BEFORE THE NEW YORK STATE SENATE
STANDING COMMITTEE ON THE JUDICIARY

JUDICIARY COMMITTEE TO CONSIDER

THE NOMINATION OF MICHAEL J. GARCIA

FOR ASSOCIATE JUDGE OF THE NEW YORK STATE

COURT OF APPEALS

New York State Capitol Building
172 State Street - Room 124 CAP
Albany, New York 12247

February 8, 2016
1:30 p.m. to 2:30 p.m.

PRESIDING:

Senator John J. Bonacic
Chairman

COMMITTEE MEMBERS PRESENT:

Senator Philip M. Boyle

Senator Thomas D. Croci

Senator John A. DeFrancisco

Senator Ruben Diaz

Senator Martin Malavé Dilan

Senator Ruth Hassell-Thompson (RM)

Senator Brad M. Hoylman

Senator Michael F. Nozzolio

Senator Michael H. Ranzenhofer

COMMITTEE MEMBERS PRESENT (Continued):

Senator Diane J. Savino

Senator Susan J. Serino

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SENATOR BONACIC: We're going to start the Senate Judiciary Committee meeting, and the purpose is to hear from Michael Garcia himself, who has been nominated for the position of the associate judge for the Court of Appeals.

So, where are you, Michael?

Come on in.

Welcome.

Who is those two good-looking children behind you?

MICHAEL J. GARCIA: Where? Where?

[Laughter.]

MICHAEL J. GARCIA: This is my daughter, Sophia, and my son, Michael, Mr. Chairman.

SENATOR BONACIC: Welcome, and we're glad that you're here.

MICHAEL J. GARCIA: Me, too.

SENATOR BONACIC: I'd ask you to give us your background, qualifications, and any relevant information regarding what you think your ability is to serve as an associate judge of the New York Court of Appeals.

MICHAEL J. GARCIA: Thank you very much, Mr. Chairman, and thank you for the privilege of introducing my children today.

Unfortunately, my wife is stuck in Puerto Rico, and couldn't get back on a flight last night, and can't be here today.

But, Mr. Chair, Senator Hassell-Thompson, members of the Committee, I would like to start by saying, I am honored to appear before you today, having been nominated by Governor Cuomo to serve as an associate judge on the Court of Appeals of the State of New York, to answer any questions you may have, and to seek your recommendation for Senate confirmation of that nomination.

Before answering your questions, I would like to tell you briefly something about myself, my connection to New York, and my professional career and values.

I was born, raised, and educated in New York. I grew up and attended public schools in Valley Stream, Long Island.

My parents did not go to college.

My father, Manuel, went to work in the mailroom for a company in New York City, and 30 years later, he retired as president.

My mother worked in the home until my younger brother was in high school.

Both my parents emphasized education and took

great interest in our progress.

With their support, after finishing high school, I attended the State University of New York at Binghamton, graduating with honors.

I received my degree from Albany Law School, graduating as valedictorian of my class.

I have now been a member of the bar of this state for more than 25 years. I have spent most of my career as a lawyer in public service.

After working less than a year at a law firm after graduation, I was fortunate enough to obtain a two-year clerkship with Judge Judith Kaye on the New York Court of Appeals. I could not have asked for better training.

Judge Kaye exemplified fairness and integrity in the judicial process. She treated everyone -- clerks, colleagues, litigants, and staff -- with respect. Her work ethic was second to none.

After my clerkship I became a prosecutor, trying terrorism cases in federal court. Those cases included the '93 bombing of the World Trade Center and the 1998 bombings of the U.S. embassies in East Africa.

Those cases did much to establish the model for trying terrorism cases in criminal court.

Nearly nine years later, I left New York to lead the Commerce Department's Export Control Office, charged with enforcing U.S. laws limiting the export of dual-use products; those products that could have military, as well as civilian, application.

Following that role, I became head of my new Homeland Security Agency, Immigration and Customs Enforcement. This agency had more than 20,000 employees, and the administrative challenges with daunting.

