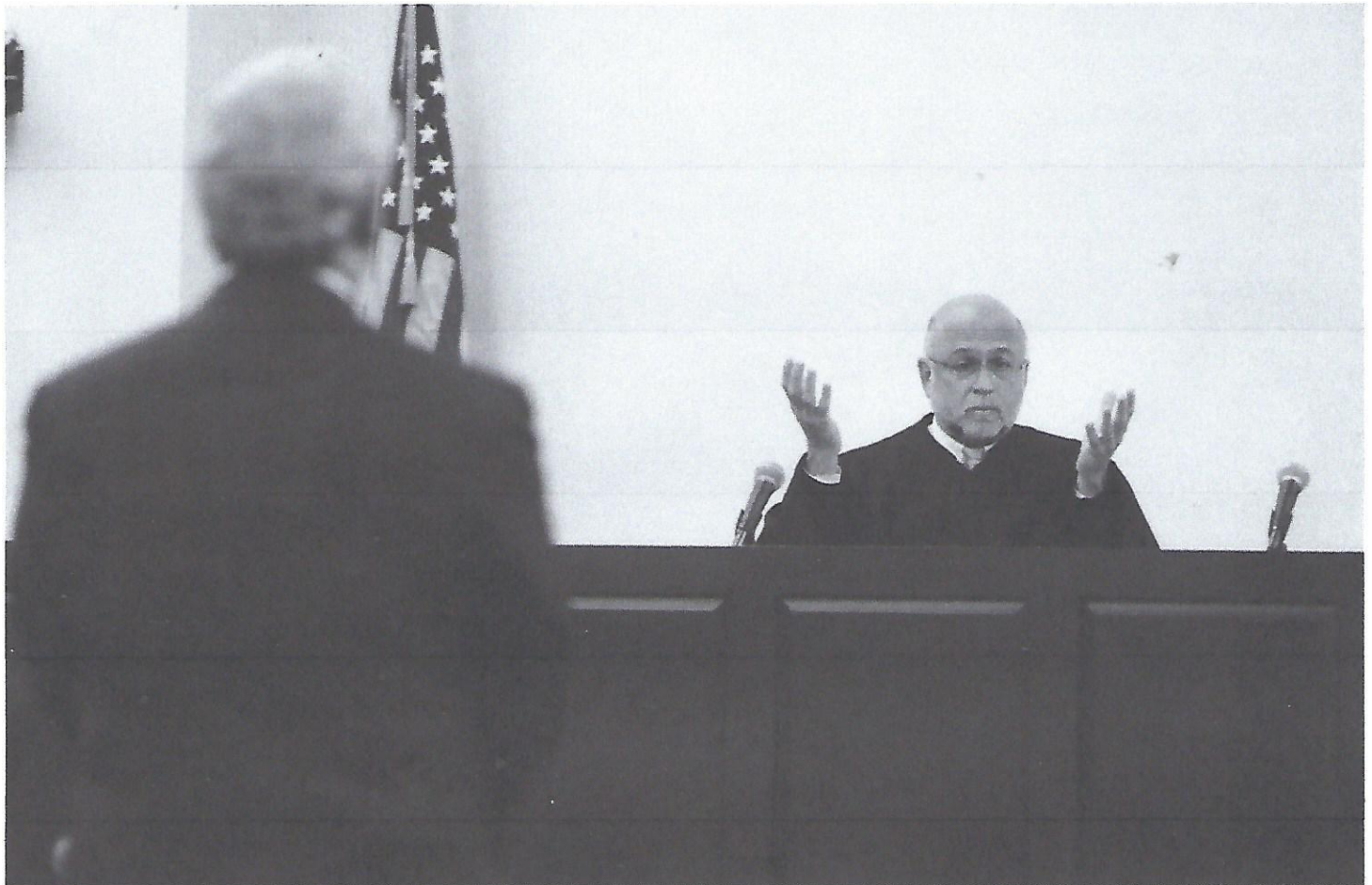


🕒 August 9, 2022



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(Updated) More State Court Judges Set To Retire Early, Widening List Of Superior Court Vacancies



New Jersey Appellate Court Judge Garry Rothstadt. (Photo: Amanda Brown for the New Jersey State Bar Association).

