



NEW YORK STATE LEGISLATIVE CANDIDATE
SURVEY REPORT
2008

Prepared by

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The Committee for Modern Courts
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The Committee for Modern Courts Legislative Survey Report – October 29, 2008

On September 27, 2008, after the New York statewide primary elections, the Committee for Modern Courts sent its New York State Legislative Candidate Survey to all candidates for the New York State Senate and Assembly. The survey contained ten questions about the following issues: simplifying our court system, Family Court resources, diversity on the bench, the public defense system in New York State, judicial selection and the importance of the court system in the community. (A copy of the complete survey is attached as Appendix 1). (The survey and all responses may be found online at www.moderncourts.org).

This report summarizes the responses, both answers and comments, of those who answered. There are “Yes,” “No,” and “Comment” sections of the survey allowing all candidates to express their views on the issues presented or explain or qualify their responses. We mailed a total of 386 surveys and we received 54 responses to our survey. Thirty-three Democratic candidates responded; twenty-one Republican candidates responded. Eighteen candidates for the Senate responded; thirty-six candidates for the Assembly responded. Some respondents did not answer all the questions. Many gave comments. Three incumbent Republican Senators and one incumbent Republican Member of the Assembly provided us with letters stating that they do not respond to surveys and directed us to their records.

The New York State Senate Candidates' Responses:

There are 116 candidates for the 62 seats in the Senate; 51 are contested races. Modern Courts received 18 responses from Senatorial candidates. Three Republican incumbents provided responses by letter which stated their policy and reasons for not replying to the survey, asking that we look at their record and remarking on how a survey may ask that a candidate take a position on an issue before a formal vote which does not take into consideration the legislative process. One Republican incumbent answered the survey; there were no answers from Republican Incumbent members of Senate Judiciary Committee; two of the letter respondents, however, are members of the Senate Judiciary Committee. Eight Democratic incumbents answered the survey questions; two are members of the Senate Judiciary Committee. One Republican challenger answered the survey question. Five Democratic challengers answered the survey. (A list of all the candidates for the New York State Senate who responded to the survey is attached as Appendix 2)

The New York State Assembly Candidates' Responses:

There are 270 candidates for the 150 seats in the Assembly; 109 are contested races. Modern Courts received 36 responses from Assembly candidates. Twenty-four of the responses came from incumbents; 16 from Democratic members and 8 from Republican members, 1 of the Republican incumbent responses was by letter similar to the letter responses we received from Senate incumbents – requesting that we look at his record. Four Democratic challengers responded and 8 Republican challengers responded. Two of the Democratic members of the Assembly Judiciary Committee responded. (A list of all the candidates for the New York State Assembly who responded to the survey is attached as Appendix 2)

RESPONSES TO THE QUESTIONS:

ISSUE: COURT SIMPLIFICATION

Question 1: Would you support a Constitutional Amendment that would consolidate the State's major trial courts into a two tier structure?

Findings: Forty eight of the 54 respondents answered this question. One hundred percent of the 48 stated that they would support a Constitutional Amendment that would consolidate the State's major trial courts into a two tier structure. The "Yes" answer was unanimous among all Democrats, Republicans, Incumbents and Challengers. Every candidate for the New York State Senate and Assembly who responded to this question of our survey agreed that a Constitutional Amendment restructuring the New York State Court system would improve our court system.

Selected Comments:

- *It seems this proposal would make the judicial system more efficient and easier for citizens to utilize.* (Joel M. Miller, Republican incumbent Assembly, 102nd District)
- *Probably. Presently access to Family Court is free. There must always be a fee free option for low income people.* (Thomas K. Duane, Democratic incumbent Senate, 29th District)
- *Our current structure is costly, confusing and relatively inflexible. The level of complexity of legal matters is often made even more so because of the nuanced differences in each of the courts. The time for consolidation is upon us.* (Kevin Cahill, Democratic incumbent Assembly, 101st District)
- *Reform of the State's arcane trial court structure is critical to improving its efficiency, productivity, diversity and our citizens' access to justice.* (Eric Schneiderman, Democratic incumbent Senate, 31st District)
- *I would support restructuring because it is advantageous to simplification and appears to be fiscally responsible.* (Paula Banks Dahlke, Republican challenger Assembly, 138th District)
- *I would require the amendment to be specific that ALL judges were to be elected.* (Audrey I. Pheffer, Democratic incumbent Assembly, 23rd District)
- *A structure that is more efficient and less confusing for citizens to understand and navigate is a bonus for them and for our justice system. As we know, bottle-necked courts are unable to kind of due process that should be expected by our citizenry.* (George Amedore, Republican incumbent Assembly, 104th District)

Question 2: Do you believe that the recommended plan for court simplification would provide for a more equitable distribution of resources throughout the court system?

