary is essential."

No senators either in the committee or the full Senate voted against the nomination of Chief Judge Lippman, who was presiding justice of the Appellate Division, First Department, before his confirmation.

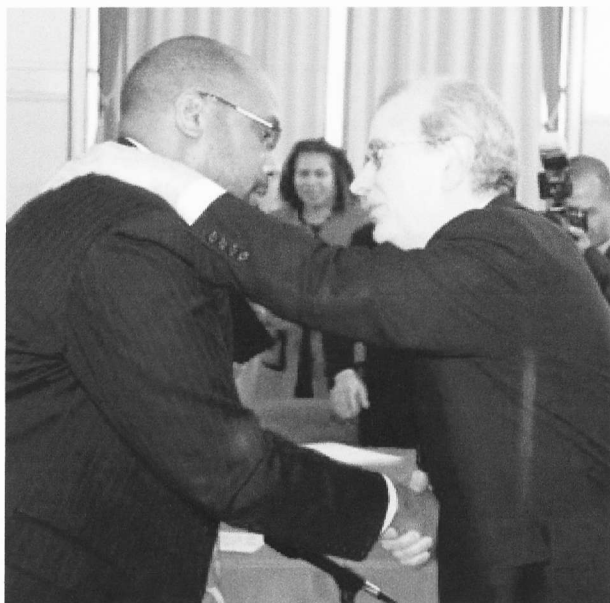
However, one abstained from voting in committee and three on the floor of the Senate. The senators all praised Chief Judge Lippman's qualifications, but said they were protesting the process that brought his nomination to succeed former Chief Judge Judith S. Kaye to the Senate.

The list of potential nominees produced by the Commission on Judicial Nomination from which Governor David A. Paterson selected Chief Judge Lippman contained the names of seven men, six of them white. The only minority candidate was Court of Appeals Judge Theodore Jones.

Speaking to the full Senate, Eric Adams, D-Brooklyn, called the nominating process a "sad moment for the state of New York" and another in a long series of discouraging setbacks

for the black and Hispanic legal communities.

"We cannot stay in the minor leagues our entire lives," Mr. Adams, who is black, told the Senate as Chief Judge Lippman and his family looked down on the proceedings from the chamber's gallery. "We need to play in the major leagues. . . . If we can integrate the White House, we can integrate the black robes."



Chief Judge Lippman thanks Senate Judiciary Committee Chairman John Sampson after the committee approved his nomination.

Judiciary Committee Chairman John L. Sampson, D-Brooklyn, said from the Senate floor that senators expect the chief judge to follow through on his assurances that he will do all he can to expand diversity on state court benches and guarantee that defendants of all races are treated fairly in New York courts.

"We don't want lip service as to inclusion, we want inclusion," Mr. Sampson said. "We want to be at the table."

Senators Ruben Diaz Sr. and Pedro Espada Jr., both D-Bronx, said Senator Hiram Montserrate, D-Queens, abstained by leaving the floor of the Senate during the otherwise unanimous voice vote.

Mr. Diaz also abstained from the 22-0 vote by which the Judiciary Committee approved the nomination.

"I am abstaining from voting because we have a problem, and if I vote 'yes,' that makes me part of the problem," Mr. Diaz said during the committee hearing. "My conscience does not allow me to come here to vote 'yes.'"

At the committee meeting, Chief Judge Lippman agreed with Senator Martin Dilan, D-Brooklyn, that while strides have been made with judicial diversity within New York City, gains have been slower upstate.

"The court system and the political system could do better outside New York City," the soon-to-be-chief judge said.

### **'Record of Leadership'**

In his remarks to the committee, Chief Judge Lippman boasted of the changes made in the court system between 1996 and 2007, when he was chief administrative judge to then-Chief Judge Kaye. He cited the development of specialty courts, the elimination of

most exemptions to jury duty and the way the courts continued to operate in the wake of the terrorist attack on Sept. 11, 2001, as among his proudest accomplishments.

"I think I know how to inspire and motivate people," he said. "I think I have a record of leadership and qualification. I know what it is to work in a 24-hour, seven-day-a-week job. I've been doing it for the last 20 years."