(Updated) More state court judges set to retire early, widening list of Superior Court vacancies

Two appellate judges are leaving next month, before the mandatory retirement age of 70

By David Wildstein, August 01 2022 12:09 pm

Three more Superior Court judges are planning to retire early, adding to the growing shortage of judges in a state with a significant state court backlog, and setting up a reshuffling of the state appellate court division.

Two appellate court judges – Richard S. Hoffman, and Garry S. Rothstadt – are expected to step down this year; Rothstadt on September 1 and Hoffman on November 1. All three are leaving before the mandatory retirement age of 70.

And Colleen Maier, a 60-year-old veteran family court judge, has privately sent word that she will retire before the end of the year. There is some speculation that Maier, who served as a Democratic state committeewoman before becoming a judge in 2005, could resume a career in Gloucester County politics after she leaves the bench.

Steven F. Nemeth is stepping down today at age 65 and after 15 years as a Superior Court Judge.

New Jersey is losing judges faster than Gov. Phil Murphy can nominate them. There are currently 63 vacancies on the Superior Court, along with three empty seats on the New Jersey Supreme Court.

While retirement benefits for judges have increased, so have their personal contributions. Some judges are finding that by contributing more money, they are putting themselves in an upside-down net pay situation.

Ten Superior Court judges nominated by Murphy are awaiting Senate confirmation. Senate President Nicholas Scutari and Judiciary Committee Chairman Brian P. Stack have said they will consider some of those nominations in a Senate session to be held this month.

Hoffman, who turns 68 this week, was nominated to the Superior Court by Gov. James E. McGreevey in 2004. He has been an appellate court judge since 2004.

The departures of Hoffman and Maier opens up two Superior Court judgeships in Gloucester County, where Republican State Sen. Edward Durr (R-Swedesboro) now has senatorial courtesy over their replacements. Hoffman is a Republican and Maier is a Democrat.

Rothstadt is 63 and had another seven years before he would have been forced into retirement. A Democrat, he was nominated to the bench by Gov. Donald DiFrancesco in 2001 and has been an appellate court judge since 2013.

There are eight more judges who will reach the mandatory retirement age before the end of the year: Frances A. McGrogan (Bergen) in October; Thomas R. Vena (Essex), Gary D. Wodlinger (Cumberland), William J. McGovern III and Clarkson S. Fisher, Jr. (Monmouth) in November; and Vincent N. Falcetano, Jr. (Monmouth), Michael T. Collins (Ocean) and James J. DeLuca (Bergen) in December. Fisher is an appellate court judge.

Chief Justice Stuart Rabner alone has the authority to assign judges to the appellate division.

He has already temporarily elevated Marita Berdote Byrne, Avis Bishop-Thompson Joseph Marczyk as appellate judges, but he's not obligated to assign them to replace Hoffman, Geiger and Rothstadt.

Maier's early retirement could put her in line to run for office in Gloucester County, where she was active in politics before Gov. Richard Codey named her to the Superior Court in 2005 at the suggestion of State Sen. Steve Sweeney (D-West Deptford).

She comes from a prominent political family: her father was the Gloucester County freeholder director, her brother was a Washington Township councilman, and her mother was the Deptford Township Clerk.

Prior to becoming a judge, Maier was a municipal prosecutor in Deptford, Mantua and Cherry Hill, the solicitor for the Gloucester County Utilities Authority, the Woolwich Planning Board and the Logan Zoning Board.

Judges have sometimes changed their minds and pulled back their retirement papers, often after lobbying from their colleagues.

Correction: Judge Richard S. Hoffman is retiring on November 1. An earlier report indicated that Judge Richard Geiger is retiring early, but a spokesman for the courts says that retirement will not occur until next year.

