

**FINAL REPORT  
OF THE  
SPECIAL COMMISSION  
ON JUDICIAL  
COMPENSATION**

**AUGUST 29, 2011**

# SPECIAL COMMISSION ON JUDICIAL COMPENSATION

P.O. BOX 7342 - ALBANY, NEW YORK 12224

August 29, 2011

The Honorable Andrew M. Cuomo  
Governor of the State of New York  
State Capital  
Albany, New York 12224

The Honorable Dean Skelos  
President Pro Tempore of the New York State Senate  
Legislative Office Building, Room 909  
Albany, New York 12247

The Honorable Sheldon Silver  
Speaker of the New York State Assembly  
Legislative Office Building, Room 932  
Albany, New York 12248

The Honorable Jonathan Lippman  
Chief Judge of the State of New York  
20 Eagle Street  
Albany, New York 12207

Dear Governor Cuomo, Temporary President Skelos, Speaker Silver and Judge Lippman:

I am pleased to submit this report on behalf of the Special Commission on Judicial Compensation (the "Commission"). This report outlines the Commission's recommendations with respect to setting compensation for judges and justices of the State-paid courts of the Unified Court System.

The Commission has considered various factors in setting what we believe are appropriate judicial compensation levels in light of the State's current fiscal situation. The Commission received and considered many comments and letters, many of which are attached to and referenced in this report. All of the comments and submissions that have been received by the Commission may be found on the Commission's website: [www.judicialcompensation.ny.gov](http://www.judicialcompensation.ny.gov).

I believe the Commission has come to a reasoned and fair result to address the inequity that currently exists in judicial pay for the next four years. I would also like to highlight that judicial salary levels will be reviewed again in 2015 by another statutorily-created Commission.

I would like to commend the members of the Commission for their hard work, ideas, thoughtful discussion, and partnership while undertaking this important task. I am honored to have had the opportunity to work with each member of this Commission.

Respectfully submitted,

A handwritten signature in black ink that reads "William C. Thompson, Jr." The signature is written in a cursive style with a large, prominent 'W' and 'T'.

William C. Thompson, Jr.  
Chair

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## Members of the Special Commission on Judicial Compensation

**William C. Thompson, Jr.** is the Chair of the Judicial Compensation Commission. Currently, Mr. Thompson is the Chief Administrative Officer/Senior Managing Director at Siebert Brandford Shank & Co. In addition, he is the Chair of the Battery Park City Authority. From 2002 to 2009, Mr. Thompson served as Comptroller of New York City. Before being elected to public office, he was appointed to be Brooklyn's representative to the New York City Board of Education, where he later became President for five terms. In 1993, he was the Senior Vice President at an investment firm. From 1983-1992, Mr. Thompson was the Deputy Borough President of Brooklyn. He is a graduate of New York City Public Schools and Tufts University.

**Richard Cotton** is the Executive Vice President and General Counsel of NBC-Universal and Chairman of the U.S. Chamber of Commerce Coalition against Counterfeiting and Piracy. Mr. Cotton has been at NBC for more than 20 years, serving as General Counsel except for his service as president and Managing Director of CNBC Europe from 2000 to 2004. Prior to NBC, during the 1980's, he practiced law in Washington, DC, and then served as the President and CEO of HCX, Inc., a Washington-based management company. During the late 1970's, Mr. Cotton held several high-level positions in the U.S. Departments of Health, Education, and Welfare and Energy. In the early 1970's, he served as law clerk to Judge J. Skelly Wright on the US Court of Appeals for the DC Circuit and then to Justice William J. Brennan, Jr. on the US Supreme Court.

