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News In Brief

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Cuomo Fills Two More High-Level Posts

Governor-elect Andrew M. Cuomo has appointed Paul Francis to the newly created position of director of agency redesign and efficiency. Mr. Cuomo spoke often during the 2010 campaign of the need to rethink the structure of government and to streamline or consolidate entities to save money and avoid duplication of services.

Mr. Francis has most recently been the chief operating officer of the Financial Products Division of Bloomberg, L.P. Previously, he was state budget director under governor Eliot Spitzer and director of state operations for both Mr. Spitzer and Governor David A. Paterson.

Mr. Francis, a New York University School of Law graduate, is a former associate at Skadden, Arps, Slate, Meagher & Flom and Shearman & Sterling. He spent the 1990s and early 2000s in top executive posts at Merrill Lynch, Priceline.com and the Cedar Street Group.

Mr. Cuomo also announced last week that Alphonso David will be deputy secretary for civil rights. Mr. David is now special deputy in the state attorney general's office for civil rights. Before joining the attorney general's office, Mr. David was a deputy commission at the state Division of Human Rights and a staff attorney at the Lambda Legal Defense and Education Fund. He has a law degree from Temple University. — *Joel Stashenko*

New Law Increases Bankruptcy Exemptions

Legislation increasing exemptions debtors can claim in bankruptcy proceedings and money judgments has been signed into law by Governor David A. Paterson. Mr. Paterson explained last week when announcing his approval that the bill ([A8735/S7034](#)) is needed to reflect the increased value of property and to add items that have become staples of everyday life since §5205 of the Civil Practice Law and Rules was last amended in 1976. For instance, added to the personal property exemptions allowed debtors, such as one refrigerator and one TV set, is "one computer and associated equipment" and "one cellphone."

The new law, which takes effect on Jan. 21, also increases the exemption under §282 of the state Debtor and Creditor Law for an automobile to \$4,000 from \$2,000 above the debtor's liens and encumbrances, and \$10,000 for a vehicle equipped for the handicapped. The amendments also increase the homestead exemption from \$50,000 to \$75,000, \$125,000 or \$150,000 depending on where the property is located.

The law was sponsored by Assemblywoman Helene Weinstein, D-Brooklyn, and Senator Eric T.

Schneiderman, D-Manhattan, the attorney general-elect. — *Joel Stashenko*

Judge Strikes Down Law Requiring Truck Retrofits

A state judge has struck down as overly broad parts of state regulations requiring pollution-cutting retrofits on the exhausts of heavy-duty diesel-fueled trucks. Supreme Court Justice Donald A. Greenwood (**See Profile**), ruling from Syracuse, agreed with the plaintiffs in **Riccelli Enterprises Inc. v. New York State Department of Environmental Conservation**, 2010-5942, that the agency had improperly extended the requirement past authority given by the Legislature under the 2007 Diesel Emissions Reduction Act.

The act called for all diesel-fueled trucks owned and operated by the state or being operated "on behalf of" state agencies to undergo the retrofits to reduce the amount of pollution they generate. But the North Syracuse-based Riccelli Enterprises Inc., one of the largest sand and gravel haulers in the Northeast with a fleet of 400 trucks, argued that the DEC was too broadly defining "on behalf of" state agencies to encompass virtually any hauler doing business with the state.

Justice Greenwood agreed with Riccelli and its attorneys from Gilberti Stinziano Heintz & Smith that the law lays out who has to retrofit its trucks—the state—and does not provide the DEC with the authority to itself define who is subject to the anti-pollution requirement. "It is this Court's analysis that the Legislature's intent was a gradual phase-in of retrofit pollution control devices on state owned or operated heavy duty trucks," Justice Greenwood wrote. "There was not an attempt to require pollution control retrofit devices on all heavy duty vehicles."

Riccelli had estimated that at \$10,000 to \$20,000 per vehicle, the cost of retrofitting its 400 trucks would have been economically devastating. William J. Gilberti, the lead counsel for Riccelli, said the regulations as written by the DEC would have cost haulers and the companies and consumers using the commodities and products they carry billions of dollars more. — *Joel Stashenko*