Judge Jones, Court of Appeals Judge Carmen Beauchamp Ciparick and Second Department Presiding Justice A. Gail Prudenti all spoke to the committee in support of Chief Judge Lippman's confirmation.

"There is no one person in the court system today that deserves this more than Jonathan Lippman, who has labored in the judicial vineyards for so many years," Judge Ciparick said.

Chief Judge Jonathan Lippman and Associate Judge Carmen Beauchamp Ciparick listen to testimony during the confirmation hearing yesterday.

Judge Ciparick applied for the chief judge's position, but did not make the commission's final list to the governor.

"I would be dishonest if I didn't say to you that I would have loved to have been the subject of today's proceedings," Judge Ciparick said. "I would have made a good chief judge, but Jonathan Lippman will be a great chief judge."

Judge Ciparick declined under questioning from Mr. Diaz to "second-guess" the nomination commission's decision to leave her name off the list of finalists. But she did respond to Mr. Diaz's question about whether she was qualified for the job by saying, "Yes, I am very qualified."

Judge Jones did not allude to his own candidacy for chief judge, but said that Chief Judge Lippman's experience as chief state administrative judge would be especially valuable in keeping the courts operating during the current economic times.

"I expect that his years of experience, which he'll be bringing to this process, will be of great significance in maintaining our economically independent judiciary," Judge Jones said.

Judge Jones told senators that he was grateful that then-Chief Administrative Judge Lippman appointed Judge Jones chief administrative judge for Brooklyn Supreme Court in 2005. In 2007, Judge Jones said it was Judge Lippman who solicited Judge Jones to apply for the opening on the Court of Appeals that Judge Jones eventually received from then-Governor Eliot Spitzer.

State Bar Association President Bernice K. Leber told the committee that Judge Lippman, with his "warm and engaging" manner, is a consummate consensus builder. She said he made significant strides while presiding justice of the First Department in reducing backlogs and the numbers of dissenting opinions by that court's panels.

A critic of the nomination commission, attorney Ravi Batra, told the committee that Chief Judge Lippman's credentials for his new job are "indisputable," despite the process that brought his name before the Senate for confirmation.

Mr. Batra urged the committee to make several changes in commission procedures, including making public the votes of all members on Court candidates and expanding both the size of the commission and of the lists of candidates it sends to governors.

Elena Ruth Sassower of the Center for Judicial Accountability, a critic of the judiciary who has appeared at prior Senate Judiciary Committee confirmation hearings, contended that Justice Lippman's nomination was a nullity because the commission's processes are allegedly unconstitutional.

She contended that the information the commission made public about the candidates it nominated also did not meet its statutory obligations.

Chief Judge Lippman, a 63-year-old Democrat, grew up on the Lower East Side of Manhattan. He graduated from New York University School of Law in 1968 and immediately went to work for the court. He was selected as presiding justice of the First Department in 2007 by Mr. Spitzer.

Chief Judge Lippman's confirmation gives male judges a 4-3 majority over women on the Court. The female members had been in the majority for the first time in the history of the Court between January 2003 and December 2008, when Judge Kaye stepped down.

Barring resignation or illness, the new chief judge's term will run through Dec. 31, 2015, the year in which he will reach the Court's mandatory retirement age of 70.

Chief Judge Lippman listed total assets for him and his wife Amy of \$1.4 million in a financial disclosure form Mr. Paterson's office made public under the Commission on Judicial Nomination's rules. The judge estimated that his home in Rye Brook is worth \$1 million and he also listed about \$200,000 in investments in stocks.

Chief Judge Lippman said yesterday he and his wife plan to maintain their Manhattan apartment as well as their Westchester County home as he takes over as chief judge. Justice Lippman needed to establish a residence in the First Department in order to become presiding justice.



Chief Judge Lippman waves to senators after being confirmed yesterday. Seated with the judge are, from left, his daughter Lindsay, wife Amy and son Russell.

[Joel.Stashenko@incisivemedia.com](mailto:Joel.Stashenko@incisivemedia.com)