

NJ Bankruptcy Court Undergoing ‘Generational Change’

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Vincent Papalia Saiber

In what one lawyer termed a “generational change,” New Jersey’s bankruptcy court is in the process of being remade due to a series of retirements and one death that by mid-2015 will have led to the loss of six of its nine judges within a two-year period.

Since mid-2013, three new judges have been brought in to fill the openings, one in each of the three vicinages—Newark, Trenton and Camden.

The most recently appointed was Judge Vincent Papalia, who was sworn in at the end of last year and took the bench in Newark for the first time Jan. 12.

And within the next six months, three more judges will be retiring, including Chief Judge Gloria Burns in Camden, N.J., who is set to leave in May after more than 21 years on the court.

The other impending retirements are both in Newark—Donald Steckroth, a judge since 2001, is leaving at the end of January and Novalyn Winfield, a judge since 1991, has a June exit date.

The three leaving this year have almost 60 years of combined experience on the bench.

Once they are gone, the district’s three most senior bankruptcy judges will be Rosemary Gambardella in Newark, with 30 years, Kathryn Ferguson in Trenton, N.J., with 22, and Michael Kaplan, also in Trenton, with just under nine years.

The spate of departures began in April 2013, with Judge Raymond Lyons, who had been on the bench in Trenton since 1999 but left at the end of his 14-year term to join Fox Rothschild in Princeton, N.J.

At that time, the composition of the court had been unchanged since 2006, when Kaplan was hired in the Trenton vicinage.

Lyons was replaced July 1 by Christine Gravelle of Lawrenceville, N.J.'s Markowitz Gravelle, now Markowitz O'Donnell.

A graduate of Suffolk University Law School in Boston, Gravelle obtained her first law licenses in Rhode Island in 1986 and Massachusetts in 1987, followed by New Jersey in 1993. She was active in the state, local and bankruptcy bars, taught continuing legal education and was a member of the court's Lawyers Advisory Committee.

The next spot to become available, in April 2014, was the vacancy left by Judge Judith Wizmur in Camden, who had been on the bench almost 30 years.

In the Law Journal's most recent survey of federal judges, published in October 2013, Wizmur was New Jersey's highest rated bankruptcy judge, with an overall score of 9.42 out of 10, versus the court's overall 8.91 average.

Taking over for her on the court was Judge Andrew Altenburg Jr., who was admitted to practice in New Jersey in 1992, after graduating from University of Dayton Law School. Before joining the bench, he had a practice in Marlton, N.J., representing credit unions, debtors, creditors and trustees.

A seat in Newark opened up last year when Judge Morris "Mickey" Stern, who had been on the bankruptcy bench since 2001 and was the court's oldest member, died in February at age 72, following a long battle with cancer during which he continued to work. His last opinion, written from home, was dated two days before his death.

Filling his seat is the court's newest judge, Papalia, who before joining the bench headed the bankruptcy and creditor's rights department at Saiber LLC in Florham Park, N.J.

An alumnus of Fordham University Law School, Papalia has been licensed in New Jersey since 1985. He was a member of the American, New Jersey State and Essex County bar associations, as well as the American Bankruptcy Institute and a master in the New Jersey Bankruptcy Inn of Court. He has published two articles on cram downs, in which a bankruptcy judge imposes a reorganization plan over the objections of creditors.

Saiber managing partner William Maderer called Papalia's judgeship a great opportunity for him, albeit a "great loss to the firm and to me personally."

Saiber has taken on four bankruptcy lawyers from the New York firm Weltman & Moskowitz as counsel to handle Papalia's case load, Maderer said.

Kenneth Rosen, who heads the bankruptcy, financial reorganization and creditors' rights department of Roseland, N.J.'s Lowenstein Sandler, recalled Stern as a judge who was "passionate about pro bono" and "read everything," and said Steckroth excelled at "shuttle diplomacy." But Rosen said he had "great expectations" regarding the new judges.

Each of them has a great reputation, though there are some unknowns about them, such as how they will rule on things like breakup fees and roll-ups and "how receptive they are to quick Section 363 sales," Rosen said.

Gary Norgaard of Norgaard O'Boyle in Englewood, N.J., agreed that change brings uncertainty and "we're going to have to find out how these new judges feel about things," especially on issues where there is no binding precedent.

For instance, Norgaard pointed out that Kaplan has ruled one way regarding interest on tax sale certificates while Winfield and Ferguson have come out the other way.

Daniel Stolz of Wasserman, Jurista & Stolz in Millburn, N.J., referred to the spate of retirements as a "generational change" that is "somewhat melancholic" for lawyers who have practiced for years before the retiring judges.

Stolz noted that Roberta DeAngelis, U.S. trustee for the districts within the Third Circuit, including New Jersey, also retired as of Jan. 1.

But Stolz said he was happy with the new judges and confident about the three appointments yet to be made.

Gerald Gline, of Cole, Schotz, Meisel, Forman & Leonard in Hackensack, N.J., chair of the state bar association's bankruptcy section, sounded a similar note, saying lawyers in New Jersey have had the benefit of a great bench and many years of continuity.

Gline said he was sorry for the loss of Stern and the retiring judges but added that Gravelle and Altenburg had hit the ground running and that he expects Papalia and whoever else is chosen will do the same.

Lee Perlman, who has a Cherry Hill, N.J., consumer bankruptcy firm, said he found Gravelle to be "very approachable" and said the judge "likes to get both attorneys on the phone" to "work through complex issues."

Altenburg has been "a pleasure to appear before" and seems to be paying extra attention to service issues, Perlman added.

Of the three vacancies still to come, two are well on the way to being filled, according to Bankruptcy Court Clerk James Waldron.

The selection process for Bankruptcy Court is very different from the process for Article III judges.

The court of appeals for the circuit in which the district is located makes appointments based on recommendations from the circuit's Judicial Council, which typically utilizes a search committee of local practitioners to screen and interview applicants.

By statute, bankruptcy judge salaries are pegged at 92 percent of what federal district judges make.

In 2014, district judges got their first raise since 2009, boosting their pay from \$174,000 to \$199,100, which meant their bankruptcy counterparts would receive \$183,172, up from \$160,080.

There is no lifetime tenure for bankruptcy judges, but they get 14-year terms and are typically reappointed.

Waldron said he anticipated a decision on who will replace Steckroth and Burns would be made toward the end of February.