

From: Catherine Wilson
Sent: Tuesday, July 12, 2011 4:04 PM
To: contact@judicialcompensation.ny.gov
Cc: Kim Lurie
Subject: OCA has been giving judges raises all along via other methods - double-dipping of pensions, increases in expense reimbursements, payments for committee memberships, extra pay for serving in other courts, elimination of contributions for benefits

Importance: High

Mr. Thompson, Mr. Cotton, and Mr. Mulrow:

OCA is being creative with their math when alleging that judges have not received any raises since 1999 – their statements are referring to base salary only. **In reality, total judicial compensation has skyrocketed since 1999, thanks to creative (and non-statutory) accounting by OCA.**

OCA has circumvented the Legislature by allowing judges to collect *both* a pension and a salary for the same job (in defiance of generally accepted accounting rules which prohibit collecting two checks for one job, an act defined by auditors as *payroll fraud*), to collect an additional \$5,000 in “expenses” a year without any receipts (that raise was given to the judges in 2010 – it equates to a 3.6% raise on their base salaries in 2010 alone), to receive payments for committee memberships (including taking their spouses along for all-expense-paid trips), to receive extra pay when serving in other courts, and to forego contributions for their benefits, including health care insurance and pensions – judges contribute nothing for their multi-million dollar pensions (NYS taxpayers now contribute at least \$40,000 a year for each judge – an income benefit that the judges receive tax-free). **The result of these accommodations by OCA has been to double the base salary of many sitting judges.**

I have tried to FOIL the total compensation (salary, benefit contributions, expense reimbursements, other payments, and pensions) for each and every judge since 1999 but despite NYS having clear FOIL laws, I have been rebuffed by OCA. At a minimum, the actual total compensation received by the judges since the date of their last raises on their base pay must be provided by this committee for you to make a reasonable determination. This committee should also expand its purpose to include benefits and other compensation to assure that judges will not receive double-pay (as is the current case with salary and pensions).

I only just saw that your Committee had a hearing yesterday. **I sent a letter last month to the members of your Committee asking to be notified of the hearings so I could speak on behalf of the litigants and NYS taxpayers. Please forward me the schedule of your future hearings and schedule me in for a presentation to your Committee so I can report to you on the accounting games being played by OCA.**

Please see my letter to you dated June 19, 2011:

Please allow me to introduce myself: My name is Catherine Wilson and I am the individual asked by Senator Eric Adams to serve on a NYS Judicial oversight committee at the NYS Judicial Committee hearings in NYC in October 2009. That committee has yet to be formed and the results of the NYS Senate Judicial Committee's hearings into the issues with our courts has yet to be published. I must assume that, at a minimum, no raises would be approved until the public can weigh in, the issues addressed by the NYS Senate hearings are remedied, and the rulings from the U.S. District Court in "Lopez-Torrez" are adopted. I do not see any public hearings scheduled for this committee nor can I find any web site which shows the members of this committee along with the full contact information for each and the budget that has been approved for this. I also do not see anything by the NYS committee that addresses the "best practices" of other states – why re-invent the wheel here if another state has already done these reviews (eg – has anyone looked at the reports and findings from the "Judicial compensation and benefits commission" in Texas?). Since there is no official web site, I also cannot confirm if there are any women on this committee or if the disabled community is represented (disabled individuals utilize the courts on a greater percentage than able-bodied individuals since they are either in court because of how they became disabled, or there fighting for their legal rights which are still routinely denied, especially for mentally disabled individuals).