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NEW JERSEY

How a 'catastrophic' shortage of judges is disrupting the lives of thousands in NJ

Katie Sobko Trenton Bureau

Published 4:20 a.m. ET July 11, 2022

Mwanga Mtengule and his wife, Nicole Cuttino, separated in 2017.

He first filed for divorce in 2019.

Then the COVID-19 pandemic hit and the case was assigned to a new judge.

Three years and more than \$100,000 later, he and his wife, both lawyers, now represent themselves because it's too costly to wait.

Mtengule, of Harrison, said that the trial, which is set to take place in Hudson County, has been delayed multiple times. They now have a date set for this fall.

"Theoretically it's supposed to be in September but that is tentative date. The judge has even said 'I don't know if that's going to happen,' " Mtengule said.

He said it has gotten to the point where even the newly appointed judge told him to "feel free to complain about this situation."

Mtengule is among the thousands of people caught in the fallout of a "catastrophic" shortage of judges that's caused a backlog on every level, from county courts to the state Supreme Court. The pandemic made it even worse because trials were suspended.

Jeralyn Lawrence, president of the state's bar association, said the impact was affecting everyday lives. She noted that some people who were married for a year or two now wait three or four years to get divorced. In other cases, families have not settled custody agreements. And she said one woman who was terminally ill might die before having her divorce finalized, putting her assets in limbo. The woman was alive as of last week.

Lawyers and judges have warned state leaders for months that judicial vacancies are at crisis levels and disrupting the lives of everyday New Jerseyans. Chief Justice Stuart Rabner said in

May that to “address that backlog and give people their day in court” that state needs judges.

“In too many areas today, we are simply unable to do that because of the sustained and growing number of judicial vacancies in the Superior Court,” he said. “We have averaged 50 or more vacancies each month. That number should be no higher than 25 or 30 for the Judiciary to be able to best serve the public.”

There were 62 judicial vacancies in the Superior Court and the Appellate Division as of July 1, according to the state's Administrative Office of the Courts.

And this problem isn't new. Rabner said in May that the courts have been working at a deficit for two and a half years. At the end of 2021, New Jersey had a backlog of 93,624 cases, a 17% increase over 2020, according to the courts.

Retirements, both voluntary and mandatory due to age, left three seats open on the state Supreme Court and vacancies abound in the lower courts as well. The retirement last week of Supreme Court Justice Barry Albin, who turned the mandatory retirement age of 70, served as the latest reminder that judges are in short supply in New Jersey, even on its highest court.

The need to fill these vacancies is so drastic that Senate President Nick Scutari — who for years led the Senate Judiciary Committee — has already promised a summer voting session dedicated to fill the gaps.

“I don't know if there will be any Supreme Court appointments but we're going to come back in a few weeks to address the vacancies on all levels of the courts,” he said.

Gov. Phil Murphy said he shares Rabner's concern and that “we need to fill these vacancies up”

According to the Governor's Office, the Senate has confirmed 87 of his Superior Court judge nominations since 2018. This year, Murphy has nominated 35 Superior Court judges; 25 have been confirmed and there are 10 awaiting confirmation by the Senate. The Senate has confirmed a total of 32 Superior Court judges this year, 25 from 2022 and seven that were nominated in 2021.

In the highest courts

Supreme Court Justices Faustino J. Fernandez-Vina and Albin retired at the mandatory age of 70 and Jaynee LaVecchia retired voluntarily last year at the age of 66.

Murphy's choice to replace LaVecchia, Rachel Wainer Apter, has been held up for nearly a year because of senatorial courtesy invoked by state Sen. Holly Schepisi, R-Bergen. The unwritten rule, designed as a check on power, allows senators to block judicial nominees from their home county. ←

That privilege, combined with the research and vetting of judges in general, makes it difficult to move swiftly to get judges on the bench, Murphy officials said earlier this year. But the governor has also not named Supreme Court replacements for Fernandez-Vina and Albin.