**William Mulrow** is a Senior Managing Director at Blackstone. He has also been Chairman of Sterling Suffolk Racecourse LLC since August 2007. He was a Director of the Federal Home Loan Bank in New York City, the Municipal Assistance Corporation and the United Nations Development Corporation. In addition, Mr. Mulrow has served on the Boards of several academic institutions including the State and Local Government Center at the Kennedy School of Government at Harvard University, the Maxwell School for Public Affairs at Syracuse University and the Fordham Preparatory School in the Bronx. Mr. Mulrow earned his BA from Yale University and his MPA from Harvard University's John F. Kennedy School of Government.

**James Tallon, Jr.** is President of the United Hospital Fund of New York. Prior to joining the Fund in 1993, he represented Binghamton and parts of Broome County in the New York State Assembly for nineteen years. Mr. Tallon is currently chair of The Commonwealth Fund, and he chairs the Kaiser Commission on Medicaid and the Uninsured. Mr. Tallon serves as Secretary/Treasurer of the Alliance for Health Reform and also serves on the boards of the Institute on Medicine as a Profession and the New York eHealth Collaborative. In addition, Mr. Tallon is a member of the advisory board for the Jonas Center for Nursing Excellence and the New York State Board of Regents. He headed the Health Care Policy Advisory Committee during the transition period in 2006 and led the 1998-99 planning process which established the National Quality Forum. Mr. Tallon is a former member of the boards of the Joint Commission on Accreditation of Healthcare Organizations and the Center for Health Policy Development.

**\*\*Robert B. Fiske, Jr.** is Senior Counsel at Davis Polk & Wardwell LLP, the firm he joined upon graduation from law school. He graduated from Yale University in 1952 and the University of Michigan Law School in 1955. Mr. Fiske was an Assistant United States Attorney in the Southern District of New York from 1957 to 1961. He was appointed United States Attorney for the Southern District of New York by President Gerald Ford in 1976 and served in that position until 1980. While United States Attorney, he served as Chairman of the Attorney General's Advisory Committee of the United States Attorneys. He also served as Independent Counsel in the Whitewater investigation from January to October 1994. He has served as Chairman of a Judicial Commission on Drugs and the Courts appointed by former New York State Chief Judge Judith S. Kaye and as a member of the Commission for the Review of FBI Security Programs (Webster Commission). Mr. Fiske is a past President of the American College of Trial Lawyers and of the Federal Bar Council. He has served as Chairman of the Standing Committee on Federal Judiciary of the American Bar Association and as Chairman of the Planning and Program Committee of the Second Circuit Judicial Conference.

**\*\*Kathryn S. Wylde** is President and CEO of the nonprofit Partnership for New York City. She joined the Partnership in 1982, serving as President and CEO of both the New York City Investment Fund and the Housing Partnership Development Corporation. Ms. Wylde is also the Deputy Chair of the Board of the Federal Reserve Bank of New York, and serves on a number of boards and advisory groups, including the Mayor's Sustainability Advisory Board, NYC Economic Development Corporation, NYC Leadership Academy, the Research Alliance for NYC Public Schools, the Manhattan Institute, the Lutheran Medical Center, the Sila Calderon Foundation and the Independent Judicial Election Qualification Commission for the First Judicial District.

**\*\*Mark S. Mulholland** is Managing Partner at Ruskin Moscou Faltischek and a senior member of the firm's Litigation Department. Prior to joining the firm in 1991, Mr. Mulholland was at Willkie Farr & Gallagher in their commercial litigation department. He also served as a Captain in the U.S. Army Judge Advocate General's Corps and was the Senior Defense Counsel at the National Training Center at Ft. Irwin, California. In addition, he has served as Special Assistant to the U.S. Attorney for the Central District of California. Mr. Mulholland was elected as a Board Member of Brookhaven Memorial Hospital Medical Center in 2008. He served as a Trustee and Vice President of the Board of Education in his home village in the Town of Babylon, was selected to serve as a Board Member of the Long Island Aquarium and was appointed a Public Member of the New York Mercantile Exchange Adjudication Committee. He is a member of the New York State Bar Association, the Nassau County Bar Association and the Suffolk County Bar Association. Mr. Mulholland is a frequent contributor to the *New York Law Journal* and serves as a Mediator in the Eastern District of New York's Federal Court Mediation Program. Mr. Mulholland earned his BA, cum laude, from the University of Notre Dame and his JD, cum laude, from the State University of New York at Buffalo.