Further, to date, I have also yet to see any full transparency from OCA on the true compensation of the judges – please note: compensation is NOT equivalent to salary. Many judges serve on committees (the Matrimonial Commission cost over \$3 million alone) and are compensated accordingly, they also receive extra pay for serving in other courts/parts, and as of 2011, OCA has approved allowing judges to be reimbursed up to \$10,000 in "expenses" – that last change was to "compensate" the judges for not receiving a raise in their base salary (and OCA allowing judges to submit \$5,000 of these expenses without receipts violates IRS laws and generally accepted accounting standards for government). Will that \$10,000 be erased if raises are approved? Also, in recent years, judges have seen their contributions to their pensions erased so they now contribute nothing – that alone can be worth at least \$40,000 annually in extra compensation, a figure never added when the judges discuss "salary". Judges contribute almost nothing to their benefits, benefits which could cost more than their base pay. But the most important issue to be addressed is the "double-dipping": currently, judges who are re-elected conveniently "retire" from their judgeship for one day, file for a pension, and then retake their oath of office the next day for their new elected term, thus judges are collecting two checks, a salary and a pension, for one job – as an auditor, that is clear payroll fraud. Thus this issue may only be addressed from a total compensation perspective factoring in the pension double-dipping, accounting for what benefits, if any, the NYS taxpayers should subsidize, and factoring in what additional payments, if any, judges should receive for serving on committees and working in other courts and court parts.

This issue should also be addressed from a "time spent" perspective. Many NYS courts are merely a part-time position yet are compensated at a full time pay – eg, the Court of Appeals. That court closes for the entire two months of summer; likewise, the Appellate Courts hear no cases during the summer and effectively shut down for those months. Also, most judges and their staff in the other courts do not work an 8 hour day, let alone put in overtime, many judges and clerks leave early to go to other government jobs (some Law Secretaries serve as Town Judges and leave at least an hour early every time these courts are in session), and still

other judges operate their private businesses from the court house. If the NYS taxpayers are to absorb raises, then the judges and their staffs must work at least an 8-hour day for the job they were hired to do. And the courts should accommodate the increasing number of Pro Se litigants – the courts must open at least one night each week and Saturdays. Plus the courts should not close for Christmas week and the amount of holidays, vacation time, and personal time must be reduced. If the argument for higher pay is because the salary does not come close to what a judge could make in a business environment, then the work hours and time off should also be brought into line with business – no more roll-overs of sick days and vacation time, 5 days off for funerals for extended family members, no personal days, and all training should be done on weekends/evenings. No judge should be allowed to conduct (and get paid for) seminars for the Bar associations on court paid time and the courts must stop sponsoring CLE courses on court time with taxpayer money – these are done during court hours (they are not even scheduled in the evenings or weekends) so they backlog cases further, and only attorneys are invited so Pro Se litigants are disadvantaged. These courses are merely a “meet and greet” for judges and thus violate NYS campaign ethics. And the lawyers should be paying for their own training – the NYS taxpayers should not be subsidizing these courses (and the lunches/coffee provided) to begin with.

As I confirmed with Senator Adams and Senator Sampson when asked by them, I am most willing to serve on any judicial committee to represent the NYS taxpayers and litigants. As noted by Senator Adams in my testimony before the committee, I was married to the court system (my ex-husband is a Law Secretary) for 20+ years, I am an experienced organizational auditor (I was a global auditor for Reader’s Digest) and I personally fell victim to “system abuse” at the hands of my ex-husband and his bosses in the courts (described by Judge Miller in her report – how lawyers, judges, police, court employees, District Attorney personnel, and judicial campaign backers manipulate and influence the court system for their personal benefit in family/matrimonial matters. They also influence Surrogates matters – that was not addressed by Judge Miller but I reported the abuses I audited to the Judiciary Committee). Thus I am well versed in not only understanding the inner workings of the court system, but I also understand the abuses that occur, and most importantly, from my operational auditing perspective, I can see how these issues can be addressed and the problems prevented to begin with. But sadly, apart from Senator Adams and Senator Samson, I can find no one willing to listen so we can fix these problems and help the families in our state who are being victimized and bullied in our courts. That must take priority over giving across-the-board raises since the bullies and abuses in our courts will be rewarded for their behavior with such pay increases. We have many good judges in our courts – only they deserve to have their compensation reviewed, the rest should be removed from the courts entirely.

Please contact me immediately so that we may discuss this as the “clock is ticking” on your report that is due to the Legislature. Thank you.

Catherine Wilson, CMA

