

NEW YORK STATE COMMISSION ON LEGISLATIVE
JUDICIAL AND EXECUTIVE COMPENSATION

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TRANSCRIPT OF PUBLIC MEETING

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November 3, 2015
New York City Bar Association
42 West 44th Street
New York, New York

APPEARANCES: SHEILA BIRNBAUM, CHAIR

HON. BARRY A. COZIER (Ret.)

ROMAN B. HEDGES (appeared telephonically)

GARY JOHNSON

HON. JAMES J. LACK (Ret.)

FRAN REITER (appeared telephonically)

TRANSCRIBER: DOREEN A. BOLOGNINI

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W I T N E S S E S

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No Witnesses Examined

E X H I B I T S

DESCRIPTION	I.D.	IN EV.
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No Documents Submitted/Received

1 [Audio CD, counter 12:22:11]

2 MS. BIRNBAUM: Okay everybody. My name
3 is Sheila Birnbaum. I've been appointed as the
4 head of this mission on Judicial, Executive and
5 Legislative compensation. It's a great honor for
6 me to serve in this position. This is our first
7 initial organizational meeting. We do not expect
8 to have any substantive discussions today, but to
9 discuss what our process will be and how we will
10 get to the next steps. So I'd like to introduce
11 my fellow Commissioners, starting on my right.
12 Jim.

13 MR. LACK: Jim Lack.

14 MR. JOHNSON: Gary Johnson.

15 MR. COZIER: Barry Cozier.

16 MS. BIRNBAUM: And on the telephone?

17 MS. REITER: Fran Reiter.

18 MR. HEDGES: Roman Hedges.

19 MS. BIRNBAUM: Okay. And one of our
20 Commissioners could not be here today, and that is
21 Mitra, and she will get a report. Then as you
22 know, this is being recorded and it will appear on
23 our website, so all of our meetings are open
24 meetings, and the public will be invited to them.
25 We do have a website now that will carry all of

1 the information, including meeting dates,
2 information. People will be able to respond by
3 sending in information using our website and there
4 will also be a mail number drop in order for
5 people who want to send things not by email but by
6 regular ordinary old mail. So we're open to all
7 of the more modern and the less modern means of
8 communications. Anybody want to make any comments
9 before we proceed to talk about what our goals are
10 and how we are going to go about getting the
11 information we need to make the decisions we need
12 to make? One of the big -

13 MR. HEDGES: This is Roman Hedges. I
14 just want to make a couple of points about the
15 sort of open meetings and notice and related
16 matters. I'm real frustrated. I certainly
17 couldn't attend today, but open meetings, that
18 doesn't actually work the way we're doing it
19 today. There is a requirement that the at-a-
20 distance participants, if there are such people,
21 be in a public meeting room with notice to that,
22 so the public could attend there and then be via
23 video, not audio. And so I'm just concerned that
24 we're not starting out in a good way with notice
25 and public meeting requirements being met, and I'm

1 just hoping that we'll attend to all those matters
2 as we go forward. I'm sure we will. I'm not
3 distrustful or concerned that way, but that we
4 really need to be very attentive to that.

5 MS. BIRNBAUM: I agree with you
6 wholeheartedly. The intent was, because of the
7 shortness of time and that the Governor's
8 appointees were just made last week, we wanted to
9 get started very quickly and we could not make
10 arrangements. But this is being videotaped. The
11 video will be on the website. But -

12 MR. HEDGES: I tried the website last
13 night and I could not get through. There was no
14 such website according to Google or using it
15 directly.