**\*\* Denotes members of the Commission that opposed the final recommendations of the Commission and did not join in this report. Each dissenting member has submitted dissenting statements, which are attached to this report as Part Two.**

**PART ONE**  
**FINAL REPORT OF THE COMMISSION**

**I. Introduction**

A diverse and thriving judiciary is central to every aspect of society. New York State is home to some of the most celebrated jurists and we must ensure that it continues to attract top talent to the bench. One way to ensure this is by adequately paying our judges. However, for several years, the State has failed to increase judicial pay and as a result, the State has started to lose some of its judicial talent. At the same time, the economy is faltering and the State is facing an unprecedented budget crisis, both of which have affected every citizen of the State. Therefore, the mandate of this Commission must be to balance these facts, objectively review current judicial salaries and bring them to a level that is fair and reasonable in light of the current economic climate.

**II. Statutory Mandate**

Chapter 567 of the Laws of 2010 created the Special Commission on Judicial Compensation (“Commission”) to “examine, evaluate and make recommendations with respect to adequate levels of compensation and non-salary benefits for judges and justices of the state-paid courts of the unified court system.”<sup>1</sup> The Commission consists of seven members: three members are appointed by the Governor, including the Chair; two members are appointed by the Chief Judge of the Court of Appeals; one member is appointed by the Temporary President of the Senate; and one member is appointed by the Speaker of the Assembly.

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<sup>1</sup> See Chapter 567 of the Laws of 2010. (Appendix A).

The Commission must make its final, binding recommendations to the Governor, Legislature and Chief Judge of the State within 150 days of establishment.<sup>2</sup> After issuing its final report, the Commission will dissolve. However, a new commission will be established every four years to review and make recommendations with respect to State judicial compensation.

Pursuant to its statutory authority, the Commission must take a variety of factors into consideration in making its final recommendations, including, but not limited to:

- The overall economic climate;
- Rates of inflation;
- Changes in public-sector spending;
- The levels of compensation and non-salary benefits received by professionals in government, academia and private and nonprofit enterprise; and
- The State's ability to fund increases in compensation and non-salary benefits.

### **III. Findings & Recommendations of the Commission**

In furtherance of its statutory mission, the Commission held meetings in New York City on July 11, August 8, and August 26, 2011 and a public hearing in Albany on July 20, 2011. The Commission received a number of written submissions, comments and testimony, which, in addition to the Commission members' independent research and thought, provided information relevant to the required statutory considerations and greatly informed these final

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<sup>2</sup> The recommendations are deemed binding unless superseded by legislative action.

recommendations. The following sets forth the findings of the Commission with regard to setting judicial compensation levels for New York State and reflects the final vote of the Commission held on August 26, 2011.

a. *Most Recent Judicial Salary Increase*

The State became responsible for paying all judicial salaries pursuant to the Unified Court Budget Act, enacted in 1977.<sup>3</sup> Since 1977, the State has increased judicial salaries only six times, with the last increase taking effect in 1999.<sup>4</sup>

In 1997, prior to the most recent judicial salary increase, then-Chief Judge Judith Kaye established a special Commission to review the Compensation of New York State Judges. In 1999, the New York State Legislature enacted the recommendations of that judicial commission, with the salaries of State Supreme Court justices set to the United States District Court level of \$136,700.<sup>5</sup> However, while District Court Judges have received several raises since 1999, and are currently paid an annual salary of \$174,000, judges in New York State have received no salary increase since 1999. Current judicial salary levels for the Court of Appeals, Intermediate Appellate Courts, Court of Claims, Supreme Court and various countywide and citywide courts are set forth below:<sup>6</sup>

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<sup>3</sup> See Chapter 966 of the Laws of 1976.