On the local level

Lawrence, of the bar association, said there are 10 county courthouses where family law trials, including divorce and custody hearings, aren't being scheduled and another four where divorce proceedings are scheduled for months away.

"For all intents and purposes 14 of our 21 county courthouses are closed to parties wanting to get a divorce or they were divorced and want to get post-judgment related issues, such as custody, not receiving support," she said.

And there are other real life consequences, she said.

"Parents are home stuck living together and not liking each other very much and at war and the children are living in a toxic situation of their parents stuck living together not being able to move forward," Lawrence said.

Delays in divorce and custody agreements also weigh on the mental health of the families involved, she said.

Families that need to relocate out of state may need approval of a custody agreement, and they can't get into court to settle that, she said.

She also noted the significant financial consequences. Because of the delays, people are now paying higher premiums when trying to start their new lives in the aftermath of a divorce.

Lawrence said that because the courts are "so overworked and understaffed" they're not processing qualified domestic relations orders, or orders to divide things like pensions and 401(k)s, in a timely manner.

With fewer judges to oversee cases, lawsuits stack up if they aren't resolved and await trial. Suspending jury trials during the COVID-19 pandemic slowed progress even more, while new

cases added up.

State and federal courts across the country also have large backlogs due to the pandemic. In New Jersey's federal court system, there were 62,799 cases pending at the end of September, a 35% increase over the year before, according the United States court system.

Essex County faces a backlog substantially higher than the rest of the state with a backlog of more than 26,000 cases as of May, according to the court's dashboard.

The dashboard also shows that almost half of the backlogged cases — 35,261 — were concentrated in the "special civil" unit, which deals with cases such as unpaid bills, small claims and landlord-tenant disputes.

Lawrence said that having vacancies topping 60 is "catastrophic" and that the state is in "uncharted territory."

"We don't care why there are these vacancies anymore," she said. "Just figure it out. The Legislature and governor have to spend the time and treat this as their top priority and fill these vacancies. Finger pointing and blame as to why it's happening don't matter anymore."

Opinion

Judge vacancies in New Jersey are causing thousands of people to put their lives on hold | Opinion

Updated: Jun. 09, 2022, 6:08 p.m. | Published: Jun. 09, 2022, 1:01 p.m.



The president of the New Jersey State Bar Association, who is also a divorce and family law attorney, cites an ongoing crisis brought on by judicial vacancies. About 6,800 defendants are sitting in county jails awaiting trial statewide and many others are waiting for a divorce or other family matter to be resolved.

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By Star-Ledger Guest Columnist

By Jeralyn L. Lawrence

“Crisis,” “staggering,” “unprecedented,” the list of words describing the issue of judicial vacancies in New Jersey goes on. The hyperbole is well-earned. We live in a state where 15% of its Superior Court judgeships – 68 out of 463 seats – remain vacant.

I can't speak to the struggles of 6,800 defendants sitting in county jails awaiting trial statewide, whose cases are stalled due in part to the pandemic and a lack of judges. I can't illuminate the burnout that judges and their staff are suffering from handling an overflow of cases. As a divorce and family law attorney of 25 years, what I can convey is that the absence of judges in family court is beyond a crisis — it is catastrophic and it is causing devastation to children and families.

The delays in justice are taking both a human and financial toll on litigants. Many find themselves in the middle of high-conflict divorces with absolutely no access to the court for trials in divorce matters. To my knowledge, out of 21 counties in New Jersey, lawyers can't even schedule divorce trials in nine. In four other counties, trials are stalled for up to six months. One county has no judge handling divorce cases.

The stories from my family law colleagues are bewildering. One represents a mother of four with stage-4 cancer, who is worried she might die before her divorce is processed. Another said that while waiting for a motion hearing, the marital home grew so toxic and tumultuous — with the parents stuck in a marriage while living together — that their kids became suicidal.