Findings: Forty-eight of the 54 respondents answered this question. Of the 48 who answered this question, 47 (or 99%) said “Yes,” that they believed that Dunne Commission’s recommended plan for court simplification would provide for a more equitable distribution of resources throughout the court system. All the incumbents, Democratic and Republican current members of the Senate and Assembly, who responded to this question answered, “Yes.” The one respondent who answered, “No,” answered this way, “*I do not have enough information to know the intended consequences of this action to believe that the equitable distribution of resources would be met.*” (Don Barber, Democratic Challenger for the Senate, District 51).

Selected Comments:

- *The plan would provide both more equitable distribution of resources and add necessary flexibility to the courts. In practice, judges are shifted from court to court now. Creating a consolidated court of general jurisdiction would validate these practices and assure a greater level of familiarity for judges serving on the different benches.* (Kevin A. Cahill, Democratic incumbent Assembly, 101st District)
- *The current system is too segmented with the various segments carrying unequal caseloads. As a result, it is likely that resources are not always allocated equitably. It stands to reason that a simpler system would be easier to manage and provide for.* (James N. Tedisco, Republican incumbent Assembly, 110th District – Minority Leader)
- *I still have a problem with City Court judges being treated in a lower manner than County Court judges.* (William T. Stachowski, Democratic incumbent Senate, 58th District)

Question 3: Would you support the recommended plan as a means of saving the State and taxpayers well over \$500 million a year?

Findings: Forty-six of the 54 respondents answered this question. All 46 said, “Yes,” that they would support court simplification as a means of saving the State and taxpayers well over \$500 million dollars. One incumbent Assembly Democrat candidate did not answer “yes” or “no” but questioned the “*factual accuracy of the [saving] statement.*” (James F. Brennan, Assembly District 44).

Selected Comments:

- *The economic challenges currently facing our state require serious consideration of this proposal.* (Eric T. Schneiderman, Democratic incumbent Senate, 31st District)
- *Saving the taxpayers \$500 million dollars, especially in these trying times, cannot be seen as anything but a positive.* (James N. Tedisco, Republican incumbent Assembly, 110th District – Minority Leader)

- *Any savings would be welcome and no doubt efficiencies would bring about some savings. A greater public good is that access to courts would be improved, backlogs could be vanquished and resources would be more appropriately distributed.* (Kevin A. Cahill, Democratic incumbent Assembly, 101st District)
- *My inquiry would be what kind of expenditures would be required to implement the recommended plan, and how such consolidation could take place when the courthouse facilities themselves have been structured and located on the premise of distinct and specialized courts. How long would it take to realize the projected \$500 million savings per year?*(Elizabeth Bloom, Democratic challenger Assembly, 8th District)
- *Certainly, \$500,000,000 in direct savings per year is a great benefit of this plan. In addition, if this reduces the number of trips for citizens, cuts down on red tape, and speeds the entire system, the benefit may far exceed the initial estimate.* (George Amedore, Republican incumbent Assembly, 105th District)
- *With respect to productivity, lost wages, attorney’s fees and related costs, the fiscal impact that reform of the judiciary would have on businesses, municipalities, state agencies, and individuals around the state has been estimated at a savings of \$443 million per year and an additional \$59 million in savings might be realized by the state through reductions in administrative costs at the Office of Court Administration (OCA), for a total estimated savings of \$502 million per year.* (Steve Engelbright, Democratic incumbent Assembly, 4th District)

ISSUE: DIVERSITY ON THE BENCH

Question 4: Would you support restructuring as a means to increase diversity on the Appellate courts?

Findings: Forty-six of the 54 candidates answered this question. Forty-one of the respondents answered, “Yes” and 5 answered “No.” Eight Republican challengers for the Assembly answered this question, 5 answered “Yes” and 3 answered “No.” One Republican Assembly incumbent answered “No.” And, one Republican challenger for the Senate answered, “No.” Only Republicans would not support restructuring as a means to increase diversity on the Appellate courts.

Selected Comments:

- *If approved by screening panel* (Toby Ann Stavisky, Democratic incumbent Senate, 16th District)
- *Yes, I support the goal of increasing diversity in courts of all levels. However, I am not sure that a two tier system in and of itself would necessarily increase diversity when the appointment process is still political.* (Don Barber, Democratic challenger Senate, 51st District)

- *I am always in favor of diversity, but as it occurs naturally. Merit must always be first.* (Keith Scalia, Democratic challenger Assembly, 12 District)
- *We have diversity now.* (Nancy Calhoun, Republican incumbent Assembly 96th District)
- *The goals of court consolidation/restructuring and diversity are two important but separate goals.* (Jeffrey Dinowitz, Democratic incumbent Assembly, 81st District)
- *If the current method for selecting candidates for the Appellate Division, is appearing to be discriminating against women and people of color, it's times to restructure our court system to provide greater diversity in our Appellate Division.* (Rueben D. Riley, Sr. Republican challenger Assembly, 70th District)
- *We need to redraw the Supreme Court district lines as well to achieve the necessary diversity.* (Richard Dollinger, Democratic challenger Senate, 56th District)
- *I believe judges should be appointed based on merit, not based on race or sex.* (Glenn Nocera, Republican challenger Senate, 21st District)
- *I believe our appellate Court is diversified now - restructuring should be for other reasons.* (Audrey I. Pheffer, Democratic incumbent Assembly, 23rd District)
- *Increasing the pool from which judges can be selected is an obvious bonus and has the potential to open the door for many well-qualified judges.* (George Amedore, Republican incumbent Assembly, 105th District)
- *We need to redraw the Supreme Court district lines as well to achieve the necessary diversity.* (Richard Dollinger, Democratic challenger Senate, 56th District)

Question 5: Please comment on how you would propose to increase the diversity of judges in our courts.