We launched a number of new initiatives, including "Operation Predator," aimed at taking child-sex predators off the street, and a robust antihuman trafficking program. Both programs continue to this day, and have removed from our streets thousands of people who preyed on society's most vulnerable victims.

In 2005, I returned to New York to become the U.S. Attorney for the Southern District of New York.

In that position, I led a superb office of attorneys in the criminal and civil divisions, bringing cases from affirmative civil-rights actions, to securities fraud and terrorism prosecutions.

In my time in these various roles in the public sector, I have tried always to keep in mind the principles instilled and exemplified by Judge Kaye, and the fact that the true aim of any such position is to serve the public.

In each instance, my decisions were guided by the facts and by commitment to fairness for all parties involved, and to the integrity of the process.

I have spent the last seven years in private law practice. I have enjoyed representing clients and having my own docket of cases. Those matters included cases done through a pro bono project I initiated with the Legal Aid Society, through which attorneys at the firm represented defendants in criminal appeals in New York State courts.

These years at the firm gave me experience in, and great appreciation for, the work done by attorneys practicing law, day in and day out, in the state.

I've had many different roles as an attorney.

At times I have been called upon to make difficult decisions under intense public scrutiny.

Whatever the case, I've approached these decisions with a commitment to fairness and

integrity, as well as a well-grounded appreciation for the independence of the judiciary.

If I am fortunate enough to be confirmed by the Senate, I can assure you that I will continue that commitment in this new role, one of great public trust, working every day to ensure that all parties are heard, are treated fairly, and that justice is done.

I am truly humbled and honored by this nomination, and the opportunity, if confirmed, of returning to that great institution, the New York State Court of Appeals.

Thank you very much for your attention, and for the opportunity to appear before you today; and, of course, happy to answer any questions you have.

SENATOR BONACIC: Thank you, Mr. Garcia.

I will start with a few questions, if I may.

I always ask this question no matter who the nominee is as they appear in the past, always concerned with judicial independence, and I ask the classic question:

The Governor uses executive authority to bypass the Legislature.

The question of, "Constitutional authority, did he exceed it or not?" and that issue comes in

your lap as a Court of Appeals judge.

Do you feel beholden to the Governor who's put you forward as a nominee, or can you exercise judicial independence on the merits of the issue before you?

MICHAEL J. GARCIA: To get to the heart of your question, Mr. Chair, absolutely would exercise judicial independence, and believe completely in the independence of the judiciary.

And while I am, as I said, very honored to be nominated by Governor Cuomo, and to appear here before you, I greatly appreciate that independence, and would uphold it, if I were confirmed to that position.

SENATOR BONACIC: Many members of the Judiciary Committee, including myself, have seen a lack of commercial-litigation experience in the nominees that have come before us, that now serve on the Court of Appeals.

And I see you were on a commission, and also on a task force, with commercial litigation.

Can you share with us your knowledge of commercial litigation and your experiences in that area?

MICHAEL J. GARCIA: Certainly.

And as I said, for the last seven years, Mr. Chair, I have practiced at a large commercial-litigation firm in New York City. I do a great deal of regulatory work. I do civil work.

I was fortunate enough to be appointed to the chief judge's task force on commercial litigation in the twenty-first century, which gave me an even greater appreciation for the processes of the commercial division, and the issues that commercial litigators face practicing, day in and day out, in our state.

SENATOR BONACIC: Thank you.

Who's your favorite Court of Appeals judge?

MICHAEL J. GARCIA: Personally, professionally, Judge Judith Kaye.

SENATOR BONACIC: I'm not going to ask you why, because we know about Judith Kaye, a friend, and a great jurist.

My last question is: When you become a Court of Appeals judge, do you see yourself as a consensus-builder, go along to get along, or do you see yourself, if you feel strongly about an issue, you'll dissent from the court's -- the other members of the Court of Appeals?

Could you share some insight on how you would

view that?

MICHAEL J. GARCIA: Certainly, Mr. Chair.

