



November 30, 2015

Testimony

Presented at the Public Hearings

Before the

Special Commission on Legislative, Judicial and Executive Compensation

New York City Bar Association

Submitted by

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My name is Barry Bohrer and I am the Chair of the Fund for Modern Courts. Thank you for the opportunity to present testimony today in support of increased compensation for New York's judiciary – our third branch of government. I will not be addressing the compensation of the legislative or executive branches of state government because that falls outside the scope of our mission and focus as an organization.

The Fund for Modern Courts is an independent, nonpartisan statewide court reform organization, committed to improving the court system for the benefit of all New Yorkers who use our courts. We are pleased that the Governor and Legislature have created this Commission. We believe that a stable mechanism to provide for increased salaries and non-salary benefits for judges and justices of the state-paid courts of the Unified Court system and housing judges of the Civil Court of the City of New York at regular intervals is reasonable, fair and efficient. Such a mechanism will help to maintain the excellence of our current judiciary and to provide New Yorkers with a highly skilled judiciary into the future.

In 2010, Modern Courts was an active supporter of the creation of the first judicial compensation commission, which reviewed judicial compensation and non-salary benefits and made recommendations that increased judicial compensation for the first time since 1999.

We believe that an appropriately and fairly compensated judiciary is necessary to provide New Yorkers, who rely on the courts for the resolution of so many issues, with the opportunity of having their matters resolved by a well-qualified, experienced, and diverse judiciary.

It is clear to us that New York's judges and justices are not fairly compensated at this time, and we call on this Commission to make recommendations which will redress that problem.

New York State, which was once the nation's leader in judicial salaries for Supreme Court Justices, now ranks 47th out of the 50 states and the District of Columbia, when judicial salaries are adjusted to account for the cost of living, according to the 2015 Survey of Judicial Salaries prepared by the National Center for State Courts.

This fact simply cannot be reconciled with New York's status as a global economic and commercial capital and a state takes pride in its ability to provide access to justice for all.

We note that the 2010 Commission determined that the appropriate benchmark for setting the compensation of the New York State judiciary was to compare it to the compensation level of the Federal judiciary. Recognizing the importance of the New York State judiciary as a co-equal branch of government and the importance of establishing pay levels that demonstrate the value and respect accorded the judiciary, the 2010 Commission determined that the compensation of the New York judiciary should be commensurate with that of the Federal judiciary.

Consequently, the 2010 Commission determined that all New York State judges and justices should receive phased-in salary increases over three fiscal years starting on April 1, 2012. The goal was that State Supreme Court Justices would achieve parity with then Federal District Court judge salaries by the third fiscal year by increasing their annual salary to \$160,000 in fiscal year 2012-13; \$167,000 in 2013-14; and \$174,000 in 2014-15. All other judges of the state-paid courts of the Unified Court System and housing judges of the civil court of the City of New York received proportional salary increases.

Modern Courts believes that parity between Supreme Court Justices should be the standard this Commission uses. Notably, the compensation of Federal District Court judges is now \$201,100, having increased from \$174,000 in 2010, and will increase to \$203,100 on January 1, 2016.

We urge this Commission to increase compensation of State Supreme Court Justices to an amount equal to that received by Federal District Court judges, with all other judges receiving proportional salary increases. We believe this is reasonable and fair given the respective workloads and jurisdiction of those courts.

It is regrettable that, despite the positive actions of the 2010 Commission, compensation of New York's judiciary has not kept pace with the Federal judiciary and will not do so over the next four years if this Commission follows the example of the earlier Commission. We ask that you consider raising salaries of Supreme Court Justices to \$203,100 in fiscal year 2016-17, and provide for increases in that amount for subsequent years so that compensation of our state judiciary will keep pace with that of the federal judiciary.

Over the past few years, Modern Courts has focused on improving the operations of Family Court, with the view that improvements are essential for the well-being of families and children who rely on that court to resolve significant problems affecting their lives. Therefore, if you determine that the appropriate standard is to achieve parity between State Supreme Court Justices and Federal District Court judges, please be aware of the consequences to all other judges, including Family Court judges who in the past have received proportional salary increases in relation to the compensation level set for State Supreme Court Justices.

Given the continuing challenges of the economy, many more litigants in these difficult times are turning to the courts to resolve both family and financial problems. Most often these litigants are unrepresented, requiring the judiciary to take an ever more active role in the resolution of problems. Without an experienced and well-qualified judiciary, courts such as the Family Court and all those civil courts that deal with problems such as foreclosures, evictions and other economic conditions that affect our most needy citizens, it will be questionable whether these matters will be appropriately resolved.

In addition, an inadequately compensated judiciary has profound implications for New York's economy. Businesses rely on courts to resolve disputes efficiently and capably, and the quality of a state's court system is one factor that can attract or repel organizations deciding whether to do business in New York. New York is a center of international business and finance, and the commercial caseload facing our judiciary is particularly complex and demanding. New York needs an experienced and well-compensated judiciary to resolve those cases.

Modern Courts believes that fair and adequate compensation is needed in order to maintain the excellence that has always been the hallmark of New York's state judiciary, as well as to recruit future generations of New York judges. Simply put, retaining and recruiting diverse and highly-qualified individuals to serve as New York judges requires an overhaul of the judicial compensation system.

Therefore Modern Courts urges this Commission to make immediate and substantial compensation adjustments for all the judges and justices of the state-paid courts of the Unified Court System and Housing Judges of the Civil Court of the City of New York.

We also recommend that the Commission adopt a cost-of-living mechanism so that when judicial compensation is established by the Commission effective April 1, 2016, that compensation will not be eroded over the course of the next four years when a new compensation commission will be established.

Modern Courts is mindful of the economic and budgetary problems that face the State and recognizes that the Commission is charged with taking into account “the overall economic climate” of the State But the people of the state of New York need and deserve the best qualified judiciary, and increasing judicial compensation is money well-spent.

Respectfully Submitted,

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