16 MS. BIRNBAUM: We'll certainly look into
17 that. Thank you for letting us know that. I was
18 talking with -

19 MR. HEDGES: And that's part of the
20 reason I was real concerned about the open
21 meetings part.

22 MS. BIRNBAUM: Okay.

23 MR. HEDGES: That those logistical
24 things trip us up if we're not really careful.

25 MS. BIRNBAUM: Okay. We will look into

1 that and my understanding was the website was up
2 and operating, and if it is not, it will be today
3 and somebody will get back to you to make sure
4 that you can get on it. But as I said, this is
5 being videoed and all of our other meetings will
6 be open and there will be simultaneous
7 transmission of that, so I'm glad you brought it
8 to our attention and this was just not meant to be
9 a substantive meeting. But you're right, all
10 meetings should be subject to the public and will
11 be. So -

12 MS. REITER: FYI Sheila, I just went
13 onto the website and it's fine.

14 MS. BIRNBAUM: Oh, okay good.

15 MR. HEDGES: Great.

16 MS. REITER: So it's up.

17 M. BIRNBAUM: Okay, that's good to know.
18 So the website is up and running and hopefully it
19 will continue to be up and running. As you know
20 we have to provide a report by December 31st, so
21 we are working in a very tight timeframe. And the
22 first issue I think is, when can we have a public
23 hearing and when can people start submitting or
24 submit to us any letters, reports, information
25 that they think we would need. And before the

1 meeting started, at least the people sitting in
2 the room, thought they could all do it on November
3 30th. I'd just tried to check with you on the
4 phone, Fran and Roman, if that date would work for
5 you. If it does, then we can get that out as soon
6 as possible.

7 MR. COZIER: And we assume it's in New
8 York City for those -

9 MS. BIRNBAUM: Yes.

10 MR. COZIER: - particularly for Roman.

11 MS. BIRNBAUM: Well the one question we
12 have is do we want to do one public hearing or two
13 public hearings, which we can do. We might be -
14 we could do one in Albany and one in New York. Or
15 because of the shortness of time, do we want to do
16 one in New York?

17 MR. COZIER: I just think one in New
18 York for the Judiciary. I would have a different
19 opinion for our next assignment.

20 MS. BIRNBAUM: Right, yes. Which we
21 have a lot more time for.

22 MS. REITER: I am okay on the 30th.
23 Just for your information, I live in Upstate New
24 York in Columbia County, so I would just request
25 that any meetings that we have, so that I don't

1 have to stay overnight the night before -

2 MS. BIRNBAUM: Right.

3 MS. REITER: - so early in the morning
4 so I can't get down on the train and to the
5 meeting.

6 M. BIRNBAUM: And what time would
7 usually be for you?

8 MR. REITER: Well it really takes, given
9 the current condition of Amtrak, I would say
10 10:30, 11:00 in the morning is fine. Anything
11 earlier than that becomes difficult.

12 MS. BIRNBAUM: Okay.

13 MR. LACK: Since I live in Dutchess, I
14 would agree.

15 MS. BIRNBAUM: So for these purposes,
16 Fran, is November 30th good for you?

17 MS. REITER: Yes, it's fine for me.

18 MS. BIRNBAUM: Okay.

19 MR. HEDGES: And this is Roman Hedges.
20 It would work for me as well.

21 MS. BIRNBAUM: Okay.

22 MR. HEDGES: And I have the same
23 logistical concern that Fran voiced. You know,
24 10:30, 11:00 is much better than any day earlier.

25 MS. BIRNBAUM: Okay, so why don't we

1 then say we will start at 11:00 a.m. to make it
2 convenient for everybody. If we have to we can
3 break for a short lunch, for a half hour lunch,
4 and continue for the rest of the day. I assume
5 we're going to have a number of people testifying.
6 So does that work for everyone then, November 30th
7 at 11:00?

8 MS. REITER: Works for me.

9 MS. BIRNBAUM: Great. And New York
10 City, are we all in agreement that we will call it
11 in New York City? And at least with the purposes
12 of the Judicial compensation, we will have one
13 meeting. And we will have, when we next meet, we
14 can figure out what the schedule will be for the
15 Legislative and Executive hearings. All right,
16 hearing nothing on the telephone, I assume that's
17 good for everyone.

18 MR. HEDGES: Yes.

19 MS. BIRNBAUM: The other date that I'd
20 like to lock in if we could, is a date to discuss
21 what the hearings are and our first substantive
22 discussions, and I was wondering if December 7th
23 would work for you all?