And I do believe there is great value in unanimity. I certainly think that you have an obligation to listen, and to respect the views of others, your colleagues on the court, and strive for that; at the same time, where you feel strongly about an issue, there is, I think, an obligation in those circumstances to make your view known.

But, again, I think the goal is to strive for unanimity, and, certainly, collegiality, and listen to the views of the other colleagues on the court.

SENATOR BONACIC: Thank you.

I have no other questions of Mr. Garcia.

The batting order of the next three Senators that have questions, is we are going to start with our ranker, Senator Ruth Hassell-Thompson; Senator Nozzolio; and Senator DeFrancisco.

SENATOR HASSELL-THOMPSON: Thank you, Mr. Chairman.

Good morning.

MICHAEL J. GARCIA: Good morning.

SENATOR NOZZOLIO: It's afternoon.

SENATOR HASSELL-THOMPSON: Good afternoon.

I'm sorry. It's been a long morning.

MICHAEL J. GARCIA: It has.

SENATOR HASSELL-THOMPSON: I wanted to -- I noted, when I was looking through, that you started a pro bono program at Kirkland law firm.

What would -- what -- would you favor a mandatory pro bono program for the state attorneys?

MICHAEL J. GARCIA: As you said, Senator, I started that mandatory program with the Legal Aid Society.

I think, pro bono commitment, I take very seriously.

It was a terrific -- it is a terrific program at the firm for representing criminal defendants on appeal in state courts, coordinating with the Legal Aid Society.

I know there are very strong feelings on mandatory pro bono and the amount. I think it's very important to listen to those views. I also understand different attorneys are in different circumstances with respect to what type of commitment they could make.

And I realize that that issue, right now, and I'm sure the Chief Judge also will be looking at it, is an important one for the profession.

SENATOR HASSELL-THOMPSON: Thank you.

Would you be in favor of switching the responsibility for the funding of public defense in criminal cases from the county to the state?

And, additionally, would you favor establishing a statewide public defender's office?

MICHAEL J. GARCIA: I -- my initial reaction to that, Senator, is it sounds like a very good idea. I would really have to know more about the underlying budget issues, et cetera, regarding that.

I would feel a little, I don't know, out of my depths at this point to give a firm opinion on that.

SENATOR HASSELL-THOMPSON: But you will get back to me?

MICHAEL J. GARCIA: I would, Senator.

SENATOR HASSELL-THOMPSON: Would you be in favor of establishing a statewide standard as to the numbers of felonies and misdemeanors that a public defender could handle in a year?

MICHAEL J. GARCIA: I think that is a good idea.

SENATOR HASSELL-THOMPSON: Let's go to the state court system for a minute.

Are you -- as you are aware, the judicial pay commission has recommended a substantial increase in

the pay for Supreme Court justices.

Do you have any concerns on how the costs of raises will impact the operations of the state's budget?

MICHAEL J. GARCIA: First let me say, obviously, my experience, and the people -- you know, my respect for the state court bench, I think they are an incredibly talented, diverse bench across the state, facing very different issues, and really doing the work of the court, day in and day out.

I think anytime have you budget issues, you're always balancing priorities, and balancing how do you -- how will what the allocation is affect the work of that court.

And beyond that, in this particular case, you know, all I can say is, I certainly support the work and the talent that we have on the New York State bench.

SENATOR HASSELL-THOMPSON: Would you be in favor of a state constitutional amendment, merging village and town court justices, justice courts, with the Office of Court Administration?

MICHAEL J. GARCIA: I understand that position, and I've seen much written about it,

particularly within the last year or so.

I think it's difficult. You know, it's a "one size fits all" rule, and I think it would have to be carefully considered how that would affect different communities and municipalities.

SENATOR HASSELL-THOMPSON: Would you be in favor of a state constitutional amendment, providing that nominees for justices of the Supreme Court be chosen by the voters and not by judicial delegation?

MICHAEL J. GARCIA: Again, I would hesitate to give an opinion on whether I thought that was a good idea or not.

