



COUNTY JUDGES ASSOCIATION
OF
THE STATE OF NEW YORK

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HON. CRAIG J. DORAN
**Second Vice President &
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Ontario County Courthouse
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HON. PETER C. BRADSTREET
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EXECUTIVE COMMITTEE:

HON. GEORGE R. BARTLETT, III
Third Judicial District Rep.

HON. JOHN S. HALL, JR.
Fourth Judicial District Rep.

HON. BARRY M. DONALTY
Fifth Judicial District Rep.

HON. JOSEPH F CAWLEY
Sixth Judicial District Rep.

HON. JOSEPH W. LATHAM
Seventh Judicial District Rep.

HON. SARA S. SPERRAZZA
Eighth Judicial District Rep.

HON. VICTOR J. ALFIERI
Ninth Judicial District Rep.

HON. STEVEN M. JAEGER
Tenth Judicial District Rep.

TRANSMITTED VIA E-MAIL
HARD COPY TO FOLLOW

July 13, 2011

Hon. William C. Thompson, Jr.
Chairman, Special Commission on
Judicial Compensation
P. O. Box 7342
Albany NY 12224

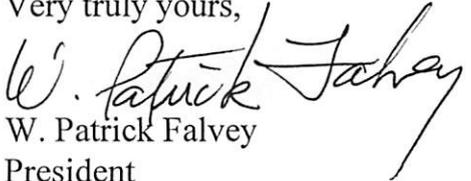
Dear Chairman Thompson:

Please forgive my redundancy in providing the County Judges Association's position. However, I note your website lists an address other than the one (State Capital, Executive Chamber, Room 239, Albany, NY) to which I previously sent our original submission. Therefore, I wanted to make sure you received our recommendations in the most timely fashion possible.

Enclosed please find for your consideration seven copies of the CJA's original submission.

Thank you for your consideration. I am

Very truly yours,


W. Patrick Falvey
President

WPF/mls
Enc.



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OF
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July 12, 2011

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To: The Honorable Members of the New York State Judicial
Compensation Commission

From: The County Judges Association of the State of New
York

Dear Chairman Thompson:

The County Judges Association of the State of New York (“CJA”) resolved at its June 10, 2011 annual meeting to submit recommendations to the New York State Judicial Compensation Commission (“Commission”) for inclusion in the latter’s deliberations pursuant to chapter 567 of the Laws of 2010.

Before setting forth our specific recommendations, we wish to acknowledge the in-depth and thorough presentation of the Coalition of New York State Judicial Associations (“Coalition”), filed with the Commission on June 13, 2011. While we write separately to express our institutional position, we would like the Commission to understand that we enthusiastically support the Coalition presentation and its recommendations in principle.

RECOMMENDATIONS OF THE CJA

The CJA believes that, in determining whether the salaries of State-paid judges warrant adjustment, and other matters bearing upon the compensation received by judges, the Commission must give particular attention to the extraordinary length judges have gone without pay adjustment, the nature of the duties and responsibilities borne by the judges of our many different courts, and the unique nature of the judicial office (including, especially, the fact that most judges enter their offices relatively late in their legal careers). We are confident that fair consideration of these factors will favorably dispose Commission members to give effect to the following recommendations:

1. The CJA urges that all State-paid judges be awarded a single significant pay adjustment, effective April 1, 2012, together with appropriate cost-of-living increases for the years 2013, 2014 and 2015; along with an appropriate retroactive adjustment — so that, going forward, judicial salaries do not again become victims of economic inflation. While we respect the fact that the State is facing fiscal challenges, we do not believe that — in light of the hundreds of millions of dollars the State has saved in withholding pay adjustments from judges for over 12-1/2 years (13-1/4 years by the time the Commission’s pay recommendations can first take effect) — it is in any way justifiable to minimize a judicial pay raise or phase it in over an extended period of time.

2. The CJA urges that, in determining such judicial pay adjustments as are warranted, the Commission should redress longstanding pay parity inequities between judges of the County Courts and Justices of the Supreme Court, and among the County Judges themselves. The County Court Bench of New York State consists of elected judges who serve in 57 of the State’s 62 counties, there being no County Courts in the five counties of New York City. Each County Judge, no matter where in the State he or she is elected, performs identical functions and has the same duties, most notably the exercise of felony jurisdiction. And, yet, since the State assumed responsibility for funding the courts in 1977 (L. 1976, c. 966), County Judges in all but Nassau, Suffolk and Westchester Counties have been paid widely-varying salaries that are less — often times significantly less — than those paid Supreme Court Justices. Thus, while Supreme Court Justices are today uniformly paid \$136,700 annually, County Judges are paid at one of seven different annual salary levels: \$136,700 (32 Judges, in 3 counties); \$131,400 (5 Judges, in 3 counties); \$127,000 (2 Judges, in 1 county); \$125,600 (24 Judges, in 7 counties); \$122,700 (3 Judges, in 2 counties); \$121,200 (2 Judges, in 1 county); and \$119,800 (59 Judges, in 40 counties). This broad range makes little sense. In New York City, where there are no County Judges, Supreme Court Justices preside either in civil cases or in felony parts. Regardless of assignment, they are paid the same salary. Outside the City, however, Supreme Court Justices generally only preside over civil cases, while County Judges preside in the felony parts. These Supreme Court Justices earn the same salary, regardless of the county in which they sit but County Judges earn salaries that vary depending upon the county in which they sit. This is unfair and without programmatic justification. Accordingly, as noted above, the CJA embraces the presentation of the Coalition, which includes the recommendation that County Judges be paid the same annual salaries as Justices of the Supreme Court.