Many of the comments focused on expanding the pool of judges who could be appointed to the appellate courts as a good means to increase diversity. Others added that looking outside the system would also benefit diversity. Some strongly believed that a commission based appointive system would be able to include diversity as part of the screening process, while others strongly disagreed that merit would help diversity – offering that voters should keep in mind diversity. We received 30 comments to this question.

Selected Comments:

- *If there is a larger pool of lower court judges who would be eligible for appointment to appellate level courts, then a natural result would be greater diversity on the appellate level.* (Elizabeth Bloom, Democratic challenger Assembly, 8th District)
- *Merit selection of judges with an emphasis on diversity.* (Sandra Galef, Democratic incumbent Assembly, 90th District)

- *We need a qualification commission based appointive system.* (Charles Lavine, Democratic incumbent Assembly, 13th District)
- *By making available more information to encourage diversified candidates to see these positions.* (Lawrence M. Delarose, Democratic challenger Senate, 39th District)
- *Increase judicial salaries. I served on a task force on diversity in the Courts and people testified that they couldn't afford pay cuts. I represent 100,000+ Asian Americans and the percentage of judges is miniscule.* (Toby Ann Stavisky, Democratic incumbent Senate, 16th District)
- *I do not favor a “merit” selection appointment system which would reduce the number of people of color being selected for Supreme Court.* (Velmanette Montgomery, Democratic incumbent Senate, 18th District)
- *I think by fixing the way judges are appointed we will get more quality and diversity.* (James Brennan, Democratic incumbent Assembly, 44th District)
- *Right now, under our current system, salaries must be increased to attract our best and brightest and put them beyond temptation. The salaries for judges now are a fraction of what can be earned in the private sector. If we wish to compete with the private sector, we must provide a benefit that is fair and keeps financial worry from the minds of our candidates. Second - I would encourage our political leaders and personally seek out diverse candidates to fill our bench seats.* (Kevin Scalia, Democratic challenger Assembly, 12th District)
- *Under an “appointive system” of selecting judges, the regional judiciary nominating commissions will evaluate and screen candidates based on their character, qualifications and professional experience and be mindful that the court should reasonably represent the diversity of people living in the jurisdiction.* (Steve Englebright, Democratic incumbent Assembly, 4th District)
- *I would promote establishing pilot programs for publicly financed judicial elections and support reforms of the convention process (e.g. reducing size of conventions, extending delegates' terms and reducing the designating petition signature requirements).* (Eric T. Schneiderman, Democratic incumbent Senate, 31st District)
- *I have received the testimony of Hon. John r. Dunne, “Public Forum: A Lasting Blueprint for Judicial Diversity” and agree with the recommendations presented. . .* Ellen C. Jaffee, Democratic incumbent Assembly, 95th District)
- *Encourage minority applications to law schools by offering better education in our high schools.* (Bruce Bennett, Republican challenger Assembly, 4th District)
- *Just by making more people eligible to serve will go a long way. There are many well-qualified women and minority judges already in the system.* (David R. Koon, Democratic incumbent Assembly, 135th District)

ISSUE: FAMILY COURT

Question 6: Legislation has been introduced that would provide 39 more Family Court judges across the State. Would you support legislation that provides for more Family Court Judges (A.10615/S.07587)?

Findings: Fifty of the 54 candidates answered this question. Forty-eight answered “Yes”, 2 answered “No.” The “No” answers were given by Republican Challengers for the Assembly. This question was answered by more respondents than any other question and generated lengthy commentary on the problems members of their communities face in Family Court.

Selected comments:

- *Our most busy courts cry out for more help. People in Family Court shouldn't be waiting months for an adjourned court date when their family needs help now. Furthermore, their investigative arms, doing investigations and reports in custody and neglect matters and reporting back to the judges, should have an increase in personnel. I understand it takes several months in custody cases to get reports on the litigants and their homes.* (Keith Scalia, Democratic challenger Assembly, 12th District)
- *BUT. . . I will only support where it is shown that there is a need- while I have been in office many new judge positions have been created and then sitting members ran for office –* (Nancy Calhoun, Republican incumbent Assembly, 96th District)
- *I currently serve as a Senior Court Attorney in the Nassau County Family Court. I can personally attest to a staggering caseload coupled with an inadequate courthouse, which exacerbate the litigants' frustration.* (Elizabeth Bloom, Democratic challenger Assembly, 8th District)
- *Family Courts are in need of additional judges to handle the heavy caseload. Our citizens are waiting far too long for crucial decisions to be made, which affects their lives in a serious way.* (George Amedore, Republican incumbent Assembly, 105th District)
- *Families in crisis, which are currently forced to run from court to court when a single problem is fragmented among the Supreme Court, the Family Court and a criminal court for separate adjudication of matrimonial, custody and domestic violence matters experience significant harm and costs due to the current complex structure. This situation is exacerbated by a dearth of Family Court judges and resultant case load back-ups that could be alleviated in part by additional Family Court judges appointed.* (Steve Englebright, Democratic incumbent Assembly, 4th District)

