



ASSOCIATION OF JUSTICES OF THE SUPREME COURT OF THE STATE OF NEW YORK

July 20, 2011

TESTIMONY FOR THE SPECIAL COMMISSION ON JUDICIAL COMPENSATION

Supreme Court Chambers
46 Greenbush Street, Room 301
Cortland, NY 13045
607.756.3480
607.753.0854 (Fax)
prumsey@courts.state.ny.us

Phillip R. Rumsey
President

Vacant

President-elect

Laura G. Douglas

First Vice President

Ralph Boniello

Second Vice President

David Demarest

Treasurer

Eileen Bransten

Secretary

Joseph L. Forstadt,

Counsel

Martin Evans

Executive Secretary

Past Presidents

Joseph M. Sise

Chair, Executive Committee

Michelle Weston

Joseph G. Golia

Marsha L. Steinhart

F. Dana Winslow

Robert C. Kohn

David Demarest

Rose H. Sconiers

Leland DeGrasse

Abraham G. Gerges

Louis C. Palella

Daniel F. Luciano

Edward A. Rath*

Angela M. Mazzarelli

Andrew V. Syracuse

Norman E. Joslin

Francis X. Becker

David O. Boehm

Edward J. Greenfield

Harold L. Wood

Vincent E. Doyle*

Maxine K. Duberstein

Leonard A. Weiss

Lawrence J. Bracken

Edwin Kassoff

Martin Evans

Frederick M. Marshall*

Franklin W. Morton, Jr.

Richard F. Kuhnen

Emmett J. Schnepp*

T. Paul Kane*

John C. Marbach*

Vincent D. Damiani*

Richard Cardamone

Louis M. Greenblott*

Fred. J. Munder*

Charles Margett*

Ellis J. Staley, Jr.*

Miles F. McDonald*

Samuel W. Eager*

Harry D. Goldman*

James S. Brown*

Walter B. Reynolds*

Maio Pittoni*

Felix J. Aulisi*

Samuel M. Gold*

Arthur E. Blauvelt*

Bernard S. Meyer*

Reid S. Moule*

**Deceased*

District Members

1st Barbara R. Kapnick

2nd Wayne Saitta

3rd Leslie Stein

4th Richard Aulisi

5th Anthony Paris

6th Elizabeth A. Garry

7th William P. Polito

8th Ralph Boniello

9th Alfred Weiner

10th John J. Jones, Jr.

11th Daniel Lewis

12th Kenneth L. Thompson, Jr.

13th Thomas Alfotta

Chairman Thompson and Commissioners:

I'm Phillip R. Rumsey, Supreme Court Justice, Cortland County, and I am honored to appear before you as President of the Association of Supreme Court Justices of the State of New York.

The Supreme Court, which was formed during colonial times in 1691 to serve as New York's court of general jurisdiction, is an historic institution. Its justices are the only judges constitutionally eligible for appointment to supreme court appellate divisions and appellate terms. Now, more than three centuries later, we appear before this Commission - also historic in nature - because you are necessary to restore a sense of honor to all judges in this Empire State.

The OCA and the judges, through their associations, have provided you with ample economic and statistical data upon which to base your decision. The material supports a range of substantial salary increases. However, we submit that this issue demands - and the Judiciary deserves - more than an examination of statistical data or the simple calculation of the harmful effects of inflation and time on the purchasing power of judicial salaries.

We have some comment on a couple of the factors you will be addressing, and, because the factors that you may consider are not limited to those specified in the statute, I will leave you with some observations of the human condition involved with this issue.

Please consider the current challenging economic climate in this context: when the economy is in decline, the demands upon the court system inevitably increase. We do what is necessary to handle the increase in commercial, family, criminal and other matters; and we are required to implement all mandates of the Legislature, including, for example, the recent directive that we conduct thousands of mandatory settlement conferences in residential mortgage foreclosure actions.

"AN INDEPENDENT ELECTED JUDICIARY COUNTS!"