The disparity between Supreme Court and County Court salaries is not the only pressing parity issue here. There also are significant disparity issues when salaries of County Judges around the State are compared to each other. Indeed, there is little logic in the particular salary plan that now applies to County Judges.

For example, the County Judges in Albany County earn \$131,400, or 96% of a

Supreme Court Justice's salary. Their County Court colleagues in neighboring Rensselaer, Schenectady, Saratoga and Columbia Counties, where caseloads and cost-of-living are effectively the same, only earn \$119,800, or 87% of a Supreme Court Justice's salary. Likewise, in Erie County, County Judges earn \$125,600, while their County Court colleagues in Niagara County, with similar demographics, caseloads and cost-of-living, earn but \$119,800. Circumstances are similar midstate, where County Judges in Monroe and Onondaga Counties earn \$125,600 while their colleagues in neighboring counties earn \$119,800. Beyond these clear anomalies, there are others. Notably, while in most upstate counties, the County Judge(s), Family Court Judge(s) and Surrogate(s) of a single county are all paid alike (*e.g.*, in Monroe and Orange Counties, they all earn \$125,600), there are several counties in which one of these county-level Judges is paid more than his or her colleagues in the same county (*e.g.*, in Onondaga and Dutchess Counties, the County and Family Judges earn \$125,600 while the Surrogates earn substantially more at \$135,800).

These disparities, and the many more that are part of the current salary statutes (*see* Judiciary Law §§221-d, 221-e and 221-f) are by no means the result of some prior comprehensive pay schedule fixed by the Legislature on the advice of policy makers inside or outside of the Judiciary. Rather, they result from the manner in which the State assumed responsibility for funding the courts back in the late 1970s. At that time, all of the judges who formerly were locally-paid, including the members of the CJA and their predecessors, were placed on the State payroll at the salaries they were then being paid by their respective localities. As some counties were more generous, some less generous, some with more resources, some with less, and as some of the affected judges enjoyed better (or worse) political relations with the funding officials in their respective counties, these salaries varied widely. Over the past 34 years, since the State inherited these salaries, the Legislature has failed to repair the resulting disparities, and such constitutional litigation as has been brought to challenge them has had only some limited success. The result is the salary hodgepodge that we here describe. If this Commission fails to redress the disparities, there is no real likelihood that they will ever be eliminated and fairness injected into the salary schedule.

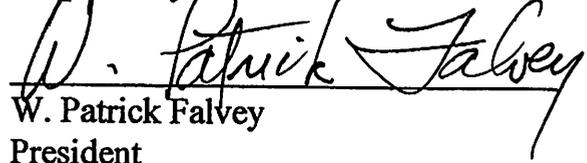
We call upon the Commission, at a minimum, to eliminate the wide salary disparities between judges of the county-level courts. We believe, because the County Judges of Westchester, Nassau and Suffolk Counties have long been paid the same salary as Supreme Court Justices, any disparity would be eliminated by paying all County Judges the same as Supreme Court Justices.

This is an even more equitable solution than the plan urged by former Chief Judge Judith Kaye in which County Judges' salaries would be no less than 95% of the Supreme Court Judges because in essence the disparity between the County Judges of Westchester, Nassau and Suffolk versus all other County Judges would continue.

3. The CJA urges that the Commission recommend to the Legislature the adoption of legislation to suspend existing provisions of the Retirement and Social Security Law that now limit the amount of a salary increase that may be credited to a year included in the computation of Final Average Salary for judges who retire within four years of any salary adjustment determined by the Commission. At present, the law limits the amount of any pay increase that a public employee receives during his last years of service that can be considered in the computation of the final average salary upon which his or her pension will be based. Given that judges have waited so long for a pay adjustment, and that the Constitution mandates that they retire in the year in which they reach age 70, this is a reasonable step. Without the option to remain longer in service in order to maximize a pension benefit — by taking full advantage of such pay raise as the Commission may grant — that pay raise will ultimately be of limited value to older judges, who already have had to bear the financial strain of 12-1/2 years with no pay adjustment.

4. The CJA also urges that the Commission recommend to the Legislature the adoption of legislation providing additional pension service credits to judges, active or retired, who were in office on or after 1999, when the last judicial salary increase took effect. This legislation would recognize that many judges have been forced to retire since the Judiciary last received a pay adjustment and provide them with equitable treatment. While they remained in service for as long as the Constitution allowed, these judges were unable to stay long enough to secure the benefit of the long-overdue pay adjustments that the enabling statute for the Commission sought to effectuate. Implementation of this recommendation (coupled with relief from maximum pension credit caps in the Retirement and Social Security Law where needed to permit full enjoyment of the additional pension service credits) would provide some compensation for the loss of the benefit of whatever pay adjustments this Commission chooses to determine.

Respectfully submitted,


W. Patrick Falvey
President