

Supreme Court  
of the  
State of New York



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New York State Commission on  
Legislative, Judicial & Executive Compensation

Dear Commissioners:

I write on behalf of the New York State Association of Acting Supreme Court Justices, an association of about 300 judges representing more than 20% of the state's judiciary, to urge the Commission to return to the federal benchmark.

Since 2019, our salaries have been frozen again, held hostage by disputes having nothing to do with judges or their pay.

Many of the State's current Acting Justices have been judges for the 17 years—including the past four—in which New York's judges received no pay increase, not even a cost-of-living increase. For example, I served for more than a dozen years in New York City courts (Housing, Civil, and Criminal) in which by cost of living our judges were, by far, America's lowest-paid judges. Other New York judges fared little better. During these difficult years, the State's best-paid judges ranked a miserly 47th nationally.

This treatment of New York's judges provoked a constitutional crisis and much litigation. It inflicted significant, unnecessary financial harm on many judges and affected recruitment of new judges. It caused the administration of justice in our great State to suffer.

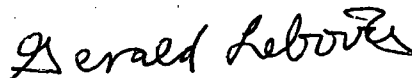
We urge this Commission to return immediately to the federal benchmark for five reasons:

- The 2019 Commission gave us no salary increase for these past four years. Because of that, New York judges have lost, compared to the base level of federal district judges, \$5,500 in 2020, \$7,700 in 2021, \$12,500 in 2022, and \$21,700 in 2023, or \$47,400, not including interest and the cumulative effect of these losses on judicial pensions.
- The public deserves and demands a quality and diverse judiciary that protects our rights and resolves our disputes. A good judiciary cannot rest on inadequate compensation.

- The Compensation Commission was created to end the judicial-salary crisis, not return us to further compensation crises by declining to meet the fair and easy-to-apply federal benchmark.
- The State has promised to re-establish the federal benchmark since 2011. At page 8 of its Report, the 2011 Commission explained why it unanimously recommended that New York pay its judges according to that benchmark. The Governor, Assembly, and Senate have many opportunities to veto the 2011 and 2015 Commissions' decisions to match the federal benchmark. It has never done so. The 2019 Commission undid years of effort and promises. The 2023 Commission should not repeat that error.
- Our request is modest:
  - We seek no pay increase; no location pay for different costs of living statewide; no seniority pay; no merit pay; no overtime; and no change to the current rules, which dictate residency requirements for most judges and forbid judges from earning extra money except in limited ways, such as teaching.
  - The federal benchmark itself is not federal parity. For example, our appellate judges have no parity. In 2019, our Chief Judge earned \$240,000 a year, while the U.S. Supreme Court counterpart earned \$270,700. In 2023, our Chief Judge still earns \$240,000 a year, while his federal counterpart now earns \$298,500. And although all federal judges (including retired judges) received retroactive pay with interest after the decision in *Beer v United States*, 671 F.3d 1299 (Fed Cir. 2012), we did not.
  - All we seek is a modified federal cost-of-living increase that comes with the federal benchmark. It is modified because it is based on the national average rate of inflation, not New York's higher rate; and because federal employee COLA increases go into effect on January 1, whereas under New York law our COLA increases do not go into effect until April 1.

The Association of Acting Justices thanks the Commission for its important service and hopes that all Commissioners will support our recommendation for the immediate return to the federal benchmark.

Respectfully submitted,



Gerald Lebovits  
President, Ass'n of Acting Supreme Ct. Justices