I think there is, obviously, differences of opinions in that case.

Whatever changes may come in the process, certainly, at some point could be challenged, and probably would be inappropriate for me to opine on that at this point.

SENATOR HASSELL-THOMPSON: Do you have any changes that you would like to see in the use of bail in the state's courts as a mean of pretrial detention?

MICHAEL J. GARCIA: Again, I am familiar, Senator, with especially Chief Judge Lippman's work in bail; certain of the reforms, the issues

surrounding an ability to pay, leading to incarceration of defendants.

I understand that Chief Judge DiFiore now will be looking at those issues.

And I certainly think they are important to look at, particularly for those reasons.

SENATOR HASSELL-THOMPSON: Two more questions.

One, federal experience; and the other, private.

What do you consider your greatest accomplishment as the U.S. Attorney for the Southern District of New York?

MICHAEL J. GARCIA: Well, if you'll permit me, I'll give a very short, maybe, story there.

Usually, the United States attorney does not appear in court very much. You're running the office, and managing.

But, we had a civil-rights case. It involved a prisoner who was killed by a guard. We tried it; my assistants tried it. We got a guilty verdict, which was thrown out by the judge. The office appealed that case, and I thought that case was very important.

I personally took the appeal, argued the

appeal, and the District Court decision was reversed, and the conviction was reinstated.

SENATOR HASSELL-THOMPSON: I've heard -- thank you.

I heard your answer to Senator Bonacic's question about commercial practice.

But, tell me a little bit about the kinds of cases your work consisted of while you were in private practice, and how much of it -- of that caseload was litigation?

MICHAEL J. GARCIA: A great deal of it was litigation, but, of course, in a big firm -- you know, a big commercial firm, the litigation doesn't necessarily translate, of course, into appearing in court.

I did. It was the exception, rather than the rule, as when you -- I was a government attorney.

But my docket ranged from, everything from internal investigations for companies, and dealing with the government who was looking to press charges or take some kind of action; representing individuals who were under investigation.

I did some civil work. I defended depositions. I also did civil-litigation motion practice, and I argued certain motions in district

court.

But it was really a blend of that.

Some regulatory practice as well, appearing before regulatory bodies and agencies, primarily federal.

SENATOR HASSELL-THOMPSON: Thank you, Mr. Garcia.

Thank you, Mr. Chair.

MICHAEL J. GARCIA: Thank you, Senator.

SENATOR BONACIC: We're joined by Senator Dilan.

The next senator is, Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. Chairman.

Good afternoon.

MICHAEL J. GARCIA: Good afternoon.

SENATOR NOZZOLIO: Congratulations on your nomination.

MICHAEL J. GARCIA: Thank you.

SENATOR NOZZOLIO: You have an excellent resume; a tremendous and very compelling family history.

I would like to talk briefly about three issues, and three major items of discussion.

It's going to be a long time that you're going to be on the bench, so this is your last time

to give us some advice regarding legislation and legislative approaches.

I say "only advice."

Senator Croci and I are involved in issues regarding cyber security.

And your experiences in counterterrorism, in -- with Interpol, to me, cried out for your knowledge to help us and guide our state's policy in protecting our citizens.

Do you have any general comments about taking that approach?

MICHAEL J. GARCIA: Well, Senator, as you know better than anyone, it is an incredibly important issue right now.

I have seen it both in the public side, between Homeland Security, and on the private side, in terms of hackers and people trying to infiltrate different systems. It is a very, very difficult issue.

I think, to me, the hardest part of that is really getting the right expertise in the room and technical knowledge, which I will tell you, I certainly don't have any of that.

But the right experts --

OFF-CAMERA SPEAKER: (Inaudible.)

MICHAEL J. GARCIA: -- yeah, they are a lot better than I am at that.

-- but, to get those people in the room to provide guidance on how things work in the real world; what the type of threats are.

And there are some terrific folks that I have come across in that area who really specialize in that. And I think, to bring them together in a forum where they can inform the types of measures you are looking to do, would be very beneficial.