- *I am supportive of increasing the number of Family Court Judgeships, but we must also be mindful of the expenses associated with doing so. (Eric T. Schneiderman, Democratic incumbent Senate, 31st District)*
- *Family court judges should better allocate their time and resources. They are the equivalent of management and should not expect to work a 9 AM to 5 PM day. The appointment process has not resulted in diversity in the Family Court. Perhaps the open election by districts would result in a more representative and diverse group of Judges in Family Court. David A. Pascarella, Republican challenger Assembly, 63rd District)*
- *My answer is two fold. First of all I totally agree with the fact that the Family Court carries the burden of the greatest number of cases with the least amount of resources. . . I also believe that although the concept of this bill is to relieve that burden, the tax burden which would follow the passage of this legislation would be far greater and permanent. I also believe that this legislation would prolong the need to seriously consider the proposed consolidation of the state's eleven major trial courts into a streamlined, two-tier structure. In the name of "looking good" we many times overlook the very answer to our dilemma. The application of the afore mentioned proposal would spend our money better and the families which have found relief within the "reformed" Judicial system will be able to afford to stay in New York State. (Paula Dahle Banks, Republican challenger Assembly, 138th District)*

ISSUE: JUDICIAL SELECTION

Question 7: Would you support a commission based appointive system that would create a system that would not require the election of judges?

Summary of Findings: Forty-seven candidates of the 54 candidates answered this question. Thirty (or 64%) answered "Yes;" seventeen (or 36%) answered "No." Thirteen Democratic incumbent members of the Assembly answered, "Yes;" three answered, "No." Three Republican incumbent members of the Assembly answered, "Yes;" two answered "No." Two Democratic challengers for the Assembly answered "Yes;" one answered "No." Five Republican challengers for the Assembly answered "Yes;" three answered "No." Similar cross party lines responses came from the Senate candidates: three Democrat incumbent members for the Senate answered "Yes;" five answered "No." The only Republican incumbent who responded to this question answered "Yes." Two Democratic challengers for the Senate answered "Yes;" three answered "No." And, the only Republican challenger who responded to this question answered, "Yes." This question generated comments by more than 20 candidates.

Selected Comments:

- *I have some reservations over an appointive system for the selection of judges - a system not immune from political interference or influence - but am open to the notion of amending the state constitution to allow for so-called "merit selection."*
(Eric T. Schneiderman, Democratic incumbent Senate, 31st District)

- *Appointed judges tend to reflect (and look like) the appointing authority.* (Toby Ann Stavisky, Democratic incumbent Senate, 16th District)
- *I would eliminate the convention system for Supreme Court and allow direct primaries.* (Richard Dollinger, Democratic challenger Senate, 56th District))
- *My concern is that removing the democratic process could result in a disconnect between courts and the people they serve.* (Joel M. Miller, Republican incumbent Assembly, 102nd District)
- *The people have a right to determine who will sit on the bench in their jurisdiction.* (Christopher H. Schaeffer, Democratic challenger Senate, 57th District)
- *This is an area where I have changed my view. I am not particularly impressed with the product of our "merit selection" system for the highest court in the state. I fear that instead of having our candidates chosen in public, backroom deals and special favor paybacks would rule the day instead of the ideal stated in the proposition preceding this question. There are other ways to assure that the selection and review process yields professional results of the highest order.* (Kevin Cahill, Democratic incumbent Assembly, 101st District)
- *I am undecided on this issue. While I appreciate the logic behind an appointive system, I am concerned that moving away from the elective process could result in a disconnect between the courts and the people they serve.* (James Tedisco, Republican incumbent Assembly, 110th District – Minority Leader)
- *I support the elimination and replacement of the current judicial nominating convention process. Establishing a bi-partisan commission to appoint qualified judges would better serve the people of New York.* (Anthony F. Nunziato, Republican challenger Assembly, 30th District))

Question 8: Would you support the public financing of judicial campaigns?

