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Keep Trenton politics out of Appellate Court appointments | Opinion

By Jersey Journal Guest Columnist

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By Anthony M. Anastasio

The Chief Justice of New Jersey’s Supreme Court currently has the responsibility to choose the best sitting lower court judges to serve in our state’s critically important Appellate Division. However, a proposed constitutional amendment coming out of Trenton threatens to sow discord into New Jersey’s court system by politicizing this process, giving the governor and the state Senate the power to select appellate judges.

While this may seem like an esoteric matter, this proposed amendment will subject our state’s appellate courts to the same infighting that recently led to historic numbers of judicial vacancies and massive backlogs in our trial courts. When our elected leaders leave judgeships unfilled, justice is delayed and denied for New Jersey’s families, workers, consumers and businesses.

New Jersey’s judiciary is highly regarded across the country. Our state Supreme Court has a history of drafting groundbreaking,

influential decisions that become the basis of laws in other states. Below our Supreme Court are the many hundreds of Superior Court judges, nominated by the governor and confirmed by the state Senate, who preside on the frontlines of justice, handling millions of matters each year.

Situated between our trial judges and the New Jersey Supreme Court is the Appellate Division, which is almost always the first stop for litigants after their cases have been heard in the trial courts. Each year, the 32 Appellate Division judges address approximately 6,500 appeals and 10,000 motions. The Appellate Division is crucial to the administration of justice in New Jersey because it is usually the last place for parties to be heard. (Our Supreme Court agrees to hear less than 10 percent of cases appealed to it.)

Given this tremendous volume of work and the degree of excellence necessary to address these appeals effectively and efficiently, the drafters of our state constitution sought to insulate the selection of judges for the Appellate Division from political pressures.

Our state constitution entrusts the chief justice of the New Jersey Supreme Court with the task of selecting lower court judges to serve in the Appellate Division. The current chief justice, Stuart Rabner, has continued the tradition set out before him by his predecessors, selecting thoughtful and eminently reasonable judges to serve in the Appellate Division.

Critically, Chief Justice Rabner has elevated judges from across the political spectrum to the Appellate Division, so long as they were right for the job.

When government is divided, disagreements between the governor and Legislature can cause judicial vacancies to grow, as happened when Gov. Christie and Senate Democrats feuded over Supreme Court appointments. But recent history has shown that even when the governor and Senate leadership are members of the same party, intraparty dustups can lead to unprecedented vacancies.

When Gov. Murphy took office in 2017, there were only nine judicial vacancies. Yet that number quickly exploded to 35 by 2018 due to disagreements between the governor and Senate Democrats. By May 2022, that number rose to a record-setting 75 vacancies.

The result was predictable — massive delays in the administration of justice, with civil trials frozen in vicinages throughout the state, including in some of the poorest and most rural counties like Warren, Salem and Cumberland. For families in the throes of divorce, this meant delayed dispositions. For injured litigants, this meant delays in recovering critically needed money. And for small businesses seeking to enforce contracts against vendors, this meant lower revenue, higher prices and fewer jobs.

In the end, history shows that when we subject our courts to political pressures, injustice is the result.

Subjecting the Appellate Division to Trenton's political dynamics is a recipe for more judicial vacancies and massive backlogs, which would be felt acutely across the state. Rather than strip the chief justice of the power to select judges to serve in the Appellate Division, our lawmakers should focus on building consensus and tempering the sort of political infighting that has historically

paralyzed our government's ability to function as expected.

Anthony M. Anastasio is the president of the [New Jersey Civil Justice Institute](#), a nonpartisan, not-for-profit organization based in Lambertville that is supported by many of New Jersey's largest employers, business associations and professional organizations.

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