<sup>4</sup> A comprehensive history of judicial salary adjustments since 1977 may be found in the Office of Court Administration's "Submission to the 2011 Commission on Judicial Compensation," (the "OCA Submission"), Supplemental Appendix at 23-43. (Appendix C).

<sup>5</sup> See Chapter 630 of the Laws of 1998.

<sup>6</sup> See N.Y. Judiciary Law Article 7-B. Salaries for judges in countywide & citywide courts vary by jurisdiction. A comprehensive listing of those salaries may be found in the OCA Submission, Supplemental Appendix at 12-21. (Appendix C).

<b>Statewide Courts</b>	<b>Salary</b>
<b>Court of Appeals</b> Chief Judge: Associate Judge:	\$156,000 \$151,200
<b>Appellate Division</b> Presiding Justice: Associate Justice:	\$142,700 \$139,700
<b>Appellate Term</b> Presiding Justice: Associate Justice:	\$142,700 \$139,700
<b>Supreme Court</b> Justice:	\$136,700
<b>Court of Claims</b> Presiding Judge: Judge:	\$144,000 \$136,700
<b>Countywide and Citywide Courts</b> Judge (various):	\$27,200 - \$136,700

b. *Salary Comparisons*

The Commission has considered the salary levels of other New York State officials and employees as well as judicial salaries in other states.<sup>7</sup> For example, annual salaries of other top New York State officials are as follows: the Governor (\$179,000); the Attorney General (\$151,500);<sup>8</sup> State Comptroller (\$151,500);<sup>9</sup> Members of the Legislature (\$79,500 plus a per diem);<sup>10</sup> and Executive Commissioners (maximum of \$136,000).<sup>11</sup>

<sup>7</sup> A salary list of various New York State employees can be found in the Coalition of New York State Judicial Associations' "Presentation to the New York State Judicial Compensation Commission," June 10, 2011 (the "Coalition Submission") at 102-115. A salary list of salaries of New York City lawyers in private practice and physicians can be found in the Coalition Submission, at 133-137. (Appendix D).

<sup>8</sup> See N.Y. Exec. Law Section 60.

<sup>9</sup> See N.Y. Exec. Law Section 40.

<sup>10</sup> See N.Y. Exec. Law Section 5. Note that members of the Legislature work on a part-time basis.

<sup>11</sup> See N.Y. Exec. Law Section 169.

Annual salaries of the judges at the trial court level in the northeast are as follows: New Jersey (\$165,000); Pennsylvania (\$164,602); Connecticut (\$146,780); and Massachusetts (\$129,624).<sup>12</sup> The current annual salary of a U.S. District Court judge is \$174,000.

*c. Other Factors*

Many of the submissions received by the Commission detail the economic harm that has befallen New York's judges as a result of the stagnated pay and highlighted the State's need for a fairly compensated judiciary.<sup>13</sup> For example, as a result of the lack of salary increases for the past twelve years, pay for New York's Supreme Court justices currently ranks twenty-first in the nation and last in the nation when salary is adjusted for cost of living.<sup>14</sup> Cost of living, as determined by the Consumer Price Index – Northeast Urban Region ("CPI-U")<sup>15</sup> has increased by approximately 41 percent since 1999.<sup>16</sup> Over the same period, caseloads for State judges have also steadily increased.<sup>17</sup>

However, notwithstanding the above, the Commission must also be mindful of the current economic climate of the State. The State has and will continue to face multi-billion dollar budget gaps, with a projected deficit of \$2.5 billion next year.<sup>18</sup> In determining an appropriate judicial salary increase, the Commission must take into account how that increase will affect the State's financial situation.

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<sup>12</sup> See OCA Submission, Supplemental Appendix at 64-66. (Appendix C).

<sup>13</sup> See Commission website for all submissions received: [www.judicialcompensation.ny.gov](http://www.judicialcompensation.ny.gov).

