

This Week in New York

Covering New York State and City Government

A Publication of Pitta Bishop & Del Giorno LLC
February 10, 2017 Edition

In the News – New York State

Justice Rowan Wilson Joins Court of Appeals

With Confirmation, Governor Cuomo has picked all seven judges on NY's top court



Litigator Rowan Wilson was confirmed Monday by the state Senate as an associate judge on the state Court of Appeals. He was nominated by Governor Andrew Cuomo in January to fill the vacancy created last year by the retirement of the Honorable Eugene Pigott.

“With Rowan Wilson’s confirmation as the next Associate Judge on the New York State Court of Appeals, New York gains another supremely qualified and accomplished leader to serve on our state’s highest court,” Governor Cuomo said. “Admired for his unassailable integrity, keen intellect and extensive experience handling some of the most pressing legal matters of our time, Judge Wilson is committed to the principles of justice and equality that are the very foundation of New York’s judicial system.”

He is the seventh judge that Governor Cuomo has nominated to serve on the Court of Appeals. The Governor previously appointed Chief Judge Janet DiFiore and Associate Judges Jenny Rivera, Sheila Abdus-Salaam, Leslie Stein, Eugene Fahey and Michael Garcia to the Court.

A partner in the litigation department of Cravath, Swaine & Moore in Manhattan, Justice Wilson’s commercial litigation experience includes antitrust, intellectual property, contract, securities fraud, entertainment and media. Over the course of his career he has represented multinational financial services corporations, and Fortune 500 companies and in a variety of venues including the United States Supreme Court and federal and state appellate and trial courts nationwide.

Justice Wilson received the earned an A.B. in Government from Harvard University in 1981, and a J.D. from Harvard Law School in 1984, both *cum laude*. Following law school, Mr. Wilson spent two years as law clerk for the Honorable James R. Browning, Chief Judge for the U.S. Court of Appeals for the Ninth Circuit.

Associate Judges to the Court of Appeals serve for a term of 14 years upon their confirmation.



Another Casino Opens

More Money in the Till for Problem Gambling

This week Governor Andrew Cuomo welcomed Rush Street Gaming into the New York casino market with the grand opening of the Rivers Casino & Resort in Schenectady.

The \$330 million resort features a 51,000 square-foot gaming floor, a luxury hotel and multiple dining and retail options as part of a larger Mohawk Harbor Redevelopment project. Construction of the casino resulted in more than 550,000 hours and 1,710 construction jobs in the Capital Region. With its over 1,200 slot machines and table games, Rivers Casino will also be contributing to New York's funding stream for problem gambling treatment.

Governor Cuomo's Upstate New York Gaming and Economic Development Act of 2013 mandated that all state revenue from Rivers be directed back to the local level. Ten percent of the state's tax revenue from the casino is split between the City of Schenectady and Schenectady County for hosting the facility. Albany, Fulton, Montgomery, Rensselaer, Saratoga, Schoharie and Washington counties share another 10 percent. The remaining 80 percent of revenue is distributed statewide to support public education or provide tax relief to New Yorkers.

In addition to local and education funding, the Act included provisions to fund State gambling treatment and awareness program via a \$500 annual licensing fee on each slot machine and table game.

The openings of the del Lago Resort & Casino in the Finger Lakes last week and Schenectady's Rivers Casino and Resort this week will pump over \$1.6 million into state treatment and awareness programs. In December, Tioga Downs contributed \$475,000 as it swapped its video machines for 950 games including slots, table and poker games. With Montreign Resort Casino in the Catskills to open in March 2018, the fees are estimated to add about \$3.3 million a year to state gambling programs.

The state Office of Alcoholism and Substance Abuse Services (OASAS) currently spends \$2.6 million annually for gambling treatment and prevention. The casino funding will more than double that figure. OASAS plans to expand its Centers for Excellence program--which establishes community-based links between problem gamblers, treatment, and awareness--statewide.

In conjunction with the Centers, OASAS sponsors a Problem Gaming Training Program to educate licensed mental health care professionals in addition treatment. The program, which began in 2015, is a cooperative effort between the New York State Problem Gambling Council and practitioners from the National Association of Social Workers, the New York State Mental Health Counselors Association, The New York Association for Marriage and Family Therapy, and the National Association for the Advancement of Psychoanalysis.