24 MR. COZIER: Ominous date, but fair
25 enough.

1 MS. BIRNBAUM: Okay.

2 MS. REITER: I think I'm okay.

3 MS. BIRNBAUM: Okay.

4 MR. HEDGES: Yes.

5 MS. BIRNBAUM: Okay, so let's plan on
6 December 7th. We will of course announce where it
7 will take place, but that will be an opportunity
8 for us to review everything, to see if we need any
9 additional information, and what I'll do is try to
10 set deadlines for us to see drafts after that and
11 when we will have a final report on this. So if
12 those dates work we will put them on our website.
13 We will make sure we have this place and spaces
14 for it and we will give you that information very
15 quickly. Okay. Is there any information or data
16 besides what you have already received which any
17 member of the Commission thinks they would like to
18 have? We will be distributing a list of the
19 salaries, an up-to-date list of the salaries in
20 all of the other States, and of course the Federal
21 Government, but all of the other States, and we'll
22 put that on our website as well. You all have the
23 Statute. Do you all have the Commission's report?
24 Is there any information that you think you would
25 like we would need before we fully even get

1 started? Anybody on the telephone?

2 MR. HEDGES: Yes. I have not received
3 anything yet from you with respect to information
4 other than that initial email which had the
5 Statute and the memo and things of that sort. But
6 in the way of information, I know that the last
7 Commission used Federal Court pay scales and
8 information about that, and that's great. Other
9 States particularly big States, other States,
10 Northeastern States, other big Governments and you
11 know, the big 5 Cities, would all be relevant
12 information with respect to what's comparable.
13 And that would certainly apply to the Judicial pay
14 structure, but going forward, to the pay
15 structures for others that we'll be needing to
16 look for. It would seem to me that information
17 from all those different jurisdictions, the most
18 comparable structures would be quite relevant and
19 very helpful.

20 MS. BIRNBAUM: Yes, and I think we're in
21 agreement and that should be coming to you in the
22 next day or two. That's been revised and put
23 together, so that is up to date and I think we'll
24 do it in two ways. One, they'll be every State,
25 but then also we'll try to do it by the bit

1 States. I'm not sure we can do it by City, but
2 we'll look into that as well. So you should have
3 that in a day or two and I think that will be very
4 helpful.

5 MR. COZIER: May I suggest -

6 MR. HEDGES: One other -

7 MR. COZIER: Oh I'm sorry, go ahead.

8 MS. BIRNBAUM: Go ahead.

9 MR. HEDGES: One other piece of
10 background information that would be quite helpful
11 would be what the Consumer Price Index
12 calculations are year by year for the period of
13 time that we're interested in. In the case of
14 Judicial, I think probably it's okay to use a
15 relatively short timeframe because their pay has
16 been adjusted more recently. But for the others,
17 I think back to at least the last time they got a
18 pay raise, if not before, would be helpful as
19 well.

20 MS. BIRNBAUM: Okay. What do you
21 suggest for the Judicial, 3 or 4 years out?

22 MR. HEDGES: Well at least since their
23 last formal adjustment, but I think perhaps a few
24 years before that would be great.

25 MS. BIRNBAUM: Okay.

1 MR. HEDGES: And I think the technical
2 measure that people are most likely to find
3 acceptable is what's called the Consumer Price
4 Index for Urban areas, CPI-U.

