



**NEW YORK
CITY BAR**

**Public Hearing of the Special Commission on Judicial Compensation
July 20, 2011
Legislative Office Building, Hearing Room B
Albany, New York**

**Testimony of Roger J. Maldonado
Chair, Council on Judicial Administration**

Chairman Thompson and distinguished members of the Commission:

Thank you for the opportunity to testify on the important topic of judicial salaries in New York State. My name is Roger Maldonado and I am chair of the New York City Bar Association's Council on Judicial Administration. The City Bar is an organization of over 23,000 members dedicated to improving the administration of justice. The Council which I chair coordinates the work of several City Bar committees on issues that impact state and federal courts. Recent topics addressed by the Council include the 2011/2012 Judiciary Budget; terms for Housing Court Judges; proposals to amend the Code of Judicial Conduct; and the subject of today's hearing: judicial salaries.

The City Bar urges the Commission to increase salaries for Justices of the Supreme Court of New York State, effective April 1, 2012, to no less than \$195,000. Indeed, we believe there is ample justification for a salary level in excess of \$200,000, as raising the salary to \$195,000 essentially adjusts for cost of living but does not adequately reflect:

- the judges' enormous loss of purchasing power since 1999;
- the growth in the disparity between judicial salaries and legal compensation levels in the private sector;

- the disparity between salaries of New York judges and judges in other states.

The City Bar also urges the Commission to increase the salaries of all other Judges in New York State's Courts by amounts proportionate to the increase provided to Justices of the Supreme Court and that such increases also be effective April 1, 2012.

From the perspective of the City Bar, an increase of this size is crucial, recognizing the State's fiscal circumstances, in order to maintain the quality of the courts and their reputation, not only among New Yorkers but for individuals and businesses around the world who rely on New York courts as part of the economic framework that makes New York a world commercial center.

As the last judicial salary increase occurred in 1999, the City Bar further urges the Commission to establish that these salary increases take effect in full as of April 1, 2012, rather than phasing in the increases over several years. Salaries should further be adjusted in each of the next three years to reflect changes in the cost-of-living index. The \$195,000 salary for Supreme Court Justices, although a substantial increase over current salaries, simply takes into account the adjustment in current judicial salaries to reflect the change in cost of living from 1999 to 2012, when the increase would take effect. See Hon. Ann Pfau, Submission to the 2011 Commission on Judicial Compensation ("Judge Pfau Submission"), at 5. Such an increase would still lag behind the salaries paid to judges in the five next largest metropolitan areas in the United States, when adjusted for cost of living, and reflects a lower increase than what has already been provided to New York State's non-judicial government employees over the last 12 years. See Coalition of New York State Judicial Associations, Presentation to the New York State Judicial Compensation Commission (Coalition Submission), Executive Summary, at 2. In addition, it would leave New York judicial salaries below the median salary of judges in other states, once

cost of living is considered (utilizing data compiled by the American Chamber of Commerce Researchers Association).

The Commission must establish these levels of judicial salary increases to ensure that the Courts of New York State continue to be served by judges capable of determining the numerous and complex matters that arise in our courts. Currently, 1,200 New York State Court Judges serve a state population of 20 million residents. Id., page 12. New York, as a global commercial center also provides access to its courts to numerous citizens of other states and countries. New York, therefore, must establish a judicial salary structure that is designed to attract and retain the best candidates for judicial office. The current judicial salary structure is woefully deficient in this regard.

By any measure, New York State's judges currently are severely underpaid, and they and their families have paid a heavy price for remaining on the bench without an increase for over a decade. The last salary increase New York provided to its judges was in 1999. In the twelve year period since that raise, the cost of living in New York has risen 41%. See Judge Pfau Submission at 21. The failure of judicial salaries to keep pace with inflation has cost Supreme Court Justices \$330,000 dollars of purchasing power. See Letter of Pete Smith to John McConnell, July 5, 2011 (Judge Pfau Submission, Appendix A). Further, as reported by the New York Times on July 5, 2011, New York's judicial salaries are ranked 46th in the country, when measured by the cost of living, according to the National Center for State Courts. A New York Supreme Court Justice receiving a salary with the same purchasing power as the average salary of a trial judge in America's five other largest metropolitan areas would be paid \$212,000 per year. See Coalition Submission, Executive Summary, page 4. If New York's judicial salaries were even ranked at the median level of judges salaries among the states, the Supreme

Court Justice salary would be \$220,000. In addition, as judicial pay stagnates, private sector salaries grow more attractive. With senior associates in large New York firms earning over \$100,000 more than judges, the grass is indeed greener in the private sector. And such salary disparities cannot serve to bolster the respect for the bench that is appropriate and necessary.

For these reasons, as reported in the July 5, 2011 New York Times article, New York State judges are leaving the bench at an alarming and increased rate – nearly 1 in 10 judges as of last year. Many of the retiring judges explicitly cite the low and stagnant salaries paid to New York State’s Judges as the primary reason for their departure from the bench. Not surprisingly, those drawn to a state judicial career come largely from the public and nonprofit sectors. An examination of new judges in New York City in 2009 and 2010 reviewed by the City Bar’s Judiciary Committee shows only 18% came from the private sector. This deprives the bench of the diverse perspectives that are so valuable in understanding the nature of the disputes that come before the courts.

The City Bar also agrees with Chief Judge Jonathan Lippman that only by increasing dramatically the salaries paid to New York States judges will New York be able to recruit and retain the best candidates for the bench from New York State’s diverse communities. New York must offer potential and current members of the judiciary competitive salaries that persuade lawyers from all practice settings to seek to become and remain judges, rather than seeking higher-paid positions in academia or government.

As lawyers regularly practicing in the courts, we are acutely aware of the importance of a high-quality bench for New York. And for our clients -- the citizens and businesses appearing as litigants in our courts – nothing could be more important. We tend to lose sight of the enormous responsibility we place on judges, and the numbers are so staggering they are hard to grasp. In

2009, over 4.6 million matters were filed in New York courts, over a million more than were filed in 1999. Filings per judge rose 28%, in that time, according to the Coalition report. Much of the growth has been recession driven, including an explosion in the filings of consumer debt cases. Each year, over two million people enter the courts without any counsel, providing even more of a strain on the judiciary. We need judges, faced with these overwhelming workloads, to have the skill, patience and efficiency to resolve the disputes that are brought to them – a flow over which they have no control – and to perform at a consistently high level. In many criminal, family, housing and debt matters, judicial decisions will be life-changing. We have placed this responsibility on the shoulders of our judges without acknowledging their own personal material needs.

Furthermore, the loss of talented judges, and the difficulty of recruiting judges broadly from New York’s legal community, is bound to hurt not only the quality of justice but the sterling reputation of New York’s courts. Part of the reason New York is such a vibrant commercial center is the comfort of those conducting business in New York that there is a high-quality forum to resolve disputes. To the extent we jeopardize that quality, we make other venues more attractive for business dealings. This is a potential drain on an economy that is already struggling to recover from the most serious recession in decades. The investment in judicial salaries, to maintain the confidence of all parties that they can receive fair and effective justice in New York, is an investment in New York’s future.

The City Bar, therefore, urges the members of the Commission to raise effective April 1, 2012 all judicial salaries in an amount that corresponds to a salary of at least \$195,000 for Justices of the Supreme Court, with proportionate increases for all other New York State Court Judges.