<sup>14</sup> See OCA Submission at 16. (Appendix B).

<sup>15</sup> U.S. Department of Labor, Bureau of Labor Statistics.

<sup>16</sup> See OCA Submission at 13. (Appendix B).

<sup>17</sup> See Coalition Submission at 16. (Appendix D).

<sup>18</sup> See Testimony of Robert Megna, Director of the Division of the Budget, July 20, 2011 (the "Budget Submission"), at 2-3. (Appendix E).

It is also important to note that the Commission's enacting statute provides for review of judicial salaries every four years, ensuring that judicial salaries will be reevaluated for adequacy on a regular basis going forward.

d. *Recommendations*

The Commission has determined that the appropriate benchmark at this time for the New York State judiciary is the compensation level of the Federal judiciary. The Commission recognizes the importance of the New York State judiciary as a co-equal branch of government and recognizes the importance of establishing pay levels that make clear that the judiciary is valued and respected. The Federal judiciary sets a benchmark of both quality and compensation – New York State should seek to place its judiciary on par. That is where New York State judicial compensation was in the late 1990's and our recommendation is to re-establish this benchmark with a phase-in period that takes account of the State's current financial challenges.

For the foregoing reasons, the Commission has determined that all New York State judges shall receive phased-in salary increases over the next three fiscal years, starting on April 1, 2012, with no increase in fiscal year 2015-16. State Supreme Court Justices will achieve parity with current Federal District Court judge salaries by the third fiscal year and will be paid an annual salary of \$160,000 in fiscal year 2012-13, \$167,000 in 2013-14 and \$174,000 in 2014-15. All other judges will receive proportional salary increases. Increases for each judicial salary level in each fiscal year will be as follows:<sup>19</sup>

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<sup>19</sup> Salary chart prepared by the Office of Court Administration.

<u>Court</u>	<u>April 1, 2012</u>	<u>April 1, 2013</u>	<u>April 1, 2014</u>
<b>Court of Appeals</b> Chief Judge: Associate Judge:	\$182,600 \$177,000	\$190,600 \$184,800	\$198,600 \$192,500
<b>Appellate Division</b> Presiding Justice: Associate Justice:	\$172,800 \$168,600	\$180,400 \$176,000	\$187,900 \$183,300
<b>Appellate Term</b> Presiding Justice: Associate Justice:	\$167,100 \$163,600	\$174,400 \$170,700	\$181,700 \$177,900
<b>Administrative Judges</b> Dep. CAJ (NYC): Dep. CAJ (outside NYC): AJ (in NYC; Jud. Dist.; county):	\$168,600 \$168,600 \$165,700	\$176,000 \$176,000 \$172,900	\$183,300 \$183,300 \$180,200
<b>Supreme Court</b> Justice:	\$160,000	\$167,000	\$174,000
<b>Court of Claims</b> Presiding Judge: Judge:	\$168,600 \$160,000	\$176,000 \$167,000	\$183,300 \$174,000
<b>County Court</b> Earning \$136,700 on 3/31/12: Earning \$131,400 on 3/31/12: Earning \$127,000 on 3/31/12: Earning \$125,600 on 3/31/12: Earning \$122,700 on 3/31/12: Earning \$121,200 on 3/31/12: Earning \$119,800 on 3/31/12:	\$160,000 \$153,800 \$148,700 \$147,100 \$143,700 \$141,900 \$140,300	\$167,000 \$160,600 \$155,200 \$153,500 \$149,900 \$148,100 \$146,400	\$174,000 \$167,300 \$161,700 \$159,900 \$156,200 \$154,300 \$152,500
<b>Family Court</b> Earning \$136,700 on 3/31/12: Earning \$127,000 on 3/31/12: Earning \$125,600 on 3/31/12: Earning \$119,800 on 3/31/12:	\$160,000 \$148,700 \$147,100 \$140,300	\$167,000 \$155,200 \$153,500 \$146,400	\$174,000 \$161,700 \$159,900 \$152,500
<b>Surrogate's Court</b> Earning \$136,700 on 3/31/12: Earning \$135,800 on 3/31/12: Earning \$129,900 on 3/31/12: Earning \$125,600 on 3/31/12: Earning \$121,200 on 3/31/12: Earning \$119,800 on 3/31/12:	\$160,000 \$159,000 \$152,100 \$147,100 \$141,900 \$140,300	\$167,000 \$166,000 \$158,700 \$153,500 \$148,100 \$146,400	\$174,000 \$172,900 \$165,400 \$159,900 \$154,300 \$152,500
<b>Civil Court of NYC and Criminal Court of NYC</b> Judge of the Civil Court: Housing Judge of the Civil Court: Judge of the Criminal Court:	\$147,100 \$135,100 \$147,100	\$153,500 \$141,000 \$153,500	\$159,900 \$146,900 \$159,900