After receiving deserved salary increases during the past twelve years, some state employees have begun sacrificing some of their benefits. We are also keenly aware of recent court employee layoffs. Please keep in mind that judges have been systematically ignored when economic times were good, and we have had imposed on us a 'sacrifice' in the form of a salary freeze, beginning in the year 2000 and continuing every subsequent year of this century to date.

Your determination will have a significant impact on the integrity of the judiciary, and the morale of the judges, which has declined so far in the past decade as to become a matter of public knowledge and concern.

Morale declines when we witness exceptional jurists - our colleagues - leaving the bench - not because they ever expected to be richly paid in government service, but because they never expected to be unfairly treated. The number of resignations is growing, and they include Supreme Court Justices Robert Julian, Oneida County in 2008; Robert Spolzino, Appellate Division, Second Department; and James McGuire, Appellate Division, First Department, this year.

Now in my 18th year on this bench, I recall the frustration of my colleagues in the late 1990's when four years had lapsed without attention to judicial salaries. Today, we are more than a dozen years with a pay freeze. And it is simple to conclude that if exceptional jurists are leaving the bench for financial reasons, then exceptional candidates are not seeking judicial office.

Morale declines when political leaders say that even with low pay, there is no shortage of attorneys seeking judgeships; such a political statement is simplistic, unfair, and insulting. I submit that you could decrease by half any salary of a school official, hospital CEO, or State Legislator and then make the same statement - there will be applicants. But from that pool of applicants, many highly qualified, and nearly every exceptional candidate, will be absent.

When there are fewer well-qualified supreme court justices, the quality of those on the appellate divisions and appellate terms will also be diminished.

In similar fashion, morale declines when our talented colleagues have been required to leave the bench due to mandatory retirement, having for years been denied a just salary - an injustice that is perpetuated in their reduced retirement benefits.

Morale declines when we hear the salaries of the federal judiciary cited as our benchmark, when that compensation is currently documented as unjust and unfair, because it, too, has failed to keep pace even with inflation.

Yes, morale declines when first year law graduates and even law clerks in our judicial system are paid more than supreme court justices, and when school and hospital administrators, and other public officials are paid large salaries - but not because these officials are paid more than a justice; it is because they receive salaries that reflect their value to the citizens they serve, and judges do not. While judicial salaries continue unchanged, most of these officials are receiving compensation that reflects more than a simple adjustment for inflation.

Many judges are angry; we do not want to be plaintiffs in lawsuits or lobbyists in Albany, nor do the citizens want us to be. Now in our second decade without an increase - with morale at its lowest, and frustration at its highest - hundreds of judges have differing opinions concerning an appropriate salary. Many have solid arguments for compensation well in excess of those submitted. However, every judge in this state is united firmly on the need - and appropriateness - of an immediate and substantial increase in compensation.

So we are looking for your decision to be made with a clear understanding of our circumstances and the appreciation of the fact that a substantial increase next year is the only fair manner of catching up. The Legislature remains in violation of our constitution as determined last year by New York's Court of Appeals, which held that inaction on salaries threatens the structural independence of the Judiciary, and creates a negative impact on the diversity of judges. By recommending that judicial salaries for 1,200 judges be fully corrected next year, this independent Commission can remedy the Legislature's serious breach of its

constitutional duties and bring fairness to an entire coequal branch of our government at the modest cost of increasing the state budget by only a small fraction of one percent. If this is not the result, then the injustice is compounded in the next four years, and New York State - a world economic center that presents complex legal issues for our courts - will not have reasserted itself as a leader in judicial governance.

Thankfully, we have the seven of you to analyze the data, apply all the factors, recognize the injustice, and - in an independent manner based on facts and fairness - establish a level of judicial compensation that is fair and just to judges and appropriate for the citizens of this state, who not only expect, but also deserve, a Judiciary of the highest caliber, functioning at its best.

Thank you for your time and work, and the opportunity to appear before you.