5 MS. BIRNBAUM: Great.

6 MR. COZIER: I think it should also be
7 in comparison standard of living data, not just
8 absolute dollars.

9 MS. BIRNBAUM: Mm-hm.

10 MR. COZIER: But what type is in effect
11 in terms of New York versus what it costs to live
12 in other States, which will change the -

13 MS. BIRNBAUM: Considerably.

14 MR. COZIER: Consider - well, after all
15 we are in New York -

16 MS. BIRNBAUM: Yeah.

17 MR. COZIER: - and there is - that's
18 part of the data we have to consider.

19 MS. BIRNBAUM: Anything else? That data
20 will all be gathered and get to you as quickly as
21 we can. Any other information? Okay, that's
22 terrific. So, and as soon as we pick other dates
23 for other meetings we will post them on our
24 website and every meeting will be a public
25 meeting. Anything else on information or

1 scheduling from any of the Commissioners? All
2 right, just some housekeeping information. If we
3 check here in New York, they'll get, if you
4 haven't already, everyone's names, email address
5 and telephone number. If you, Fran and Roman, can
6 just check and make sure that it's accurate, that
7 would be helpful. And the other thing, our
8 website is www.nyscommissioncompensation.org.

9 MS. REITER: Actually it's
10 commissiononcompensation.org.

11 MS. BIRNBAUM: You are so right. It is
12 commissiononcompensation.org. I'll read it again.
13 www.nyscommissiononcompensation.org. Thank you so
14 much. It's all those letters together that one
15 can miss.

16 MS. REITER: It's a long one.

17 MS. BIRNBAUM: It's a long one. The
18 other thing, if I can ask the Commissioners to
19 provide to me and I will get it to the people that
20 can put it on the website, a short biography that
21 you would like to see appear on the website. And
22 if you can get that in the next couple of days,
23 that would be helpful so we can have the website
24 up to date. The other thing is travel
25 reimbursement for those of you who are traveling.

1 I think I've been told, and if you think there's
2 any other difference or you don't agree, that you
3 will get reimbursement from whoever was on the -
4 whoever appointed you, so if the Legislature
5 appointed you, you would get reimbursement if the
6 Legislature appointed by the Governor, it would be
7 the Executive Branch. If you have any other
8 thoughts about that or adjustments or -

9 MR. COZIER: Just let me mention, thanks
10 to the Court system whose Ethics Committee I still
11 sit on, there's recent Rules on timely submission
12 of expense vouchers for those who are (inaudible)
13 and Ron, correct me if I'm wrong, I think it's a
14 30-day Rule after which hold your breath, you're
15 not getting anything.

16 MS. BIRNBAUM: Well, we - it's good to
17 know.

18 MS. REITER: Sheila, do we know to whom
19 we submit our travel receipts and vouchers and
20 everything to in each of the Branches?

21 MS. BIRNBAUM: I do not know but I will
22 have it checked and get back to you on it with
23 that information.

24 MS. REITER: Great. The other thing I
25 would just raise, just going back to scheduling of

1 meetings. Is it your intent to always do these on
2 Mondays?

3 MS. BIRNBAUM: No. It just happened to
4 be the dates that most people had available -

5 MS. REITER: Okay.

6 MS. BIRNBAUM: - when we started talking
7 about. No, not at all. In fact, what we ought to
8 do and we can do it here or we can do it by
9 telephone, we really ought to pick one or two more
10 dates in December. It seems to me that people
11 will be available, just to lock them in, so that
12 we're certainly going to need. Once the report
13 gets written in draft and circulated, we're
14 certainly going to need a meeting for everyone to
15 provide comments or discussions if there is any
16 disagreements. So I think we really need at least
17 two more dates. We may cancel one if necessary
18 but I think that would be helpful from a planning
19 stage.

20 MS. REITER: I would just say that
21 during - just generally speaking, it is easier for
22 me and certainly anyone whose, you know, who takes
23 a 3-day weekend or something -

24 MS. BIRNBAUM: Right.

25 MS. REITER: - it would be easier if the

1 meetings were on a Tuesday, Wednesday or Thursday.
2 Also, I'm down in the City for business purposes,
3 if I'm coming down at all, usually in the middle
4 of the week, so you know, it's not a deal breaker,
5 but it would certainly make my availability easier
6 if we were in the middle of the week.

7 MS. BIRNBAUM: All right, I think that
8 shouldn't be a problem at all. Should we try to
9 pick another date right now, at least one more?
10 If we're meeting on the 7th, how about - got to
11 get over to December for myself. We're meeting on
12 December 7th. Should we plan on a meeting the
13 week after?