To date, the program has held four training sessions across the state to ready the licensed professionals. A database of trained professionals will be added to the OASAS helpline.

"The norms just can't be that we have new casinos and look at the economic development that's going to be," said Jim Maney, executive director of the New York Council on Problem Gambling, according to published reports. "With the expansion of anything, the expansion of gambling, comes the probability that there's going to be an increase in folks that are having difficulties with it."

State Attorney General Announces Lawsuit against RD Legal For Scamming 9/11 Responders

State Attorney General Eric Schneiderman and the Consumer Financial Protection Bureau (CFPB) this week announced a lawsuit against RD Legal Funding, LLC, two related entities, and Roni Dersovitz, the companies' founder and owner, for allegedly scamming 9/11 responders out of money intended to cover medical costs, lost income, and other critical needs. RD Legal also allegedly conned National Football League (NFL) concussion victims.

The Attorney General's office and the CFPB allege that the illegal scheme deceived 9/11 first responders with cancer and other illnesses and football players with brain injuries by "luring them into costly advances on compensation fund and settlement payouts by lying about the terms of the deals." In the suit filed in federal court, the lawsuit seeks to put an end to the company's illegal practices, obtain relief for the victims, and impose penalties.

"The alleged actions by RD Legal—scamming 9/11 heroes and former NFL players struggling with severe injuries—are simply shameful. RD Legal used deceptive tactics to charge unlawfully high interest rates for advances on settlement and compensation funds, allowing them to profit off the backs of these unsuspecting individuals," said Attorney General Schneiderman.

Based in Cresskill, N.J., RD Legal offers advances to consumers entitled to payouts from victim compensation funds or lawsuit settlements. According to the Attorney General, the company targeted Zadroga Fund awardees including police, firefighters, paramedics, and others who were first responders to the World Trade Center attack on September 11, 2001. The company also targeted former NFL players who have been diagnosed with neurodegenerative diseases such as Alzheimer's and Parkinson's disease and were entitled to payments from the settlement in a class action lawsuit.

The CFPB and the New York Attorney General allege that RD Legal contacted these consumers after they were awarded their money but before they received most of it. RD Legal then "swooped in," offering the victims an upfront payment of some of the money they had not yet received which would be paid back when they received the balance of the payout. Through confusing contracts, RD Legal misrepresented to consumers their obligation to repay these expensive transactions, often collecting from the consumer more than twice what RD Legal had advanced only months earlier.

The CFPB and the New York Attorney General allege that the defendants violated several laws, including the Dodd-Frank Wall Street Reform and Consumer Protection Act's prohibition on deceptive and abusive acts and practices.

The Attorney General's Office also alleges additional violations of New York state law in the complaint, including that these transactions are in fact loans under New York law. On many of these loans, RD Legal collected effective interest rates ranging from 18% to over 250%. These interest rates exceed New York's 16% civil usury cap and its 25% criminal usury cap. Under New York law, contracts that charge more than the maximum usury rate are void. RD Legal also engaged in false advertising and deceptive, fraudulent and illegal practices under New York law.

In the News – New York City

Mayor de Blasio, City Council Launch Mayor's Office to Prevent Gun Violence

Mayor de Blasio this week established the Mayor's Office to Prevent Gun Violence. Housed within the Mayor's Office of Criminal Justice, the new Office will oversee an expansion of violence intervention strategies.

The Office's first initiative will be to expand the violence interruption strategies developed by Crisis Management System. Over the last three years, the City has deployed teams of "credible messengers who use the Cure Violence model" to mediate conflicts on the street and connect high-risk individuals to services that can reduce the long-term risk of violence. This approach contributed to a 15 percent decline in shootings in the 17 highest violence precincts in New York City, according to the Mayor.

Under the direction of Eric Cumberbatch, the new Executive Director of the Mayor's Office to Prevent Gun Violence, the Office will add the following new services to the Crisis Management System:

- ***Intervention workshops in juvenile justice facilities.*** In several Close to Home facilities and in the two secure detention facilities for juveniles in New York City, credible messenger teams will conduct weekly workshops and one-on-one mentoring to arm young people with the skills to diffuse conflicts without violence.
- ***Help neighborhoods rebuild after takedowns.*** To help neighborhoods stabilize peacefully following a "takedown" or other major law enforcement action, the Mayor's Office of Gun Violence is partnering with the NYPD to hold open debriefs with residents to answer questions and share information about the enforcement action. After takedowns, the Office will also "saturate affected neighborhoods with resources" to prevent future crime, including legal services, therapeutic mental health services, and links to employment, using funding from the Crisis Management System budget.