Summary of Findings: Forty-nine of the 54 candidates answered this question. Forty-two answered that “Yes,” they would support public financing of judicial campaigns. Seven said they would not support public financing of judicial elections. The varied reasoning, as evidenced by the comments, demonstrates that the “No” response may be a qualified “No”, i.e. there would be no need for public financing of judicial elections if there existed a commission based appointive system, as asked in question 7. Others, however, did not believe public money should be used for elections; while some commented that public funds should be used for all elections. The seven “No” answers (and qualified “No” answers) breakdown as follows: the only responding Republican incumbent member of the Senate, one incumbent Democratic member of the Senate, one Democratic challenger for the Senate, one Democratic incumbent member of the Assembly, three Republican Incumbent members of the Assembly.

Selected Comments:

- *Public financing would, hopefully, be a means of allowing all qualified candidates to compete.* (James Tedisco, Republican incumbent Assembly, 110th District – Minority Leader)
- *Absolutely. It would allow a very qualified person who isn't a good fundraiser (or doesn't have rich friends) to run a fair campaign.* (Keith Scalia, Democratic challenger Assembly, 12th District)
- *In this case, public financing would be a suitable and equitable way for judges to engage in the campaign process.* (George Amedore, Republican incumbent Assembly, 105th District)
- *With today's economic and budget concern public dollars should not be utilized to fund judicial races.* (Rob Walker, Republican incumbent Assembly, 15th District)
- *All campaigns!* (David R. Koon, Democratic incumbent Assembly, 135th District)
- *I support public financing of all campaigns.* (Steve Englebright, Democratic incumbent Assembly, 4th District)
- *Only with safeguards to protect negative campaigning and insurance that all qualified candidates can partake in the system.* (Joel M. Miller, Republican incumbent Assembly, 102nd District)

ISSUE: A PUBLIC DEFENSE SYSTEM

Question 9: Would you support a public defense system under the direction of a statewide independent defense commission, which would enforce uniform standards for public defense representation from county to county such as proposed in A.9087-A and S.4311?

Summary of Findings: Forty-eight of the 54 candidates answered this question. Forty-seven (or 98%) answered “Yes,” one answered “No.” The comments reflect a strong belief that a statewide public defense system would be an advance in defense services in this State - from cost savings to constitutional rights. All candidates who answered this question, except one, agree that a statewide commission would offer great improvements to the criminal defense system in the state. Four of the incumbent candidates commented that they are co-sponsors of the legislation that create a Statewide Public Defense system in New York.

Selected Comments:

- *Improving the oversight of the county public defender system would be beneficial. The projected savings to municipalities, while important, should not be the only reason for change. This proposal needs to be explored in greater detail.* (James Tedisco, Republican incumbent Assembly, 110th District – Minority Leader)

- *This is four decades overdue.* (Terrence B. O’Neill, Republican challenger Assembly, 104th District)
- *Yes, I believe it is important for the State to completely fund this under funded mandate. This is the other necessary step to consistent and effective public defense.* (Don Barber, Democratic challenger Senate, 51st District)
- *[M]ust be adequately funded and I also support tuition system to encourage attorney involvement in system.* (Thomas K. Duane, Democratic incumbent Senate 29th District))
- *I find statewide commissions tend to greatly increase costs. I want defendants to have adequate counsel and voted to increase payments to court appointed private sector attorneys.* (Nancy Calhoun, Republican incumbent Assembly, 96th District)
- *Streamlining this process would undoubtedly provide a fairer administration of justice for the accused.* (Anthony F. Nunziato, Republican challenger Assembly 30th District)
- *Public Defenders should be compensated the same as and have the same caseload limits as District Attorneys.* (Christopher H. Schaeffer, Democratic challenger Senate, 57th District)

Question 10: Please circle and comment on which of the following components of our court system are important to the members of your community.

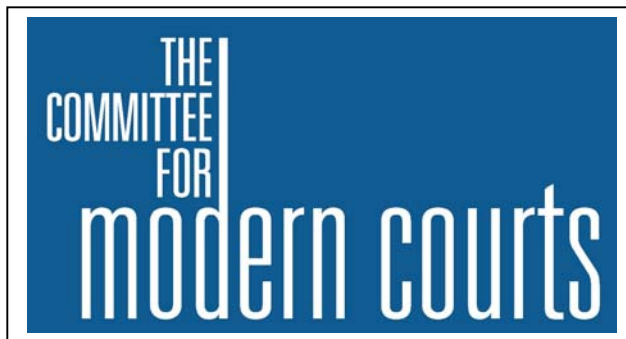
Jury Duty
 Court Facilities
 Judges
 City Court

Family Court
 Supreme Court
 Village or Town Justice
 Courts Interpreters for Court Proceedings

Summary of Findings: Every candidate who answered this question believed that the court system is important to all members of their communities. The Family Court was considered the most important by the majority of respondents to the survey. And it was added that legal aid and legal services attorneys are also an important part of the justice system and should not be overlooked.

