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Contact: Yang Chen, Executive Director
(646) 653-2168

STATEMENT OF THE ASIAN AMERICAN BAR ASSOCIATION OF NEW YORK AGAINST PROPOSED LEGISLATION ON COURT OF APPEALS APPOINTMENTS THAT UNDERMINES DIVERSITY, EQUITY, AND INCLUSION IN NEW YORK’S HIGHEST COURT

NEW YORK – March 31, 2023. The Asian American Bar Association of New York (AABANY) congratulates the seven candidates recently announced by the Commission on Judicial Nomination for the vacancy of Chief Judge of the New York State Court of Appeals. However, AABANY is disappointed at the lack of candidates of AAPI or Latino descent on the judicial nominations list for the Governor’s consideration, dealing a serious blow to diversity in the highest court of New York State. In a state that has nearly 11% of its population represented by Asian American and Pacific Islander (AAPI) people, the total absence of an AAPI jurist on the state’s highest court remains a glaring omission, compounding the invisibility that the AAPI community in New York has been contending with for hundreds of years. Indeed, there has never been an AAPI jurist appointed to the Court of Appeals.

We wish to emphasize the importance of a fair and thoughtful selection process for any appointments to the Court of Appeals and express concern over the newly proposed Program Bill (S 6061), proposed on March 27, 2023. This new legislation modifies the well-established procedure for filling an Associate Judge vacancy on the Court of Appeals in an undesirable way. Were the Governor to select a sitting Associate Judge from the Court of Appeals as the next Chief Judge, and then select from this same list of nominees to fill a newly created Associate Judge vacancy, there will be no opportunity for the Governor to consider an Asian American or Latino American for the Associate Judge position. AABANY is concerned that this legislation undermines diversity, equity, and inclusion in New York’s judiciary and urges both the Governor and the legislature to consider the full impact of the Program Bill. We urge that the proposed legislation be amended to include language that promotes the enhancement of a diverse judiciary and limits the power of the Governor to make appointments if the slate of candidates is not sufficiently reflective of the demographic diversity of New York State.

In 2023, New York State, with more than 2.1 million people of AAPI descent across the state, will remain one of 44 states in the United States with no AAPI judges on the state’s highest court. With nearly 11 percent of the state population being people of AAPI descent, having 0 judges of AAPI descent on the Court of Appeals means that the interests of a significant portion of the population remains unrepresented. AABANY will continue to support and advance qualified AAPI judges whose nomination and appointment to the Court of Appeals, the state’s highest court, remains long overdue. AABANY will continue working towards a Court of Appeals that is representative of all New Yorkers. The current proposed legislation thwarts this goal and should be reconsidered or amended accordingly.
In June 2020, former Secretary of Homeland Security Jeh Johnson was commissioned by the former Chief Judge specifically to address questions of racial bias and systemic racism in New York’s judicial system and propose actions and reforms to further justice and equity. Secretary Johnson’s report on Equal Justice in the New York State Courts, dated October 1, 2020, highlighted the significant deficiencies in the representation and promotion of Asian American and Latino American judges. The problems discussed in Secretary Johnson’s report will only be compounded and his solutions ignored when there are no Asian American or no Latino American candidates on the Commission’s current list for the Chief Judge vacancy. AABANY urges the amendment of the proposed legislation as described above, to promote diversity, equity, and inclusion in the judiciary. Judicial efficiency should not come at the cost of excluding the historically unrepresented and under-represented communities of New York State.

For more information, please contact Yang Chen, AABANY Executive Director, at (646) 653-2168, or direct any inquiries to main@aabany.org.

The Asian American Bar Association of New York is a not-for-profit 501(c)(6) professional membership organization of attorneys concerned with issues affecting the Asian American and Pacific Islander (AAPI) community. Incorporated in 1989, AABANY seeks not only to encourage the professional growth of its members but also to advocate for the AAPI community as a whole. AABANY is a New York regional affiliate of the National Asian Pacific American Bar Association (NAPABA).

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