- ***Launch a Community Toolkit and Safe in the City grants to activate New Yorkers in helping reduce gun violence.*** The new Office is rolling out a guide to help New Yorkers connect to anti-violence activities already available on the ground in neighborhoods across the city, provide information about how to report information about a crime safely and anonymously, and offer resources to help families and neighborhoods in the aftermath of a violent event. Additionally, the Office will provide small grants to residents to support neighborhood-driven anti-violence efforts.

The Mayor's Office and the City Council jointly fund the Crisis Management System; in the current fiscal year, the funding is \$22.5 million, half of which is funded by the Council. In the future, the City is investing an additional \$4.5 million in these efforts.

Comptroller Stringer: NYC's Economic Growth Slowed at the End of 2016

Rising unemployment, lackluster wage growth, declining commercial leasing activity, and continued declines in venture capital investments at the end of 2016 are indicators of the City's slowed economic growth, according to a report by Comptroller Scott Stringer.

The Comptroller's analysis found that the City's economy grew 1.8 percent during the fall and winter of 2016, down from 2.8 percent growth in the Third Quarter, and the second lowest rate since 2014.

"Last August I reported the economy had gone from a sprint to a jog. Now, New York City's economy has slowed to a walk. After years of steady growth, we're beginning to see real signs of an economic slowdown. From flat wage growth, to an uptick in unemployment, to declining venture capital investments, there are causes for concern and we need to be prepared," Comptroller Stringer said.

The Comptroller's Quarterly Economic Update examines a broad range of data that reflect current economic conditions in New York City. Though numbers can change significantly from quarter to quarter, they can be used to identify what could be potential long-term trends.

Findings include:

- **The City's job market was weaker than 2015**
Preliminary data indicate that the City lost 14,500 private-sector jobs in the Fourth Quarter – the first quarterly decrease since the Third Quarter of 2009. The majority of these jobs were in medium-wage industries (8,500), followed by high-wage industries (4,100), and low-wage industries (1,900).

➤ **Real wages remained flat**

Private-sector average hourly earnings (AHE) in the City increased 1.5 percent, just below the 1.6 percent inflation rate in the metro area. For all of 2016, the City's AHE grew only 0.7 percent, the lowest growth since 2009, and below national growth of 2.5 percent.

➤ **Unemployment rate rose**

- The City's unemployment rate rose to 5.6 percent in the Fourth Quarter, up from 5.5 percent in the last quarter and above the U.S. average of 4.7 percent.
- The number of unemployed New Yorkers rose by 8,400 in the Fourth Quarter, after increasing by 6,800 last quarter.

➤ **Venture capital investing and commercial leasing activity continued to contract**

- Venture capital investment in the New York metro area fell for the third consecutive quarter, declining 10.2 percent, to about \$2 billion, but the City's share of venture capital nationwide grew to 16.8 percent of the total.
- For the full year, investment fell 9.6 percent to \$7.9 billion, the first year of decline since 2012, and the City's share of venture capital nationwide grew to 13.5 percent.
- For the fifth time in the last six quarters, commercial leasing activity in Manhattan contracted, falling 6 percent to 5.8 million square feet in the Fourth Quarter.
- In all of 2016, total Manhattan commercial leasing activity fell 6.7 percent.

Briefs

Matilda Cuomo Inducted into National Women's Hall of Fame

Matilda Cuomo, mother of current Governor Andrew Cuomo and widow of former Governor Mario Cuomo, has been inducted into the National Women's Hall of Fame. The 2017 Induction will take place in September in Seneca Falls, New York.

The Hall of Fame induction narrative: A dedicated advocate for women, children and families, Matilda Raffa Cuomo has lead state, national and international initiatives that heightened visibility to such causes as children's rights, volunteerism and mentoring.