SENATOR NOZZOLIO: With your experience in international police protection, do you think the answer lies there, or part of the answer lies there?

MICHAEL J. GARCIA: I think, certainly, because it's a cross-board of crime in so many cases, right, and it implicates many different things, I think those types of agencies certainly can have a role in coordinating responses, but, I would look to them as more of that type of coordinating body, rather than a place where you're going to get substantive input in your (inaudible/audio failure.)

SENATOR NOZZOLIO: Thank you.

Senator Bonacic's question about independence, I always like to follow up his eternal

question with my eternal question:

That what we don't -- we certainly hope for independence in our judges.

What I hope for is not, though, an independence from the Constitutions of the State of New York, and the Constitution of the United States.

As you are now going to be authoring your own opinions on things, as you help others write theirs, now you're going to be writing yours, where do you put your constitutional approach to legal opinion-making, in terms of a continuum in order of priority?

MICHAEL J. GARCIA: And I think, Senator, that, obviously, my approach, I would expect, if confirmed, would be a very practical one, adhering and respecting the Constitution and the precedents that have been handed down.

I have always approached the law that way, with that type of respect and deference; and I would expect to do that.

SENATOR NOZZOLIO: Please don't shy away from that view and responsibility.

Certainly, that we have wonderful constitutions. We need to ensure their integrity, and the integrity of the opinions based in them.

You're asked a lot of legislative opinions and are seduced, as judges, to be involved in the Legislature.

We ask you to help us stay true to the constitutional principles that have been the cornerstone of our nation's freedoms.

Lastly, I had the opportunity to drill down on your background. I wanted to know all about you, so I talked to one of your law-school classmates.

MICHAEL J. GARCIA: Which one?

SENATOR NOZZOLIO: And although I couldn't identify with your position as valedictorian, the judge who I talked to, Judge Craig Doran, said, I think very aptly, that you were first in your class, but you were a class act to everyone else in that class. You were helpful to members of the class who didn't necessarily get things as quickly as you did.

And that collegiality and sensitivity to your peers was most welcomed and well endorsed.

So I wish you well in your endeavors, and thank you very much for what I hope will be a long tenure on the Court of Appeals.

MICHAEL J. GARCIA: Thank you, Senator. I appreciate that.

SENATOR BONACIC: Thank you, Senator Nozzolio.

Senator Diaz.

SENATOR DIAZ: Thank you, Mr. Chairman.

Mr. Garcia, I am from Bayamon, Puerto Rico.

Where are you from?

MICHAEL J. GARCIA: I am from Valley Stream, Long Island.

[Laughter.]

SENATOR DIAZ: So you're not from Puerto Rico?

MICHAEL J. GARCIA: No.

My wife is in Puerto Rico, but I am not from Puerto Rico.

SENATOR DIAZ: I have a (unintelligible) -- one of the Senators here brought to our attention an evaluation made by the U.S. State Trial Lawyers Association.

And that evaluation, they evaluated you "qualified" and "recommended."

But they have four candidates that they evaluated, "highly qualified," "highly recommended."

They just qualify you, they just say you were "qualified" and just "recommended."

And the Governor jumped, not one, not two,

not three, but four candidate that being "highly qualified" and "highly recommended" to choose you that was "qualified" and "recommended."

What were you -- why were you singled out?

MICHAEL J. GARCIA: Well, Senator, first, I would say I have tremendous respect for that organization, the New York Trial Lawyers Association; appeared before them.

I appreciated their "qualified" and "recommended" rating.

I think, in total, I appeared before 11 bar associations, ranging from city bar, tri-county bar out west, and the state bar, of course, and received various recommendations from them all, ranging from "qualified" to "highly qualified."

And, again, I respect the view of the trial lawyers, and I respect their organizations.

SENATOR DIAZ: Were you -- do you concerned that the press and the media and people would say, Ah, just because he's a Hispanic?

