

Media Release



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Statement of the Fund for Modern Courts

Senate Confirmation of the New Chief Judge¹

(New York, New York, January 2023)--Modern Courts urges all those involved in the confirmation process for the new Chief Judge of the New York Court of Appeals to follow the process that our State Constitution has mandated since 1977. Prior to that date, Court of Appeals judges were elected. That meant they had to raise money and campaign heavily including through extensive advertising and TV commercials. As we have seen in recent years in other states with elective systems for their highest courts, these processes can in some instances lead to corruption and —more frequently — to bitter partisan campaigning and the widespread perception that judges make decisions based on their partisan alignment.

In the 1970s, Modern Courts, through prominent members of the bar such as Cyrus Vance, Sr., and Whitney North Seymour, spearheaded adoption of the constitutional amendment that created the current system for selecting Court of Appeals Judges. Our system has served the State well by focusing the selection process on a candidate's qualifications, including legal acumen and leadership abilities, while reducing the impact of partisan politics.

¹ Board Members Abbe Gluck and Arun Subramanian were recused and did not participate.

The Commission on Judicial Nomination is a bipartisan body of 12 members, four appointed by the Governor, four by the Chief Judge, and one each by the Senate Majority and Minority Leaders and the Assembly Speaker and Minority Leaders. (Of the commissioners appointed by the Governor and the Chief Judge, no more than two may be from the same political party.) The role of the Commission is to solicit, evaluate and recommend to the Governor seven candidates for the position. Over many years, the Commission has performed this task admirably and recommended outstanding candidates. The Governor is required to select the nominee from the seven recommended candidates and, thereafter, the Senate, in its advice and consent role, considers the nominee for confirmation.

In keeping with the goal and spirit of this non-partisan selection process, Modern Courts has consistently urged that the Senate undertake a full and fair examination of the nominee's record, including their personal background and qualifications, judicial philosophy, legal experience, temperament, judgment, ability to reach consensus, and willingness to apply the law fairly as to all litigants. If a nominee has served as a judge, careful and deliberate review of prior decisions and the contexts in which they arose is also appropriate.

For the Chief Judge position, there is even more at stake in this process. The Chief Judge runs New York's entire court system. That system today faces serious challenges, including inadequate resources (particularly for courts serving people of limited means), systemic racism (as confirmed by a recent high-profile report), and the long-standing need for structural reform. These challenges require a strong leader with administrative experience and a strong commitment to equal access to justice.

Modern Courts therefore urges the Senate to proceed to consider the nomination of Justice Hector LaSalle, presiding justice of the Second Department, in the same thoughtful, fair and deliberate fashion that it has followed in considering Court of Appeals nominees in recent decades.

In the end, the process that the Senate follows in fulfilling its confirmation responsibility is just as important as the result. A full and fair process will promote confidence in the court system and the rule of law. It will encourage highly-qualified candidates to seek appointment to the Court of Appeals in the future. Modern Courts urges all Senators to approach consideration of Justice

LaSalle's nomination with an open mind as he receives a full hearing before the Judiciary Committee, including testimony from witnesses who may support or oppose his nomination. With that background, the Senate's vote on the nomination will fulfill the goals of the constitutional process established over four decades ago.

About Modern Courts

The Fund for Modern Courts is a non-partisan statewide organization committed to ensuring that the New York State Judiciary is independent and that our courts are just and equitable for all.

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