APPENDICES

1. The Cover Letter and Complete Survey
2. List of Candidates who Responded to the Survey
3. Comments on Diversity



APPENDIX 1

CHAIR:

Victor A. Kovner

PAST CHAIRS:

Michael A. Cardozo

Edwin F. Chinlund

John D. Feerick

Robert M. Kaufman

Robert MacCrate

John J. McCloy

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Bettina B. Plevan

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Donald D. Shack

Justin L. Vigdor

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EXECUTIVE DIRECTOR:

Dennis R. Hawkins

DEPUTY DIRECTOR:

Denise Kronstadt

September 26, 2008

Dear Candidate for the New York State Senate or Assembly:

On behalf of the Committee for Modern Courts, I am asking that you provide Modern Courts with responses to our 2008 Legislative Survey. Modern Courts is a statewide non partisan not for profit organizations dedicated to improving the administration of justice and the court system in New York State.

Modern Courts does not endorse candidates but we will provide a report, including your individual responses, to the media. We will also post your responses and the survey results on our website. The responses and our report have received widespread media coverage in the past. Please complete the survey and return it to us on or before **October 10, 2008.**

This year to keep it simple for you, we also made the survey available on line. Please go to www.moderncourts.org and follow the link to complete the survey. Or use this form and return it by mail, e-mail or fax to our office at (212)541-7301.

For any questions or an e-mail copy of the survey, please contact Denise Kronstadt, at (212)541-6741 x103 or advocacy@moderncourts.org Thank you for taking the time from you campaign to answer these critical questions that concern all New Yorkers.

Sincerely,

Dennis R. Hawkins
Executive Director

THE COMMITTEE FOR MODERN COURTS . 351 WEST 54TH STREET . NY, NY 10019 . TEL: 212-541-6741 . FAX: 212-541-7301 . EMAIL:

justice@moderncourts.org . www.moderncourts.org

THE COMMITTEE FOR MODERN COURTS 2008 LEGISLATIVE SURVEY

Name _____

Candidate for _____

Mailing Address _____

Phone Number _____

E-mail Address _____

Campaign Contact _____

Please complete the survey on or before October 10, 2008.

For any questions please contact
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Deputy Director/Director of Advocacy
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ISSUE: SIMPLIFYING OUR COURTS

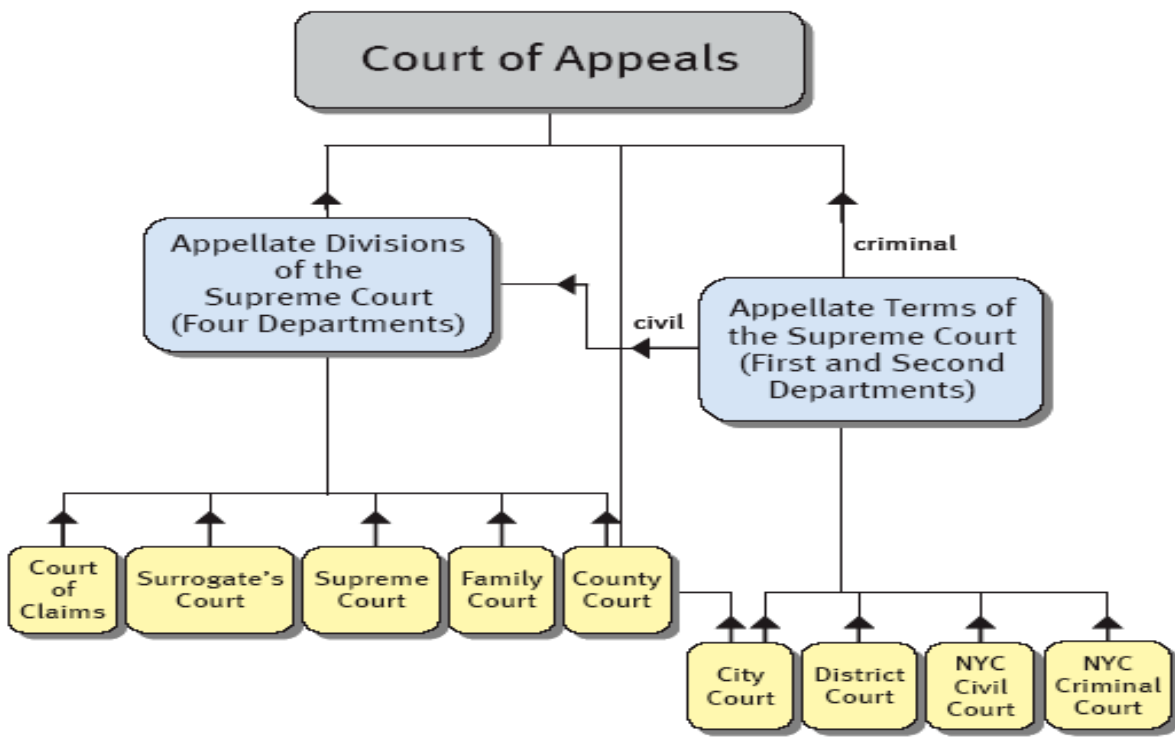
Last year the Commission on the Future of the Courts, established by Chief Judge Judith S. Kaye, proposed a consolidation of the state's eleven major trial courts into a streamlined, two-tier structure. The Commission concluded that this reform would greatly improve the administration of justice and save the State and taxpayers over \$500 million a year. The Commission on the Future of the Courts found that the "trial court structure reveals a needlessly complex system that causes much confusion even for those familiar with its configuration."