MICHAEL J. GARCIA: I'm sorry, I didn't get --

SENATOR DIAZ: Are you concerned, that the Governor just jump four "highly qualified" and "highly recommended" to chose you, the people would

say, Ah, just because he's a Hispanic?

MICHAEL J. GARCIA: I would think, Senator, one, the folks on the list that you mentioned who got those ratings, I have tremendous respect for, and are all "very qualified" and "highly recommended," in my view. I have great respect, as I said, for their accomplishments.

I think my record, both in public service and in private sector, qualifies me to be on the Court of Appeals.

SENATOR DIAZ: So you say that -- you say that the New York State Trial Lawyer Association did you bad, did you --

MICHAEL J. GARCIA: Not at all, not at all.

As I said, I respect that organization, and I respect their opinion and their rating.

SENATOR DIAZ: Right. Thank you.

SENATOR BONACIC: Okay. I have several -- I was just curious, of the 11 bars that you appeared in front of, did you have a drink in any of them?

MICHAEL J. GARCIA: Sometimes I felt like it.

But, no, I didn't.

SENATOR BONACIC: Senator Croci is next.

SENATOR CROCI: Thank you, Mr. Chairman.

And thank you, Mr. Garcia, for appearing here

today.

For your children's sake, you probably don't hear this often, but, the candidate that we're being presented with today, it's not just the accomplishments, and you should know this, of somebody who has been a very good lawyer and a very good jurist, or an aspiring jurist, but a very good lawyer or a very good professional, but somebody who is a patriot; because, Mr. Garcia, your credentials are that of somebody who has spent a life in public service as a patriot.

And I want to thank you for your service to our country, and for coming back to New York, because, so many times, we lose some of our very best and brightest; don't return. And you've taken those skills and you've come home.

I'd like to ask two questions.

One -- the first question is:

Some of the greatest matters that this legislative body will have to consider this year regar -- are concerning the security of New Yorkers, and the legitimacy of our government and its institutions.

And you've had tremendous amount of experience, both in public-corruption areas, as well

as private fraud areas, as well as the security of our country and our state.

So I wanted to ask a question, which I've also asked of our now-sworn in, I believe, Chief Judge, Judge Kaye, is: Do you believe, as we pursue ethics reform in this legislative session, and as we model ourselves after some of the best practices at the federal level, that we should be looking for reforms that include all of the branches of government in New York in order for any meaningful ethics reform to be successful?

MICHAEL J. GARCIA: Well, thank you, Senator.

And, one, thank you for those kind words; and, obviously, you -- I greatly respect your service as well.

But, yes, I think when you're looking at a reform process, in general terms, without commenting on any particular provisions, it is important to look broadly across government, and to see wherever you can make changes that would be productive and move things forward.

So, as a general matter, yes.

SENATOR CROCI: Very good.

And, second, do you believe -- as we talk about the Constitution, and constitutional matters,

I think we've covered independence, and I think you've answered that for the Committee.

But, do you believe that the Second Amendment to the United States Constitution confers an individual right?

MICHAEL J. GARCIA: Yes, yes. I do. And I'm aware of the Second Amendment jurisprudence, and, certainly, respect and adhere to that case law.

SENATOR CROCI: Thank you very much.

That's all the questions I have, Mr. Chairman.

SENATOR BONACIC: Thank you, Senator Croci.

Senator Hoylman.

SENATOR HOYLMAN: Thank you, Mr. Chair.

And good seeing you again, Mr. Garcia.

I have a couple of questions for your kids.

[Laughter.]

SENATOR HOYLMAN: I'm kidding, of course.

MICHAEL J. GARCIA: That's scary.

SENATOR HOYLMAN: No, you have quite a stellar background. You've represented some incredibly interesting clients -- FIFA, this body, among others -- and I really admire your service, both to Judge Kaye and to the pro bono causes that you helped initiate in your private practice.

MICHAEL J. GARCIA: Thank you.

SENATOR HOYLMAN: You know, there's been a lot of discussion in Albany about a piece of legislation called the "Reproductive Health Act," and a bill that would, essentially, align New York State with the holding in Roe v. Wade, codifying in our state law, a woman's right to choose, to make clear that our state protects that core right, establishing the decision.

