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# ProQuest **The New York Times**

## Four State Judges Sue Over Lack of Pay Raises

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### Abstract (summary)

George Bundy Smith, a partner at Chadbourne & Parke, the Manhattan law firm that is representing the judges, said, "It saddens me today to feel compelled to be an advocate for judges who have waited so long for a simple pay raise." Mr. Smith, who served...

### Full Text

Four New York judges filed a lawsuit yesterday against Gov. Eliot Spitzer and other state officials, claiming their constitutional rights have been violated because they, and all judges in the state, have not received a rise in pay since 1999.

The lawsuit, filed in State Supreme Court in Manhattan, said that under the State Constitution a judge's compensation "shall not be diminished during the term of office," which is effectively what has happened as a result of inflation and cost-of-living increases.

The four judges who filed the suit are Patricia M. Nunez of New York City Criminal Court, Michael L. Nenno of Cattaraugus County Family Court, Susan R. Larabee of New York City Family Court and Geoffrey D. Wright of New York City Civil Court.

George Bundy Smith, a partner at Chadbourne & Parke, the Manhattan law firm that is representing the judges, said, "It saddens me today to feel compelled to be an advocate for judges who have waited so long for a simple pay raise." Mr. Smith, who served as a New York State judge for 31 years, added, "Nevertheless, I and others have reached the point where we feel we have no other alternative."

The issue of judicial pay has long been a matter of contention in Albany, where two attempts to pass salary increases since 2005 have withered in the Legislature, primarily because its leaders have sought to link raises for judges with those for lawmakers. Governor Spitzer has opposed that, although he has said he believes judges deserve higher pay.

Mr. Spitzer's press secretary, Christine Anderson, said yesterday, "The governor fully supports pay increases for judges and has submitted legislation to provide that increase," but she added, "He believes that any such increase should be provided through the legislative process rather than through litigation."

Mark Hansen, a spokesman for the Senate majority leader, Joseph L. Bruno, who supports twinning legislative and judicial pay raises, said that the Senate had passed a bill this year calling for the raises but that the Assembly had not. Referring to the judges who filed the suit, he said, "We feel they should be urging the Assembly to pass the bill."

The maximum judicial salary in the state is \$136,700 annually, and the plaintiffs want to raise that to \$165,000, which is the annual salary for federal district judges. It is the amount being sought for state judges by Chief Judge Judith S. Kaye, who has proposed linking raises for the judges and the Legislature.

While deflecting comments about this lawsuit, Assembly Speaker Sheldon Silver's press secretary, Dan Weiller, said, "Judge Kaye made recommendations on how to address this issue of judicial pay, and we support those recommendations."

The salaries of state judges are ranked 12th nationally, but the figure drops to 49th when cost-of-living factors are taken into account, according to a study by the National Center for State Courts.

While Judge Kaye has said that litigation might be the only recourse if Albany did nothing, the director of communications for state courts, David Bookstaver, speaking on her behalf, said she did not support the judges' suit. "She believes at this juncture it is in the best interest of the judiciary, since we have a positive open dialogue and progress in Albany, not to tie the issue up in protracted litigation," he said.

To avoid the appearance of conflict of interest, Judge Kaye has said she will recuse herself if the suit comes before her.

Jeff S. Korek, president of the New York State Trial Lawyers Association, said he sympathized with the judges filing the suit. "The morale of the bench has been terrible," he said. "This may be the only venue for a remedy."

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