The Commission reported that one of the worst consequences of our present court structure is its impact on families. Divorce actions are brought in Supreme Court, other family disputes are in the Family Court, and sometimes a criminal proceeding may be pending in Criminal Court. It is not only the inconvenience of going from court to court that creates problems for families, it is the different orders from different courts that results in the waste of money, grave confusion and often offers many the opportunity to use the delays, confusion and conflicting orders as a means to perpetuate dangerous situations.

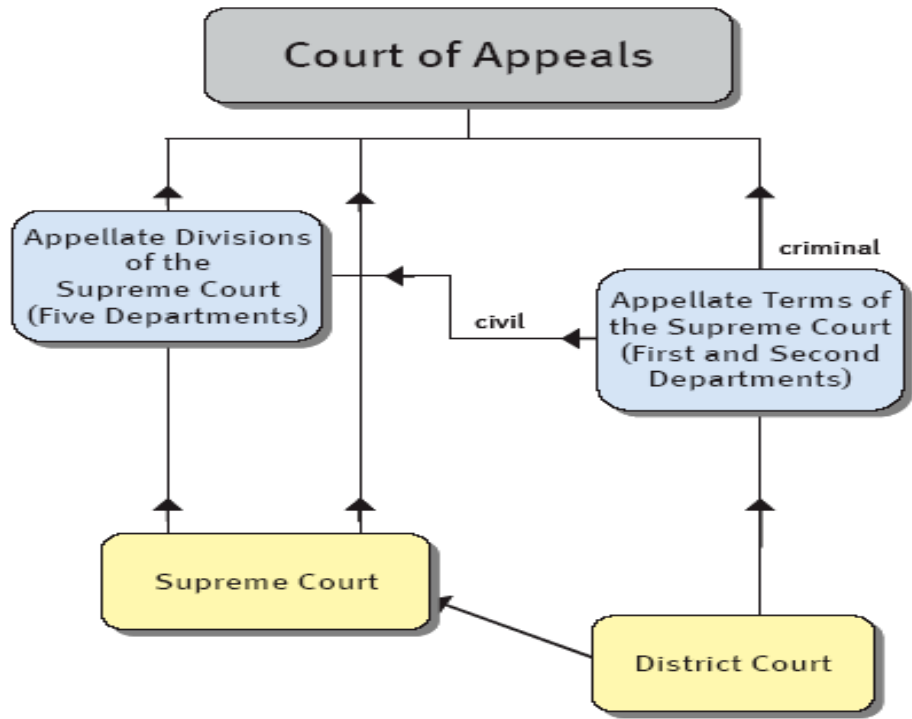
As the diagram on the following page illustrates, simplifying the New York Court system would create a streamlined two-tier structure comprising a new Supreme Court (consisting of the current Supreme Court, County Court, Family Court, Surrogate's Court and the Court of Claims) and a new Municipal Court system which for simplicity would be called District Courts, comprising the current District Courts on Long Island, the New York City Civil and Criminal Courts, and the City Courts outside New York City. *This does not create a new structure nor change the structure of the Town and Village Justice Courts.*

If you wish more information before answering the question please go to www.moderncourts.org and follow the links to advocacy. You will be able to find a link to the commission's findings and recommendations.

CURRENT STRUCTURE



PROPOSED STRUCTURE



ISSUE: SIMPLIFYING OUR COURTS

1. Would you support a Constitutional Amendment that would consolidate the State’s major trial courts into a two tier structure?

Yes No

Comment

2. Do you believe that the recommended plan for court simplification would provide for a more equitable distribution of resources throughout the court system?

Yes No

Comment

3. Would you support the recommended plan as a means of saving the State and taxpayers well over \$500 million a year?

Yes No

Comment

ISSUE: DIVERSITY ON THE BENCH

Providing a two-tier court system, as illustrated above, would also have the added benefit of creating a greater pool of applicants eligible to serve as judges in our Appellate Division courts. Now the only judges eligible to be appointed to the Appellate Division are Supreme Court judges. Yet many women and people of color serve in our Family Court, the Court of Claims, Surrogate’s Court and County Court but remain excluded from this potential appointment. By expanding the pool to include judges from these other courts, we could also promote greater diversity in our Appellate Courts.

4. Would you support restructuring as a means to increase diversity on the Appellate courts?

Yes No

Comment

5. Please comment on how you would propose to increase the diversity of judges in our courts.

ISSUE: FAMILY COURT

Until the Legislature enacts new laws restructuring the court system, Family Court will continue to carry the burden of the greatest number of cases with the least amount of resources. Although reforms of the Family Court over the last decade have afforded great improvements in the system, it remains the stepchild of the court system with excessive caseloads that outnumber the cases heard in other trial courts. This disparity negatively affects the well-being of children and families.