And many of us in the Senate have been struggling to get that bill on the floor, and passed, and it's heartened to see our Chairman supports that legislation.

So I had a couple of questions relating to that: a woman's right to access comprehensive reproductive health care.

And I really think a lot of New Yorkers want to know, do you think that Roe v. Wade is settled law?

MICHAEL J. GARCIA: I do. And I would respect, obviously, the Supreme -- there are many Supreme Court decisions on women's reproductive rights.

I certainly would respect and adhere to those Supreme Court precedents.

SENATOR HOYLMAN: Thank you very much, sir.

And your -- the tradition you represent, as, you know, from Cardoso, to Kaye, is that, you know, quite a stellar one.

And I was thinking about how you, as a litigator, as someone who hasn't written opinions, who comes before us, could you describe what you think your operating philosophy is going to be on the court?

Do you think that our Constitution is dynamic, is -- is it a living, breathing document that has to be adapted to the times, or do you favor something that's based in originality, you know, original intent?

MICHAEL J. GARCIA: Thank you, Senator.

And, also, thank you for your time the other day. I enjoyed speaking with you in your office on some of these topics.

I think I approach, and would approach, of course, as you say, I've not been on the bench, but, in very practical terms, I think, clearly, you have to look at not only the Constitution, but as we were talking about, the precedent that has developed over time, including some of the cases that you've mentioned.

So I would look at it, obviously, you're applying the Constitution, you are always anchored there, but, you are looking at the law that's been developed over time.

And I think I would have, I would say, a very practical and commonsense approach to that process.

And I think, also, you have to respect -- as I said earlier, respect the views of others and keep an open mind. People may approach things differently than you do, and at the end you may disagree, but you always should respect those views, and respect the process as well.

SENATOR HOYLMAN: And as a litigator, what do you think you're bringing to this job?

MICHAEL J. GARCIA: I think any bench benefits from different types of talents and experience, background.

This court, and I have tremendous respect for the folks that are on the court -- I knew the Chief Judge, when she was district attorney, I was United States attorney -- and there's a deep level of experience in the judiciary there.

I think coming from both my role in the public service, and then seven years as a litigator in a large firm, is a nice complement to that pool

of talent and experience.

SENATOR HOYLMAN: Thank you very much.

Thank you, Mr. Chair.

SENATOR BONACIC: Thank you, Senator Hoylman.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Would you please explain to me the rule against perpetuity?

[Laughter.]

MICHAEL J. GARCIA: I have some of my professors from law school here.

SENATOR DeFRANCISCO: I haven't asked that in years. I used to ask it all the time.

I just couldn't help myself.

Actually, I'm going to speak to your children. Okay?

You've got to really be proud of your father, when you think that, when your ancestors came over, they never went to -- I guess it's your grandfather, they never got to college. Never got to college.

And if you look at your father's resume -- and you should probably read it, because it is absolutely unbelievable -- he not only went beyond the last generation, he went on to college, and law school. Became a U.S. attorney; a U.S. attorney for probably the best U.S. Attorney's Office in the

country. Handled cases that some lawyers only dream about. And people kept relying on him for higher and higher positions, and more and more responsibility.

And what did he do? He answered the bell every single time.

And this country is so great to make this happen, and you've got that same opportunity, and so do all your friends.

And please remember, opportunity is what we have; what we do with it is up to us.

And your father is a huge role model.

He is now, at a very young age, going to be on the highest court in the state of New York.

And my guess, he will probably be on the Supreme Court some day. It's just a matter of time. He's got to get a little older.

[Laughter.]

SENATOR DeFRANCISCO: But, seriously, your record is absolutely unbelievable, and the experiences you have are across the board.

No one can question your willingness to take on tough issues, tough cases, and your ability to make good decisions.

So, I just want to congratulate the Governor,

and thank you for being willing to do this, because, one other thing: Money isn't everything.