As First Lady of New York State (1983-1995), Mrs. Cuomo co-chaired the Governor's Commission on Child Care and chaired the NY Citizens' Task Force on the Prevention of Child Abuse and Neglect. Mrs. Cuomo also led New York's role in the UN's World Summit for Children and the USA's ratification of the UN Convention on the Rights of the Child. She established in 1984 the nation's first school-based one-to-one mentoring program, connecting over 10,000 students to trained mentors, and helping them to succeed in school, graduate, advance in the workplace and become productive citizens. Under Mrs. Cuomo's leadership, the program has continued as Mentoring USA and its reach expanded internationally.

*Mrs. Cuomo published an edited volume in 1999, revised in 2011, and entitled *The Person Who Changed My Life: Prominent Americans Recall Their Mentors*. She currently chairs the New York State Mentoring Program, recently reinstated by Governor Andrew M. Cuomo.*

DFS Superintendent Vullo Announces 17th Century Painting Lost During Nazi Persecution Restored To Rightful Heirs

A 17th century painting lost as a result of Nazi persecution has been restored to the Estate of a German-Jewish art dealer through the efforts of the Holocaust Claims Processing Office (HCPO) of the Department of Financial Services (DFS). The Dutch Old Master painting “Young Man as Bacchus” by Jan Franse Verzijl, forced to be sold from Dr. Max Stern’s art gallery in the 1930s due to Nazi persecution, was restored to Dr. Stern’s estate on Wednesday.

In May of 2015, the Estate of Dr. Stern and HCPO learned through an anonymous tip that the painting was being transported to New York to be exhibited (and sold) at the Spring Masters Fair at the armory. Upon learning that the painting was in New York, HCPO reached out to the U.S. Attorney’s Office and provided information to substantiate the Estate’s claim to the painting. Soon thereafter, the Federal Bureau of Investigation seized the painting.

A total of 16 works of art have been returned to the Stern estate since 2002 when the estate began pursuing restoration of artwork lost from the Stern collection. The Stern gallery had been established in 1913 and included many Dutch Old Master paintings.

City Announces Partnership to Boost M/WBE Contracting Opportunities

The de Blasio this week announced a new community partnership to boost City contracting opportunities for M/WBEs. The City is working with community partners to help M/WBEs get certified or re-certified as an M/WBE contractor. The program will help these businesses get certified as a designated M/WBE contractor and help them better compete for City contracts.

M/WBE businesses seeking assistance with certification, recertification, or building their business profile may contact the community partners listed below:

- **Bronx:** SOBRO, 555 Bergen Avenue, Bronx, NY.
- **Brooklyn:** Brooklyn Alliance, 335 Adams Street, Brooklyn, NY.
- **Manhattan:** Jean Kristensen Associates, 275 Madison Avenue, New York, NY.
- **Queens:** Queens Economic Development Corporation, 120-55 Queens Blvd, Kew Gardens, NY.
- **Staten Island:** West Brighton LDC, 705 Forest Avenue, Staten Island, NY.

Mayor Proposed Affordable Housing Initiatives for Seniors, Veterans, and Families

Mayor Bill de Blasio today announced two initiatives to help seniors, veterans and other low-income families afford rent in New York City. The first will increase by 10,000 the number of apartments in Housing New York serving households earning less than \$40,000—5,000 of which will be dedicated to seniors and 500 for veterans. The second is a new Elder Rent Assistance program to be funded by the City's proposed Mansion Tax, in Albany, that will serve more than 25,000 seniors with monthly rental assistance of up to \$1,300.

Under the new benchmark, the number of apartments in the Mayor's housing program dedicated to families earning between zero and \$40,000 per year will rise from 40,000 to 50,000. Of the 10,000 units, half will serve seniors whose fixed incomes have left them struggling to keep up with rising rents and a further 500 will house veterans.

In addition, revenues under the Mayor's Mansion Tax proposal would be lock-boxed specifically for senior affordable housing. The tax would institute a 2.5 percent marginal tax for incremental price over \$2 million. The rental assistance would ensure a senior living on a Social Security check of \$1,350 per month would spend no more than \$450 per month on rent—helping them stay in their home and age with dignity.

City to Raise Ambulance Rates

The Fire Department of New York (FDNY) is raising the price of ambulance rides services. Beginning on March 12, the cost of a basic life support ambulance ride will increase from \$704 to \$775, while the cost of riding an advanced life support ambulance will go up from \$1,190 to \$1,310 for a service level 1 ride and increase from \$1,290 to \$1,420 for a service level 2 ambulance.

