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NYS Commission on Judicial, Legislative and
Executive Compensation
64 Beaver Street, Box 454
New York, NY 10004

Dear Honorable Commission Members:

On behalf of the New York State Association of City Court Judges, we are now asking for this Commission, at long last, to eliminate all *intra-court* judicial pay disparities and to fashion more appropriate pay relationships between judges of different courts.

In its final report, dated August 29, 2011, the first quadrennial judicial salary commission wrote: "[We have] determined that the appropriate benchmark at this time for the New York State's Judiciary is the compensation level of the Federal Judiciary." (*see* Final Report, Page 8.) We certainly agreed with that position and we hope that this Commission will retain it going forward. For now, however, we are most concerned as to what the Commission will recommend by way of compensation for the State's lower court judges. The 2011 commission recommended only that the latter receive pay adjustments preserving their existing salary relationships with Supreme Court justices. That disposition was very disappointing to all City Court judges as it continued what we long have believed to be *manifestly unfair intra and inter-court salary relationships*. Thus our hope is that the new salary commission can be persuaded to act where its predecessor did not and to *end pay disparities among lower court judges*, including City Court judges.

As you know, these disparities and the current *inter* court judicial pay relationships largely date from the late 1970s, when the State took over funding responsibility for the courts. At that time, judges became State employees at salary levels that had been fixed by their former local employers. Because some of these employers paid their judges more highly than did others, the result was that judges of the same court often were paid vastly different salaries; and that there was no coherent pay relationship between judges of different courts. While the State has granted judges numerous pay adjustments during the years since the funding takeover, these adjustments have invariably been straight percentage increases, which did nothing to change disparate pay relationships among judges. To be sure, over the same time period successful litigation by individual judges and groups of judges has mitigated some of the pay disparities; nonetheless, it remains the case that today, ***39 years after the funding takeover, the judicial pay schedule remains a hodge-podge, with dramatically different salaries for many judges of the State's 61 City Courts and***, we believe, disproportionate pay differentials between even the highest-paid City Court judges and judges of other courts – including some that exercise the same jurisdiction.

To illustrate the point: at present, the highest-paid full-time City Court judges earn \$150,600 annually – or 86% of the Supreme Court justice's \$174,000 salary. The lowest-paid full-time City Court judges earn \$138,500, or 79% of that Supreme Court justice's salary. Thus, even while all Supreme Court justices are paid the same annual salary, regardless of location or duties, there is a more than \$12,000 difference in salaries between the highest and lowest-paid full-time City Court judges.

Further, City Court judges exercise exactly the same jurisdiction as District Court judges, who all earn \$156,200 annually, and as judges of the New York City Criminal Court, who all earn \$159,900 annually.

The point is that today there are 169 City Court judges outside New York City. Together, they make up approximately 13% of the State judicial workforce. Add to their number the 186 county-level judges outside the City who earn less than their highest-paid county-level colleagues (who make the equivalent of a Supreme Court justice's salary), and you have at least 355 judges, or ***some 28% (or more than one-quarter) of the judicial workforce who remain disadvantaged by pay disparities*** inherited back in the 1970s. This is demonstrably unfair and we believe that we deserve the same level of fairness that we are mandated to provide daily throughout the State in our courtrooms..

Our belief is that former Chief Judge Kaye's salary recommendations dating back to 2005 represent a fair and reasonable means of providing a resolution to the problem that responsibly meets those concerns. Those recommendations were that county-level judges (Family and County Court judges and upstate Surrogates) be paid 95% of a Supreme Court justice's compensation, whatever it may be, and that full-time City Court judges be paid 90% of such justice's compensation. These recommendations were incorporated in every salary increase proposal delivered by the Judiciary to the Legislature between 2005 and 2010. Those efforts failed but not because of any legislative objection to the specifically proposed salary recommendations made by then

Chief Judge Kaye but rather due to a legislative unwillingness to attend to the judicial pay issue generally. We have no reason to believe that it is any more likely that there will be such objection today than there was a decade ago.

We understand that some take the view that the preferred way of remedying the State's judicial pay disparity problems is to amend the Constitution and merge New York's hodge-podge trial court structure. This we are told is the most logical, the most effective, way to address the problem. While we readily acknowledge that this argument has some merit, we think that, on any sober view of the political realities, merger of the trial court structure remains a politically elusive goal. Indeed, so elusive that *to defer reform of judicial pay disparities until that goal is attained is likely tantamount to accepting our disparity-riddled salary structure for the long term, if not permanently.* Hence, we urge that this Commission, given the present opportunity to fix our structure – to eliminate its unfair and inappropriate disparities – seize that opportunity, and not leave things to some future reform effort that may or may not ever come to pass.

On behalf of my colleagues across his great State I am asking this Commission to eliminate all *intra*-court judicial pay disparities and to fashion more appropriate pay relationships between judges of different courts.

Sincerely,



Hon. Thomas M. DiMillo
President
New York State Assoc. for City Court Judges