

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a serif font, centered between two horizontal blue bars.

**NEW YORK
CITY BAR**

**TESTIMONY OF THE NEW YORK CITY BAR ASSOCIATION
BY FRAN HOFFINGER, CHAIR OF THE COUNCIL ON JUDICIAL
ADMINISTRATION**

**HEARING OF THE NEW YORK STATE COMMISSION ON LEGISLATIVE,
JUDICIAL & EXECUTIVE COMPENSATION**

OCTOBER 13, 2023¹

My name is Fran Hoffinger and I am testifying today on behalf of the New York City Bar Association and its Council on Judicial Administration which I chair. The Council on Judicial Administration coordinates the work of several of the City Bar’s committees on issues that impact the state and federal courts. The Council includes as committee designated members representatives from the Judiciary Committee, the State Courts of Superior Jurisdiction Committee, the Federal Courts Committee, the Civil Courts Committee, the Criminal Courts Committee and the Litigation Committee. The City Bar is a voluntary organization of lawyers and law students, founded in 1870, of approximately 23,000 members dedicated to improving the administration of justice. The City Bar, whose membership includes practitioners from a wide variety of backgrounds and disciplines, has had a longstanding interest in issues that affect state and federal courts.

I am a practicing attorney and have been practicing for over 38 years, having appeared in courts all over NY City and Westchester including, but not limited to, in the State courts: Supreme Court (including Criminal Term, Commercial Division, Civil IAS Parts, Matrimonial and Guardianship Parts), Criminal Court, Family Court, Housing Court, Surrogates Court, Appellate Division, and in federal courts (SDNY, EDNY and Bankruptcy Courts). I serve on the Judiciary Committee of the New York Women’s Bar Association and was an administrator in 2007 and panel member in 2005 of the NY County Democratic Party’s Independent Screening Panel for Civil Court Judges (2007 and 2005). Thank you for allowing me to testify today.

¹ Testimony was presented orally at the hearing on October 13, 2023; written testimony was subsequently submitted on October 24, 2023. The written testimony is largely based on the oral testimony, but also includes material not necessarily presented orally and is not a verbatim transcript of the oral testimony.

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has over 23,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

Instead of focusing my remarks on the statistics that have been given to you by others who testified today, I would like to address why raising state judicial compensation is so important to creating and maintaining a high-level, high-performing and independent judiciary. Simply put:

If we want to attract and retain the best, brightest and most talented judges, we need to do more for them. Raising their salaries is a matter of respect and dignity, and we should be treating our judges with respect and dignity, just as we hope and expect they will treat those who come before them. If state court judges' salaries do not remain competitive, fewer and fewer candidates will seek the position, further harming our current understaffing and likely affecting the quality of the candidates who seek to be state judges.

State court judges' salaries were previously raised to the same level as the federal court judges, with Supreme Court judges receiving the same salaries and the Criminal, Civil, Family and Housing Court judges receiving a somewhat lesser amount based on protocols this Commission previously recommended in 2015. But federal court judges received and continue to receive automatic Cost of Living Adjustment (COLA) increases every year, while the state court judges did not and do not. At a minimum, state court judges' salaries should be raised, indeed restored, as Judge Zayas said in his testimony earlier this morning, to the same level as those of federal court judges with automatic COLA increases every year. We should not be putting our state court judges in the position of repeatedly having to come back and ask for COLA increases.

Judges are not paid the same as lawyers in private practice, often taking a pay cut when they take the bench and enter public service. They are not expecting to make the same salaries as those of partners in large law firms. But those who are the face of justice in the state courts should be treated fairly and with dignity, in the same way they are expected to treat those who appear before them. Being a state court judge in New York is not easy: our judges routinely handle complex cases involving international businesses and financial transactions, and an enormous docket of family court, criminal court, housing court, consumer debt and other cases that affect the day-to-day lives of New Yorkers. Furthermore, the people served by the New York state courts are varied, economically and racially diverse; and many New Yorkers appear in court pro se, which means not only do judges manage heavy dockets but they must also help shepherd individuals through the court system without the assistance of counsel. By raising state court judicial salaries to the level of federal court salaries and adding an annual COLA increase, we are letting the judges know that the people of the state of NY highly value their public service and believe they should be compensated appropriately.

I have been told that the judges' benefits, such as medical and dental insurance coverage, cover less than in the past due to rising medical and dental costs, particularly in NYC where health care is more expensive. Anecdotally I learned of one judge, a single parent, who struggled to pay for much needed medical care which wasn't fully covered as well as to pay for college costs for a child. Judges in NY State do not get location pay, as the court attorneys do, and the rising cost of living due to inflation, especially in NYC, makes it more and more difficult. As you have heard from others who testified earlier this morning, judges do not have the option of moving to different parts of the state which may be less expensive. Judges who sit in New York City courts are obligated to live in New York City, for example. But even outside New York City, rising inflation has a significant negative impact. As Judge Eagan, who sits in the Erie County Court, explained in her testimony, her current salary is in effect a \$40,000 plus pay cut due to inflation. So at the very

least we should do what the Commission recommended in 2015: pay the judges the same as their federal counterparts and have an automatic annual COLA increase.

We need to let the judges who are doing a good job – working hard to address the backlogs, making sure that motions are being decided and trials held without undue delays, treating lawyers and parties who appear before them fairly – know that we appreciate them. Many of our judges worked hard throughout the pandemic, some even doing double duty and covering other parts. I learned that a number of judges assigned to the Supreme Court parts were covering Family Court emergencies when the Family Courts were not operating. Those judges handled the backlogs in their own parts due to the pandemic, kept their parts open and running and also took on Family Court cases.

We want to retain the good judges, the independent judges, and we want to keep on attracting talented lawyers to serve as judges. But it is hard to do so if they don't feel they are being treated fairly. Raising state judicial salaries to the level of federal court judges with automatic COLA increases is important not only to attract and keep good judges, but also to create a level of accountability for those who are underperforming. And raising salaries will make state court judgeships more attractive to well qualified applicants, which will help weed out poor-performing judges and improve how justice is served in our state courts. As Judge Ally explained during his testimony, it is also a way to ensure that we attract and retain a diverse bench, one which reflects the diverse makeup of the people of the State of New York.

There are many other issues in the state courts that need to be addressed, not least of which include: raising the number of Supreme Court Judges statewide; addressing issues surrounding Diversity and Racial Equity; addressing the non-judicial staff shortages; and working to improve the physical condition of the courthouses around the State and particularly in New York City. The City Bar just issued a report about eliminating the Constitutional Cap on the number of Supreme Court judges, and we have a Working Group on Racial Equity in the State Courts that just issued a progress report and recommendations on creating lasting reform in the wake of Secretary Jeh Johnson's Equal Justice Report. Both initiatives, we hope, will lead to much needed improvements in the state courts.

But today we are here to address the critical need to raise judicial salaries for state court judges. It is a worthy first step and one that can be achieved in our continuing efforts to improve the state courts. Our judges deserve it, and the people of the State of New York deserve to have judges who are paid fairly.

Adopting the recommendation of the City Bar to raise the state judges' salaries to the current level of the federal judges with an automatic COLA increase is not only just and equitable. It is the right thing to do.

Respectfully submitted,

Fran Hoffinger, Chair, Council on Judicial Administration
New York City Bar Association