6. Legislation has been introduced that would provide 39 more Family Court judges across the State. Would you support legislation that provides for more Family Court Judges?

Yes No

Comment

ISSUE: THE COST OF JUDICIAL ELECTIONS

Judicial races for Supreme Court justice in New York State can cost close to \$300,000 or more in judicial districts. A recent contest for Surrogate’s Court in New York City cost more than one million dollars. Although New York has ethical laws that prohibit judges from knowing the source of contributions, many of the contributions are made by attorneys, corporations and private individuals. Judicial elections are often controlled by political party leaders who determine who will be the candidate for judicial office. The expense of campaigns coupled with the political control of the choice of candidates eliminates the opportunity for many well qualified attorneys to seek judicial office

7. Would you support a commission based appointive system that would create a system that would not require the election of judges?

Yes No

Comment

8. Would you support the public financing of judicial campaigns?

Yes No

Comment

ISSUE: A PUBLIC DEFENSE SYSTEM

It is a basic Constitutional right that counsel is assigned for indigent criminal defendants. In New York, counties are mandated to provide and fund public defense services with only limited state aid. As a result the quality and standards of service vary from county to county.

9. Would you support a public defense system under the direction of a statewide independent defense commission, which would enforce uniform standards for public defense representation from county to county such as proposed in A.9087-A and S.4311?

Yes No

Comment

Issue: Courts in Your Community

10. Please circle and comment on which of the following components of our court system are important to the members of your community.

Jury Duty

Family Court

Court Facilities

Supreme Court

Judges

Village or Town Justice Courts

City Court

Interpreters for Court Proceedings

APPENDIX 2

List of Candidates for the New York State Senate and Assembly Who Responded to The Committee for Modern Courts 2008 Legislative Survey

Senate

The Republican Senate incumbent candidate who responded to the survey:

- Frank Padavan Senate 15th District

The Republican Senate incumbent candidates who responded by letter

- William J. Larkin, Jr. Senate 39th District
- Stephen M. Saland Senate 41st District
- Hugh T. Farley Senate 44th District

The Republican Senate challenger candidate who responded to the survey:

- Glenn P. Nocera Senate 21st District

The Democratic Senate incumbent candidates who responded to the survey:

- Craig M. Johnson Senate 7th District
- Toby Ann Stavisky Senate 16th District
- Velmanette Montgomery Senate 18th District
- Thomas K. Duane Senate 29th District
- Eric T. Schneiderman Senate 31st District
- Jeffrey D. Klein Senate 34th District
- Suzi Oppenheimer Senate 37th District
- William T. Stachowski Senate 58th District

The Democratic Senate challenger candidates who responded to the survey:

- Gregory Julian Senate 38th District

- Lawrence M. Delarose Senate 39th District
- Don Barber Senate 51st District
- Richard Dollinger Senate 56th District
- Christopher H. Schaeffer Senate 57th District

Assembly

The Democratic Assembly incumbent candidates who responded to the survey:

- Steve Englebright Assembly 4AD
- Robert Sweeney Assembly 11AD
- Charles Lavine Assembly 13AD
- Audrey I. Pheffer Assembly 23AD
- Jim Brennan Assembly 44AD
- Brian Kavanagh Assembly 74AD
- Richard N. Gottfried Assembly 75AD
- Jeffrey Dinowitz Assembly 81AD
- J. Gary Pretlow Assembly 87AD
- Sandra Galef Assembly 90AD
- Ellen C. Jaffee Assembly 95AD
- Kevin Cahill Assembly 101AD
- Joan K. Christensen Assembly 119AD
- Donna A. Lupardo Assembly, 126AD
- Susan V. John Assembly 131AD
- David R. Koon Assembly 135AD
-

The Democratic Assembly challenger candidates who responded to the survey are:

- Elizabeth Bloom Assembly 8AD
- Keith Scalia Assembly 12AD
- Albert Albanese Assembly 62AD
- Barbara Abbott King Assembly 123AD

The Republican Assembly incumbent candidates who responded to the survey are:

- Fred W. Thiele, Jr. Assembly 2AD
- James D. Conte Assembly 10AD
- Rob Walker Assembly 15AD
- Nancy Calhoun Assembly 96AD

- Joel M. Miller Assembly 102AD
- George Amedore Assembly, 105AD
- James N. Tedisco Assembly 110AD

The Republican Assembly incumbent candidate who responded by letter:

- James G. Bacalles Assembly 136AD

The Republican Assembly challenger candidates who responded to the survey are:

- Bruce Bennett Assembly 4AD
- Anthony F. Nunziato Assembly 30AD
- Alan Kesler Assembly 42AD
- David A. Pascarella Assembly 63AD
- Rueben D. Riley, Sr. Assembly 70AD
- Bryan A. Cooper Assembly 74AD
- Terrence B. O'Neill Assembly 104AD
- Paula Banks Dahlke Assembly 138AD