<b>District Court</b>			
Pres., Bd. Of Judges (Nassau):	\$148,600	\$155,100	\$161,600
Judge (Nassau):	\$143,700	\$149,900	\$156,200
Pres., Bd. Of Judges (Suffolk):	\$148,600	\$155,100	\$161,600
Judge (Suffolk):	\$143,700	\$149,900	\$156,200
<b>City Courts outside NYC</b>			
Earning \$119,500 on 3/31/12:	\$139,900	\$146,000	\$152,200
Earning \$118,300 on 3/31/12:	\$138,500	\$144,600	\$150,600
Earning \$116,800 on 3/31/12:	\$136,800	\$142,700	\$148,700
Earning \$115,100 on 3/31/12:	\$134,800	\$140,700	\$146,600
Earning \$113,900 on 3/31/12:	\$133,400	\$139,200	\$145,000
Earning \$108,800 on 3/31/12:	\$127,400	\$133,000	\$138,500
Earning \$81,600 on 3/31/12:	\$95,600	\$99,700	\$103,900
Earning \$54,400 on 3/31/12:	\$63,700	\$66,500	\$69,300
Earning \$27,200 on 3/31/12:	\$31,900	\$33,300	\$34,700

## PART TWO

### DISSENTING STATEMENTS

#### I. Dissenting Statement of Robert B. Fiske, Jr.

Taking all of the statutory factors into account, I have said that the sensible and fair solution would be to increase salaries, as of April 1, 2012 to \$195,754 – the level that judges would be at if they had received a cost-of-living increase every year since 1999 – with annual cost-of-living increases over the next three years. Mindful of the Legislature’s instruction to consider rates of inflation and the state’s economic condition, an increase to \$195,754 would do no more than restore to judges the purchasing power that they had in 1999. It would not compensate for the \$330,000 that a judge on the bench since 1999 has lost as a result of the salary freeze, it would not amount to any sort of a raise, as that term is commonly understood, and it would still leave New York in the bottom half of all states in judicial compensation when adjusted for cost-of-living.

Nonetheless, I cannot say that the views of the majority of the Commission that the state judges should be restored to parity with the federal judges are unreasonable. I could accept parity with federal judges, but not the phase-in proposed by the majority. The phase-in only compounds the financial injury that state judges have experienced over the last twelve years, and particularly hurts judges approaching retirement, most of whom have served on the bench for the entire length of the salary freeze. And I concur with the statement of Commissioner Kathryn Wylde concerning the symbolic importance of an immediate increase to the federal level.

No discussion of the state’s ability to fund increased judicial compensation can be complete without noting what the state has saved by failing to adjust judicial salaries for twelve

years. Since 1999, by not giving judges appropriate cost-of-living increases, the state has saved approximately \$515 million to spend in other areas. Increasing judicial salaries to \$195,754 would cost a fraction of that amount – \$75 million (less than 15%) – and immediately restoring parity with federal judges would cost even less. I also believe that judges should have received a cost-of-living increase in 2015 to ensure that judicial salaries maintain their spending power.

