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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Court Master, Corporate Atty Picked For New Chancery Seats

By **Vince Sullivan**

Law360, Wilmington (September 20, 2018, 8:12 PM EDT) -- Delaware Gov. John Carney announced his nomination of two candidates for the expanded bench of the Delaware Chancery Court on Thursday, choosing Chancery Master Morgan T. Zurn and Young Conaway Stargatt & Taylor LLP litigator Kathaleen S. McCormick to fill the newly created seats.

Carney, a Democrat, said in a statement Thursday that he chose the two nominees for their knowledge of and experience in the state's Chancery Court, which handles some of the most complex corporate cases in the nation and whose rulings can have far-reaching impacts in the business world. If confirmed, each would serve a 12-year term as vice chancellor on the court, joining the chancellor and four other vice chancellors on the bench.

Zurn has been serving as master in the Chancery Court since 2016. In that role, she handles cases assigned to her by Chancellor Andre G. Bouchard, especially those related to trusts, estates and guardianship matters. Before that, she served as a deputy attorney general in Delaware's Department of Justice, working in the consumer protection and appeals units before moving to the Chancery Court.

"I saw immediately Master Zurn's breadth of knowledge, devotion to public service and passion for her work," the governor said in his announcement. "She has earned an outstanding reputation as an advocate and judicial officer, exhibiting intelligence, diligence, efficiency and integrity."

Zurn's experience in the Chancery Court over the past several years will help her if confirmed to the expanded role as a vice chancellor, the governor said.

Zurn could not immediately be reached for comment Thursday evening.

McCormick started at Young Conaway in 2007 and has been a partner since 2015, focusing on corporate litigation that includes corporate governance issues and complex commercial disputes.

"Katie McCormick is an experienced Chancery lawyer, with knowledge both deep and broad that will make her an immediate asset to the court," Carney said. "Katie impressed me with her sharp mind, strong work ethic and commitment to public service. She will be an outstanding jurist and representative for the court and state."

McCormick told Law360 she was eager to serve following the confirmation process.

"I'm honored and, if confirmed, it would be an honor to serve my state," she said.

McCormick has worked on numerous cases involving various aspects of Delaware's corporation law, including mergers and acquisitions litigation, derivative suits and data privacy cases. Her firm's biography says she is known "for her deep knowledge of Delaware's constantly evolving legal standards, and her ability to apply that knowledge quickly to assess risk and inform her clients' litigation strategy."

The two nominees will appear before the Delaware Senate's Executive Committee on Oct. 3, where they will make themselves available for questions by the members before their confirmation is subject to a vote of the full Senate later that day.

Republican Sen. Gregory F. Lavelle, the minority whip and a member of the Judiciary Committee, told Law360 on Thursday that the vetting process for judicial nominees is vigorous and he would rely on that process when casting his vote.

The judicial nominating committee, an 11-member group made up of both attorneys and nonattorneys, solicits applications from candidates for openings on the bench in Delaware and traditionally forwards three names for each opening to the governor. The governor then conducts their own interview process with the candidates in advance of making the nominations.

"I again will rely on the JNC to do the bulk of the vetting in determining that they're capable and qualified attorneys with a good familiarity of the Chancery Court and all that goes on in there," Lavelle said.

The expansion of the Chancery Court bench was a welcome development to the senator earlier this year, as he works for a financial services business and has heard about the need for more judges. Delaware derives about a third of its annual budget from corporations domiciled in the state, so making sure the companies that call the First State home have continued access to the court is important, Lavelle said.

If confirmed, Zurn and McCormick will increase the number of female judges on the Chancery Court bench from one to three, joining Vice Chancellor Tamika Montgomery-Reeves, who was appointed in 2015. Lavelle said such diversity in the court was welcome and he was pleased with the governor's selections.

Senate Majority Leader and Judiciary Committee Chair Margaret Rose Henry, a Democrat, did not immediately respond to a request for comment.

Carney's nominations uphold the state's long-standing requirement for judicial balance among the major political parties, having selected one Republican in Zurn and one Democrat in McCormick. The requirement is the subject of an ongoing court battle in Delaware federal court.

U.S. Magistrate Judge Mary Pat Thyng ruled in December that the state's party balance mandate for its judicial benches violated the U.S. Constitution, finding that judges don't fall under policymaker exceptions to prohibitions against political tests for government employment.

Judge Thyng stayed the effect of her decision pending Carney's appeal to the Third Circuit, which is slated for argument on Tuesday in Philadelphia. The judge justified the stay in part because of the potential disruption that would result if appointments were blocked pending resolution.

--Editing by Aaron Pelc.