FDNY will also start billing \$15 for every mile traveled, an increase from the previous rate of \$12 per mile, and will increase the charge for providing oxygen from \$60 to \$66.

The City of New York currently spends more than \$500 million per year to provide ambulance services through the Fire Department

Coming Up *New York State* *Monday, February 13th*

Joint Assembly and Senate Hearing, Van Buren Hearing Room A, Legislative Office Building, 2nd Floor, Albany, New York 9:30 a.m.
Environmental Conservation.

Tuesday February 14th

Joint Assembly and Senate Budget Hearing, Hearing Room B, Legislative Office Building, Albany
9:30.m. Elementary and Secondary Education.

Wednesday February 15th

Joint Assembly and Senate Budget Hearing, Hearing Room B, Legislative Office Building, Albany
9:30 a.m. Transportation.

Thursday February 16th

Joint Assembly and Senate Budget Hearing, Hearing Room B, Legislative Office Building, Albany
9:30 a.m. Health/Medicaid.

New York City

Monday, February 13th

Committee on Transportation, Council Chambers – City Hall, 10 a.m.

T2017-5510 Oversight-How Can Public Transportation Better Serve the Needs of New York City Residents?

Committee on Juvenile Justice, 250 Broadway—Committee Room 14th FL 10 a.m.

Int 1237-2016 in relation to electronic health records for youth in the juvenile justice system.

Int 1451-2017 in relation to who can visit youth in detention facilities.

Int 1452-2017 in relation to video conferencing for youth in detention facilities.

Int 1453-2017 in relation to privacy for youth in detention facilities during visits and phone calls.

Res 1025-2016 calling upon the NYS Legislature to pass and the Governor to sign a low amending article 45 of the Civil Practice Law.

Committee on Parks and Recreation, 250 Broadway—Committee Room 16th FL 1 p.m.

T2017-5620 Oversight-An Update on the Status of the Parks Without Borders Initiative.

Int 1411-2017 in relation to pedestrian access to park facilities.

Int 1449-2017 in relation to naming thoroughfares and public places.

Tuesday February 14th

Committees on Economic Development and Housing, Council Chambers – City Hall, 1p.m.

T2017-5498 Oversight-Evaluating the City's Purchase of FHA-Financed Underwater Mortgages through the Community Restoration Program.

Wednesday February 15th

Committee on Finance, Committee Room – City Hall, 10 a.m.

Int 1411-2017 in relation to establishment of the New Dorp business improvement district.

City Council Stated Meeting, Council Chambers – City Hall, 1:30p.m.

Disclaimer: The materials in this *This Week in New York* report are provided for informational purposes only and are not intended to be a comprehensive review of legislative or governmental or political developments, to create a client-consultant/lobbyist relationship, or to provide consulting, lobbying or political advice. Readers are cautioned not to attempt to solve specific problems on the basis of information contained in this *This Week in New York*. If consulting, lobbying or government relations advice is required, please consult a professional expert in such matters. The information

contained herein, does not necessarily reflect the opinions of Pitta Bishop & Del Giorno LLC, or any of its members or employees or its clients. Neither Pitta Bishop & Del Giorno LLC, nor its members or employees make any warranty, expressed or implied, and assume no legal liability with respect to the information in this report, and do not guarantee that the information is accurate, complete, useful or current. Accordingly, Pitta Bishop & Del Giorno LLC is not responsible for any claimed damages resulting from any alleged error, inaccuracy, or omission. This communication may be considered an advertisement or solicitation.

To request that copies of this publication be sent to a new address or fax number, to unsubscribe, or to comment on its contents, please contact Theresa Cosgrove at tcosgrove@pittabishop.com or at (518) 449-3320.

To Our Clients: If you have any questions regarding any of the matters addressed in this newsletter, or regarding any legislative, government relations or political or consulting or related issues in general, please contact the Pitta Bishop & Del Giorno LLC professional with whom you usually work.

This Week in New York is a publication of Pitta Bishop & Del Giorno LLC.

120 Broadway, 28th Floor
New York, New York 10271
Telephone (212) 652-3890
Facsimile (212) 652-3891

111 Washington Avenue, St. 401
Albany, New York 12210
Telephone (518) 449-3320
Facsimile (518) 449-5812

25 Hyatt Street, St. 202
Staten Island, New York 10301
Telephone (718) 943-1050
Facsimile (718) 943-1051