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**STATEMENT BEFORE THE JUDICIAL COMPENSATION COMMISSION
ON BEHALF OF THE COALITION OF NEW YORK STATE JUDICIAL
ASSOCIATIONS JULY 19, 2011**

I am very honored to appear here today to speak on behalf of the Coalition of Judicial Associations in their request for a fair and entirely reasonable increase in judicial salaries.

I regard this as an issue of public morality and a correlative issue of public and practical policy that in my view are compelling.

I am not going to cite from the charts in the very comprehensive written presentations by the Coalition and by OCA and the New York City Bar Association that show the correctness and overwhelming justification for the salary requests that are being presented to you.

Instead I am mostly going to portray the issues in a microcosm by way of an illustration in a single case in a single case.

My granddaughter, Becky, 22 years old and fresh out of college in her first job in NYC was just called for jury duty, and lo and behold, was seated as juror number 2 in an armed robbery case. Of course, I did not invite her to violate the judge's instructions about not discussing the case until they had reached a verdict. And the verdict was convictions on 9 of 11 counts. After that, I asked Becky about her and her fellow jurors' experience. She was

exhilarated. She and her colleagues came out of the experience with enormous respect for the Administration of Criminal Justice in New York and for the judge who presided over the trial – his control over the process, his decisiveness in making rulings, his concern for the convenience of the jurors and the clarity of his instructions at the end of the case. They were very impressed that after the verdict was reached he came into the jury deliberation room to thank them for their service and to assure them that they got it right.

I thought to myself, first what an extraordinary amalgam of skills go into being an effective trial judge – forensic skills, in making split second rulings, analytical skills on the applicable law and procedure and rules of evidence, communicative skills and people skills, all are required. Then I further asked myself and I ask you how do you measure and compare the social value of what that judge did and does every day – the efficient, prompt processing of major criminal trials, demonstrating justice and fairness to the public and to jurors and even to the defendants. And how do you compare it, for example, to the social contribution of a first year associate at a large New York firm whose salary, not including bonuses is \$25,000 higher than that judge, or to a mid-level partner in that firm who perhaps was a law school classmate of that judge and is making upwards of a \$ million a year, or to a New York State law school

professor making well over \$200,000 on an eight month academic year and producing esoteric law review articles every three years. I am not trying to denigrate what they do, or to condemn the natural operation of free market forces that result on those levels of compensation, but just to make the comparison in terms of good to society and in those terms, something is quite amiss here.

And I ask that you invoke your utmost empathic powers and try to imagine how demeaning it must be, how damaging to that judge's feeling of self-worth, particularly his pride in providing a good quality of life for his family and the education of his children comparable to their peers and to see, year after year after year, that his reasonable and entirely justified expectations of fair compensation become a pawn in a power struggle between the executive and legislative branches of government and how any request for a raise of judicial salary is not considered on its merits but only as political cover for an increase in executive and legislative compensation. The judges are powerless in this political arena. To paraphrase the memorable line from Tennessee Williams' "they are dependent on the kindness of political strangers who owe them nothing and for whom they can do nothing."

So this Commission has a historic opportunity to right those wrongs of public morality and change the culture. The \$192,500 the judges are seeking is eminently reasonable and conservative. The judges are not seeking to be the highest paid in the country as New York judges once were. They are not even seeking to be fully restored to what they lost over the last 12 years. The figure they are seeking in fact reflects recognition that their justifiable expectations must take into account and it does take into account the financial circumstances of New York State at this time.

The \$78 million cost of that request is a drop in the fiscal bucket of New York State Government. And indeed, the difference in cost between a minimal increase in judicial salaries and a fair increase is an even smaller drop in the bucket.

So I strongly beseech you, do not put the judges through another disappointment, another painful sign of society's rejection of their contributions to the common good.

Now very briefly I want you to give some thought, as I know you will, to the equally compelling public and practical implications of the judicial salary issue. We see an increasing pattern of flight of the best and brightest judges from the bench. One out of ten in numbers

alone. There now is a growing market for able former judges in ADR, arbitrations and mediations and at the firms.

Even more disturbing is the question of their replacements. The compensation necessary to attract a high quality New York judiciary in the future. It used to be that successful practitioners capped off their legal careers by going on the bench. That's what Cardozo did.

The private sector source of able judicial recruits has steadily been drying up, as the charts show. An outstanding, successful practitioner would either have to be independently wealthy or an ascetic to want to go on the bench now. Even more so for highly skilled minority practitioners.

So that wonderful, diversified mix of judges from the public and private bars with substantial able minority representations that has served the State so well is at terrible risk and you have it within your power to reverse that trend, and it is imperative that you do so.

Thank you very much for letting me share these thoughts with you, and I wish you Godspeed.