You may not get that car when you go to college, because he's taking a pay cut, a serious pay cut, to serve the public, to serve the public, which is another incredible attribute that you have.

So, thank you for doing this, and best of luck.

You'll, no doubt, be unanimously confirmed today.

And, God bless you, and all your activities in the future.

MICHAEL J. GARCIA: Thank you very much, Senator. I appreciate that.

SENATOR BONACIC: Senator Boyle.

SENATOR BOYLE: Thank you, Mr. Chairman.

Thank you, Mr. Garcia, for coming here.

Senator DeFrancisco, I guess him getting to the Supreme Court depends on how well he gets along with Donald Trump.

[Laughter.]

SENATOR DeFRANCISCO: I don't think so.

SENATOR BOYLE: Michael, thank you again for coming in, and, your background, as has been said, is truly amazing.

We heard a lot of good candidates over the years, but this is, yours is the creme de la creme.

I'm perhaps most impressed with the fact, I read in your background, that you graduated from Albany Law School in 1989.

I graduated Albany Law School in 1988.

I didn't know you, because were you studying, obviously, to make valedictorian.

[Laughter.]

SENATOR BOYLE: A quick comment.

The -- what I've described as a crisis of confidence in our judicial and prosecutorial system in the last couple years, obviously, we see it in communities of color.

My county of Suffolk County recently had our police chief arrested by the FBI; the shows like "Making a Murderer"; this is what America is seeing, and it's scaring a lot of people.

And I know, from your position as a great prosecutor when you were there, and now your work with pro bono, please just keep this in mind, as you sit on that bench -- I know you're going get there -- about people worried about this system.

And, we're counting on you to make it right.

MICHAEL J. GARCIA: Thank you, Senator.

I will.

SENATOR BONACIC: Thank you, Senator Boyle.

Senator Ranzenhofer.

SENATOR RANZENHOFER: Thank you, Chairman.

Just, briefly, and thanks for reaching out after the Governor placed your name in nomination.

I'm not going to go over in great detail, but I do want to just mention for the record, that, you know, finishing number one in your class is not too bad. Being U.S. attorney is not too bad. Being a partner at Kirkland & Ellis is not too bad.

So, I mean, certainly, you have the education, and the qualifications, and the experience for this job.

And I know a lot of emphasis was placed on the rating of "qualified" and "recommended," as opposed to "highly qualified," but I remember, with yesterday being the Super Bowl, that there was somebody by the name of Tom Brady, who -- there were about 200 people picked before him, and he ended up okay.

[Laughter.]

SENATOR RANZENHOFER: So, I wouldn't lose any sleep over that recommendation. I think the vast school of thought from the bar associations, and the

people you know, have evaluated you, are -- that you are, you know, a Class A candidate, and they expect that -- you know, to continue that tradition on the court.

So, congratulations on your nomination.

MICHAEL J. GARCIA: Thank you, Senator.

SENATOR BONACIC: Thank you, Senator Ranzenhofer.

Anyone else have any other questions for Mr. Garcia?

Hearing none --

MR. BRADY (Off-Camera): I do.

SENATOR BONACIC: Oh?

MR. BRADY (Off-Camera): [Inaudible.]

SENATOR BONACIC: No, no, no, no.

Mr. Brady, you're out of order.

You're out of order.

You don't have to --

SENATOR SAVINO: You're not a member of the Judiciary Committee.

SENATOR BONACIC: I'd like to call the vote now.

All those in favor of Mr. Garcia, having it go to the floor?

(All those in favor say "Aye.")

SENATOR BONACIC: Anyone opposed?

SENATOR HASSELL-THOMPSON: I'll make the motion.

SENATOR BONACIC: Motion by Senator Hassell-Thompson.

It's unanimous, it goes to the floor.

Congratulations.

MICHAEL J. GARCIA: Thank you, Mr. Chairman.

[Applause.]

(Whereupon, at approximately 2:09 p.m., the public hearing held before the New York State Senate Standing Committee on Judiciary concluded, and adjourned.)

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