

# PRESIDENT'S PERSPECTIVE

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## 50 Years of Service to Ensure New Jersey's Bench and Slate of Prosecutors are Top-Notch

A fair and independent judicial system has long been a crown jewel of our democracy. And New Jersey's judiciary has long been recognized as one of the nation's finest.

The New Jersey State Bar Association is honored to have played a role in helping that jewel shine for the past 50 years. Through the efforts of the over 200 NJSBA volunteers, the association has provided a thorough, confidential and non-partisan review of candidates seeking to join the bench or the mantle of county prosecutor.

In 1969, then-Governor Richard J. Hughes first entered into an agreement with the New Jersey State Bar Association, granting the NJSBA a role in the governor's constitutional mandate to appoint judges and prosecutors, with the advice and consent of the senate. The association has had a Judicial Compact with every governor's office to review candidates in a confidential process that is the only non-political element of the appointment process.

Under the compact, the NJSBA agreed to review the qualifications of nominees and report to the governor whether the candidate is qualified or not.

### How It Works

The NJSBA's Judicial and Prosecutorial Appointments Committee is the group that handles that review. Its entire process is independent and confidential, and the committee's deliberations are separate and apart from those of the association's Board of Trustees and reported only to the Governor's office. The singular goal is to ensure that qualified people are appointed as judges and prosecutors. The result is that New Jersey's judges reflect people from every political party, from every area of practice and from all walks of life. In its evaluation of judges for initial appointment to the bench, the committee has identified eight criteria to instruct their deliberations.

The committee conducts an extensive investigation into a lawyer's qualifications to serve as a justice, judge or county prosecutor. That investigation includes interviewing judicial and personal references; reviewing a list of matters the person has handled; examining a candidate's credentials; holding an in-depth interview of each candidate under consideration;

conferring with county bar associations about the candidates background and reputation; finding out if there are any ethics grievances, complaints or fee disputes in the candidate's past; and deliberating as a committee on whether the candidate is qualified for the post.

JPAC has representatives from every county, as well as a chair and vice chairs, one each from the northern and southern parts of the state. The committee also has three members from underrepresented groups in the legal community. This ensures that the JPAC review process benefits from a richness of different experiences. It is critical that our legal system be equitable and inclusive.

The criteria the committee uses in determining whether a candidate is qualified include:

- Undisputed integrity
- A high degree of knowledge of established legal principles and procedures, and a high degree of ability to interpret and apply them to factual situations
- That they have been a licensed attorney in New Jersey for at least 10 years
- An appropriate judicial temperament, which includes common sense, compassion, decisiveness, firmness, humility, open-mindedness, patience, tact and understanding
- A commitment to diligence, punctuality and effective management skills
- The requisite physical and mental abilities to be able to perform the essential functions of the job
- Demonstrated financial responsibility
- Demonstrated participation in public service activities

### History of the Compact

The compact has withstood the test of the time. Over the years, though, it has been revised. At one point the compact was deemed optional, only for Supreme Court justices. That practice ended with Governor Jon S. Corzine who reinstated the review process for all jurists. Then, Governor Christopher J. Christie revised the compact to eliminate county bar associations from the formal review of nominee qualifications.

In 2018, Governor Phil Murphy signed the current version

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related to real property leaves debtors with federal tax liabilities because the Internal Revenue Service considers tax forgiveness to be gross income (therefore requiring the payment of federal income taxes), and how the expiration of the Mortgage Forgiveness Debt Relief Act of 2007 impacts affected individuals. Khateeb also reviews how insolvency or bankruptcy law can be used to relieve distressed homeowners of tax liability resulting from a foreclosure.

Allison Zsamba considers what an effective tax plan may look like should New Jersey enact proposed recreational marijuana legislation. She summarizes New Jersey's proposed legislation and explains the advantages and disadvantages of price-based taxes, weight-based taxes and potency-based taxes in the marijuana market, as well as other practical considerations that should be taken into account, such as the illegal 'black market.'

Also in this issue, Carl Archer describes common retirement accounts and some creative solutions to maximize the value of those assets for estate and long-term care planning. He explains the purpose and function of individual retirement accounts and 401(k) accounts and provides methods by which individuals can use these vehi-

cles for wealth accumulation, inheritance and large tax-free charitable gifts without triggering large amounts of tax all at one time.

Joseph Tringali emphasizes the importance of keeping clients' income tax returns confidential during the course of litigation. He discusses the 1965 case of *Ullman v. Hartford Fire Insurance* and explains how the *Ullman* analysis is still relevant and useful in today's technologically driven discovery process.

And last, Michael Darbee and Adrienne Rogove provide a close look at the tax implications of the recent United States Supreme Court case of *Washington State Department of Licensing v. Cougar Den*. One issue the Court considered in that case was whether an 1855 treaty between the United States and the Yakima Nation preempted a state tax on motor vehicle fuel importers who use ground transportation to bring fuel into the state. In this case, the justices issued four separate opinions—a plurality, a concurrence and two dissenting opinions. The authors provide a history of the treaty and explain how the justices reached their decisions.

We hope this issue of the magazine assists our readers by providing not only practical advice for tax attorneys serving

individual and business clients but also by covering other interesting topics of general interest. Our thanks goes to the authors, all of whom have generously committed their time and expertise to educating practitioners in the area of tax law and beyond. And, on occasion, attorneys may find it useful to remind their clients what Richard Nixon said to David Frost during one of their famous interviews: "Make sure you pay your taxes, otherwise you can get in a lot of trouble." ☞

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of the compact, which reaffirmed a role for county bar associations in the process and expanded the NJSBA's committee's membership to ensure a more diverse and inclusive review.

Since 1969 the governor's office and NJSBA "have found substantial public benefit in devising, developing and implementing a process for the nonpartisan evaluation of candidates," the current compact states.

During the past 50 years, the committee has reviewed thousands of candidates with the purpose of providing information, insight and guidance to numerous governors who nominate candidates who will preside in the state's courts and prosecutor offices.

The NJSBA is grateful to be a part of this process and believes it is a critical step toward ensuring our state has independent and well-qualified Judiciary.

The NJSBA is proud to have provided this service on behalf of the legal community and citizens of this state for half a century. It is a duty we will continue to perform with the highest degree of integrity. This is an important function for the NJSBA, the legal community and the public at large, and we hope to serve the same role for the 50 years ahead. ☞



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