New York's judges have been underpaid for more than a decade. While salaries have remained stagnant, caseloads have climbed, leading to a significant increase in the number of judges leaving the bench. I regret that the Commission's recommendation does not go far enough in compensating the state's judiciary or in remedying a constitutional violation twelve years in the making.

## **II. Dissenting Statement of Kathryn S. Wylde**

The report of the Judicial Compensation Commission presents a reasonable and fair recommendation for judicial salary increases, taking account of the difficult fiscal and economic conditions facing New York State. The decision to bring state judges into parity with their federal counterparts over three years, however, does not provide the immediate redress that New York's judiciary hoped for and, I believe, deserve. For twelve years, judicial salaries were held hostage to tangential considerations, exposing judicial leadership to public humiliation and diminishing their status. Ultimately, the judiciary was forced to sue the state in order to enforce its constitutional position as an independent, co-equal branch of government. In public testimony, letters and reports, the judiciary made clear to the Commission that the long struggle for fair compensation was not just about money, but equally about the extent to which the judiciary is valued and respected by the citizens of New York State. I voted no on the recommendation of the Commission because I believe that immediate action to restore state judges to the compensation level of their federal counterparts would have made a more powerful statement about the critical importance to the state of a strong, highly qualified and independent judiciary.

### **III. Dissenting Statement of Mark S. Mulholland**

New York's trial judges should be paid \$192,000 annually. While I of course welcome any reasonable salary increase for New York's judiciary, I oppose the Commission's Report because it falls short of the mark. Slowly creeping judicial salaries up until 2014, only to reach an already outdated federal benchmark of \$174,000, is insufficient.

This Commission was created to ensure the economic independence of New York's judiciary. Despite being a co-equal branch of our tripartite government, New York's judiciary is powerless to set its own pay. Judges have suffered powerlessly for twelve years while the Executive and Legislative branches have failed to agree to mete out even basic cost of living adjustments. Had they done so, New York's judges today would fairly be paid over \$192,000 annually. The Commission fails its essential purpose by declining to propose an immediate adjustment to this level. Restoration would have signaled soundly that at last New York's judges are free from the shackles of politics.

The Commission ought to have recommended an annual trial-level salary of \$192,000 for 2012, with consistent cost of living adjustments to follow. None of this would be a "raise" as the term is commonly used. The adjustment would simply have returned New York's judges to 1999 levels. But it would have ended an embarrassing era during which our judges have earned less than any other judges nationwide on a cost-adjusted basis, less than countless professionals within and without government, less than first-year law associates, and less even than the senior clerks who work for them.

But rather than seize the moment, the Commission is recommending an adjustment that will pay our judges in 2014 the same salary paid to federal judges in 2007. This, despite that the

federal level has been heavily criticized as out-of-date for three years already – and will be even more seriously stale come 2014. Our mission was to end the neglect – not perpetuate it.

I discount the comments submitted to the Commission by the Governor’s Budget Director, Robert Megna. He stated incorrectly that our judges should be paid and treated as other State officers and employees, without regard to their judicial status. He thus ignored or failed to understand that the Commission’s job was to ensure the economic independence of the Judiciary as a co-equal branch of government. We were required specifically to consider the judiciary’s unique status – not ignore it. The Budget Director’s analysis was wrong too as regards New York’s ability to pay a fair salary, with a legitimate increase equaling less than 58 one thousandths of one percent of the total state budget. Mr. Megna admitted New York could cover the cost if need be. Our judges have already paid over \$500 million toward the cost, through their salary forfeitures suffered since 1999. Judges would pay for the small increase going forward, too, without doubt, based on evidence that the Commission received regarding the role judge’s play in attracting corporate activity to New York. The budget issue is a red herring, and does not excuse the Commission’s failure to cure the problem it was created to correct.