Some people who can't get final judgments of divorce have difficulty refinancing their homes, costing them exorbitant money in additional interest. Funds are also tied up among those who can't divide up their retirement assets.

New Jersey Supreme Court Chief Justice Stuart Rabner acknowledged the crisis during a recent speech at New Jersey State Bar Association's (NJSBA) Annual Meeting and Convention. Not even the state Supreme Court is immune the vacancy phenomenon. The state's top court is currently operating with only five justices, and will lose another to retirement in July. For the many litigants trudging through a legal system hampered by the lack of judges, “their lives remain on hold,” Rabner said.

“Superior Court judges are working tirelessly across the system to address the large number of pending matters before them,” Rabner said. “The problem is simple to grasp: we need more judges to provide the level of service the public is entitled to receive.”

Rabner commended the court system's pivot from an in-person operation to a virtual one almost overnight at the onset of the pandemic. Since March 2020, state courts have conducted roughly 365,000 virtual proceedings that involved more than 5.5 million individuals. Imagine the thousands of people and businesses who would have their day in court if the state-operated with a full complement of judges, including untold numbers of children and families.

The NJSBA applauds the state Senate for recently confirming a slate of 11 new Superior Court judges. The appointments, however, barely scratch the surface of the vacancy crisis, with an additional 17 judges expected to leave the bench through

The NJSBA is proud to play an integral role in the review of judicial candidates through the Hughes Compact. We have worked vigilantly to review all candidates presented, and have ramped up those efforts to assist in the selection and nomination process. We urge the governor to continue to nominate and the Senate to provide its thoughtful advice and consent on as many qualified judicial candidates as possible.

It is imperative that the Governor's Office and the Legislature put the judicial crisis at the center of their attention. There is no value in finger-pointing between the branches of government. Now is the time to cast blame aside and fix this problem, because the residents of our state deserve a court system with adequate resources to address their matters efficiently, effectively and without undue delay.

Jeralyn L. Lawrence is the president of the New Jersey State Bar Association. She is the managing member and founder of Lawrence Law, a divorce and family law practice in Watchung.

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COURTS CRIMINAL JUSTICE GOV + LEGISLATURE

Solving N.J.'s judicial vacancy problem would be giant task for Governor Murphy

Murphy would have to nominate more judges than he has since taking office

BY: **NIKITA BIRYUKOV** - APRIL 19, 2022 7:15 AM



 New Jersey courts have an extraordinary pending caseload and a record number of judicial vacancies, the court director told lawmakers last week. (Getty Images)

Judiciary leaders have warned about an overtaxed stable of judges as they work to clear a staggering case backlog, but if Gov. Phil Murphy wants to give the courts a full cohort this year, he'd have to get more judges confirmed than he has since taking office in January 2018.

Seventy-three seats on the Superior Court bench are empty, and another 24 retirements are expected by the end of 2022, Judge Glenn Grant, the courts' administrative director, told lawmakers last week. There are also two unfilled seats on the New Jersey Supreme Court.

That could leave 97 vacancies by the end of the year.

The result is an understaffed judiciary facing a slow process with only 14 judges awaiting confirmation as the state's courts face a colossal case backlog created by the pandemic that prosecutors and public defenders said exacerbates the effects of the court vacancies.

"It's unsustainable. We can't continue to place that demand on our judges with this extraordinary pending caseload and have a record number of vacancies," Grant said. "Even if you put 20 judges on tomorrow, we've got 22 judges leaving by the end of the year. We're still in that same place."

Grant said the courts could operate without overburdening its judges if the vacancies were reduced to between 25 and 30.

Bringing court vacancies to a sustainable level would require 67 judges to be nominated and confirmed this year, a monumental undertaking for a governor who has added just 62 new judges to the bench since taking office – but not an impossible one. The Senate confirmed 63 judges during the last year of Gov. Chris Christie's term, cutting vacancies to nine at the end of 2017.