14 MS. REITER: We can. That week, I am
15 leaving for London on the 16th and I am gone until
16 the 26th.

17 MS. BIRNBAUM: Now, that's a problem.
18 So we have to really -

19 MS. REITER: We can do it early that
20 week if you want, and in fact the 16th I will be
21 coming. I'm not leaving until very late at night,
22 so -

23 MS. BIRNBAUM: Would you prefer -

24 MS. REITER: - that would be a great day
25 for me because I'm coming down anyway and leaving

1 from one of the New York City airports.

2 MS. BIRNBAUM: Okay. Does December 16th
3 work for everyone else?

4 MR. JOHNSON: That's fine.

5 MR. LACK: Yes.

6 MR. COZIER: Yeah, that's fine.

7 MS. BIRNBAUM: Roman?

8 MS. HEDGES: That's fine.

9 MS. BIRNBAUM: Okay, so let's -

10 MR. HEDGES: Yes, that's fine.

11 MS. BIRNBAUM: - let's put down December
12 16th then for our meeting after that. And if we
13 need one more meeting to clean things up, you will
14 be away Fran, so we'll try to get everything done
15 by then. Otherwise, we are - the beginning of the
16 week of Christmas, I guess we could set the 21st.
17 Does that work if we needed it? I would hate to
18 go over to that week. We don't know if people
19 will be in town.

20 MR. JOHNSON: That's fine by me.

21 MS. BIRNBAUM: Fine by you?

22 MR. COZIER: Fine with me as well.

23 MS. BIRNBAUM: Jim?

24 MR. LACK: Yes, I can do the 21st.

25 MR. HEDGES: It would work.

1 MS. BIRNBAUM: Okay.

2 MR. HEDGES: Yes, it will work.

3 MS. BIRNBAUM: All right, so Fran, we'll
4 try to get it all done by the 16th but put the
5 21st aside as well if we're going to need it.

6 MS. REITER: Okay.

7 MS. BIRNBAUM: And that will give us
8 through Christmas. Some of us may still be
9 working on the report. A Christmas present. So
10 the 31st of December is on a Thursday so there's
11 some time the week after also to finish any
12 wordsmithing or anything like that that has to be
13 done. Okay, that's great. And all our meetings
14 will start at 11:00.

15 MS. REITER: Great.

16 MS. BIRNBAUM: Okay, we'll get those on
17 the website.

18 MR. HEDGES: Great.

19 MS. BIRNBAUM: Any other business? Any
20 other thoughts, comments? We thought this would
21 be, you know, a short meeting to get ourselves
22 organized and meet each other. Any other
23 business? Fran, Roman, anything else?

24 MS. REITER: No, I'm good.

25 MS. BIRNBAUM: And we will -

1 MR. HEDGES: No, that's it.

2 MS. BIRNBAUM: - and we will have
3 everything televised from here on in, at least on
4 the Web. Okay, thank you very much everybody.
5 And I'll look forward to meeting you all at the
6 public hearing. Thank you.

7 MR. HEDGES: Very good.

8 MS. BIRNBAUM: Thank you on the phone.

9 MS. REITER: Thank you.

10 MR. HEDGES: Bye-bye.

11 MS. BIRNBAUM: Bye-bye.

12 MS. REITER: Bye-bye.

13 (Off the record)

14 * * * * *

15 [Audio CD, counter 12:45:29]

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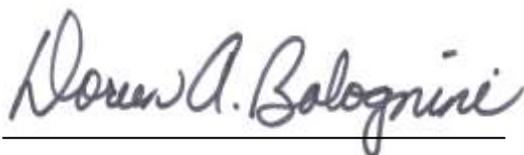
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C E R T I F I C A T E

I, Doreen A. Bolognini, certify that the foregoing transcript of proceedings of the New York State Commission on Legislative, Judicial and Executive Compensation, was prepared using the required transcription equipment and is a true and accurate record of the proceedings.



Doreen A. Bolognini

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