

Georgia Federal Judge To Take Senior Status In April

By **Rosie Manins**

Law360 (March 1, 2021, 9:09 PM EST) -- An Atlanta federal judge will take senior status this spring to spend more time with her family, paving the way for a second new judge to be appointed by President Joe Biden in the Northern District of Georgia.

U.S. District Judge Amy M. Totenberg, 70, told Law360 that she is retaining her substantial caseload for the intermediate term but will eventually seek to find more time for family. Her decision to take senior status as of April 3 follows that of Chief Judge Thomas W. Thrash Jr., who announced in early February that he will become a senior judge on May 8 — his 70th birthday.



Judge Amy M.
Totenberg

Judge Totenberg, who has served the Northern Georgia federal district for a decade, said that age isn't slowing her down. She said it's important for the court to have additional judges, given the backlog of cases due to the COVID-19 pandemic and the fact there are no more judges on the court now than there were four decades ago despite metropolitan Atlanta's significant growth since then.

"This is a wonderful opportunity to make sure that the court gets fully staffed in terms of judges as soon as possible and not have a huge waiting period," Judge Totenberg said Monday. "It took me about two years to basically have my nomination go through, and that's a long time when you have vacancies and a very large caseload at the court, and that is now made all the more acute by the fact that we haven't tried cases for a year so there's a mass backlog."

Judge Totenberg, who was appointed in early 2011 on the nomination of President Barack Obama, said she still has a lot of work to do, including some large and complex civil disputes and criminal prosecutions. She said that knowing at the end of a case that she has listened to everyone and fairly balanced their interests is the most satisfying aspect of her job.

"I feel very fortunate to have been involved in important issues and have thoughtfully considered the arguments and tried to get to a result that's consistent with the law and also is fair and as realistic as possible," she said. "One of the things that's always been important to me is that I did practice for many years and that I have a sense of the reality of people practicing law and presenting cases and the reality of people who appear in my court."

Judge Totenberg is from New York and got her undergraduate degree from Radcliffe College before graduating with a law degree from Harvard Law School in 1977, her federal biography says. She spent much of the 1980s and 1990s in private practice in Atlanta and served as general counsel for the city's education board from 1994 to 1998.

She was a special master in the District of Maryland from 2000 to 2010, during which time she also taught as an adjunct professor at Emory University School of Law. Judge Totenberg was also a court-appointed monitor in the District of Columbia from 2005 to 2011.

Judge Thrash, who has worked alongside Judge Totenberg throughout her tenure as a federal judge, told Law360 she has been a great colleague and a huge asset to the court. Her vacancy and his desperately need to be filled, considering the court last received a new judgeship in 1979, he said.

"Her work ethic is truly legendary at the courthouse for her willingness to take whatever time it takes in a case to get it right," Judge Thrash said Monday. "And just her sheer enthusiasm about work can be infectious, so she's been a really valuable colleague for the last 10 years, and I'm glad that she's going to be staying to carry a significant caseload in the immediate future."

Judge Thrash said the Northern District of Georgia is the 13th busiest district in the country by "case waitings" and that the appointment of two new judges is a temporary fix when additional judgeships must be created.

David D. Cross of Morrison & Foerster LLP, a lead attorney in a long-running case before Judge Totenberg over Georgia's elections, told Law360 on Monday that she is regarded as one of the most respected and hardest-working jurists in the country.

"She's been referred to as the 'fact queen' because of her mastery of the record in her cases and the thoughtful opinions she issues," Cross said. "Her years of public service on the federal bench no doubt have helped many."

Judge Totenberg's current cases include a proposed class action against Porsche and a whistleblower case against a defunct Florida mortgage lender that allegedly defrauded a federal veterans lending program, which the Eleventh Circuit revived in January.

She also has one of the largest and most high-profile health care fraud cases in Georgia in decades, against former Tenet Healthcare Corp. executives and others accused of a kickback scheme that purportedly net Tenet \$400 million in Medicare reimbursements.

In December, Judge Totenberg sanctioned a prison technology company over its repeated attempts of "subterfuge" amid a long-running class action concerning its inmate calling services. And she tossed a proposed class action from would-be buyers of the "Magic: The Gathering" card game who claimed they paid for but never received a limited-edition card pack, finding their eBay orders were never confirmed by game maker Hasbro.

Judge Totenberg says attorneys who come before her know she'll be thorough and well prepared and that "there's nothing that's going to escape me, whether they like the result or not."

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