Alyana Alfaro Post, the governor's press secretary, said Murphy's administration is vetting dozens of judicial nominees.

"He will continue to work with the Senate through the advice and consent process to appoint qualified and capable individuals to the judiciary," she said.

Jurists in the pipeline

The judicial confirmation process isn't built to be swift.

To advance, nominees must win approval from their home county senators and the Judicial and Prosecutorial Appointments Committee, an arm of the state bar. They also must be vetted and submit questionnaires to the administration and Senate before being approved by the Senate Judiciary Committee and later, the full Senate. Each of those steps presents a potential hurdle.

The Senate has yet to confirm the 14 judges put up by Murphy this year. If confirmed, those nominations could fill existing vacancies in Camden, Burlington, and Morris counties. Three seats are empty in Camden County, while Morris and Burlington each have a single vacancy.

Four of the remaining nominees are to the Mercer County bench, which has seven vacancies, and three have been nominated in Essex County, which has 12 empty seats, the state's largest number of vacancies.

The remaining nominee is up for a spot on Passaic County's bench, where five seats are empty.

There are no nominees awaiting confirmation in Atlantic, Bergen, Cape May, Cumberland, Gloucester, Hunterdon, Middlesex, Monmouth, Ocean, Somerset, Union, or Warren counties. Vacancies in these counties range from eight in Bergen to one each in Burlington, Hunterdon, Cape May, and Cumberland. There are no vacancies in Sussex or Salem.

Nine Murphy judicial nominees have been confirmed since the legislative session started in January. Seven of them were confirmed for tenure, while the two new additions to the bench came from Middlesex County, where three seats are vacant.

Despite the rising number of openings on the bench, there is no immediate reason to make more nominations. The Senate's only proceedings this month are budget hearings and its judiciary committee is not expected to reconvene until May.

Slow justice

Prosecutors and public defenders have voiced concerns over the effect the vacancies will have as courts resume holding trials that were placed on hold during the pandemic.

Foremost in their minds is a lingering backlog of cases created by the pandemic. That backlog has thinned some in recent months, falling from a high of 97,028 in September to 87,026 in February, the most recent month for which the judiciary has released backlog data.

That's still nearly four times higher than the 23,917 backlogged cases the judiciary reported in March 2020. The courts mark a case as backlogged if it has not been heard within a defined period of time, which varies depending on the nature of the case.

"The impact of judicial vacancies may have been more subtle as COVID restrictions limited the number of trials that could occur in many of our courthouses," said Burlington County Prosecutor Scott Coffina, president of the County Prosecutors Association of New Jersey. "But now that social distancing requirements have been relaxed, the criminal justice system would really benefit from more judges as more courtrooms open and the extensive backlog of cases resulting from the pandemic needs to be addressed."

The New Jersey Office of the Public Defender agreed.

"As courts reopen, judicial vacancies will exacerbate the problem of getting these cases to trial," said Jennifer Sellitti, the office's spokeswoman. "The fewer judges on the bench, the fewer trials we can have."

That poses a problem for the state's justice system. When the state did away with cash bail in 2017, it also adopted a guarantee to a speedy trial that requires defendants jailed while awaiting trial to get their cases heard within two years.

Last week, Grant told the Assembly Budget Committee 494 criminal cases with remanded defendants are awaiting trial, including 126 where defendants have been jailed for more than

three years. Another 1,250 cases have been waiting for between one and two years.

The vacancies also make it more difficult for the courts to quickly adjudicate domestic violence and family court cases, he said.

“This is not just a matter of statistical consideration – courts exist to serve society and our inability to resolve matters in a timely manner represents a threat to the well-being of the residents and businesses of our communities,” Grant said.

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Nikita Biryukov most recently covered state government and politics for the New Jersey Globe. His tenure there included revelatory stories on marijuana legalization, voting reform and Rep. Jeff Van Drew's decamp to the Republican Party. Earlier, he worked as a freelancer for The Home News Tribune and The Press of Atlantic City.

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