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**TESTIMONY OF THE NEW YORK COUNTY LAWYERS ASSOCIATION
ADRIENNE B. KOCH, PRESIDENT**

**HEARING OF THE NEW YORK STATE COMMISSION ON LEGISLATIVE,
JUDICIAL AND EXECUTIVE COMPENSATION**

OCTOBER 13, 2023

Judge Fahey and distinguished members of the Commission:

I am Adrienne Koch, President of the New York County Lawyers Association. Thank you for the opportunity to submit this testimony on behalf of NYCLA – a bar association of over 5,000 members.

Among the core values emphasized in NYCLA’s mission statement are promoting the administration of justice, ensuring equal access to justice, and advocating for a strong and independent judiciary. That is why we submitted an *amicus* brief in *Larabee v. Governor of the State of New York*, in which the New York Court of Appeals ruled in 2010 that the structural independence of the judiciary requires its compensation to be considered independently and on the merits.¹

¹ The *Larabee* case was consolidated with two other cases and decided under the title *Maron v. Silver*, 14 N.Y.3d 230 (2010).

It is against that backdrop that I come here today on behalf of NYCLA to urge the Commission to recommend steps that will enable the compensation of our state’s judiciary to regain and maintain parity with that of its federal counterparts. We believe that such parity is essential in the service of all of those goals – administration of justice, access to justice, and judicial independence.

The impact on administration and access to justice is straightforward. This Commission’s 2015 report noted that the salary of a New York Supreme Court Justice ranked 47th nationally among trial courts of general jurisdiction, when adjusted for cost of living.² Thanks in large part to the work of this Commission, we have come a very long way: according to statistics published by the National Center for State Courts in 2023, our cost-of-living adjusted rank is now 12.³ That is an improvement. But we respectfully submit that it is not good enough for the judges of our state – whom we call upon to handle ever-increasing dockets with stretched resources, and to do so in a way that not only ensures access to justice for our state’s large and tremendously diverse population, but also maintains New York’s position as the commercial capital of the world. New York courts have a varied and complex docket that includes commercial, civil, and criminal law disputes that raise issues akin to those seen in federal court, but the dockets assigned to New York’s judges are generally larger than those in federal court and New York’s judges are by and large expected to handle those dockets with fewer resources.

Simply put, the compensation afforded to New York’s judges does not match the demands of their jobs. Adjusted for cost of living, the compensation of our judges lags behind

² See 2015 Report of the Commission on Legislative, Judicial and Executive Compensation (hereinafter, “2015 Report”), at 6-7.

³ “Survey of Judicial Salaries,” National Center for State Courts, Vol. 48 No. 2 (August 2023), at 2 (available at https://www.ncsc.org/_data/assets/pdf_file/0028/93556/JSS-August-2023.pdf, last visited October 11, 2023; hereinafter “State Survey”).

that of their counterparts in Arkansas, Georgia, Montana, Pennsylvania, and Utah – just to name a few.⁴ Given the heavy caseloads and complex dockets they are called upon to manage, our own judges are at least as deserving.

There is more. In absolute terms – without any adjustment for cost of living – New York’s judges are on par with what their federal counterparts earned in 2019.⁵ But as we all know, inflation has been rampant these past few years. Because of the increased cost of living, federal judges have received four pay increases since 2019: one for every year. Our state judges now lag significantly behind.

In fact, this Commission’s 2015 report recommended raises that would fix the salary of a New York State Supreme Court Justice at 95% of the salary of a Federal District Court Judge, and would continue to close the gap from there.⁶ In keeping with that recommendation, by 2019 our state judiciary had essentially achieved parity with the federal judiciary.⁷ That was great. But because (unlike their federal counterparts) our state judges have seen no compensation adjustments since then,⁸ we have backslid: currently, they are back to earning less than 95% of what their federal counterparts earn (and in some instances quite a bit less).⁹

⁴ State Survey at 2.

⁵ *Compare* State Survey at 2 with <https://www.uscourts.gov/judges-judgeships/judicial-compensation> (providing salary data for federal judges from 1968 through 2023; last visited October 11, 2023; hereinafter, “Federal Survey”).

⁶ 2015 Report at 9-10.

⁷ *See supra*, n.5.

⁸ *See* 2020 Report of the Commission on Legislative, Judicial and Executive Compensation.

⁹ Specifically, New York Supreme Court Justices earn \$210,900 per year, which is 94.3% of the \$223,600 salary of Federal District Judges; New York Appellate Division Justices earn \$222,200 per year, which is 90.1% of the \$246,600 salary of Federal Circuit Court Judges; and Judges of the New York Court of Appeals earn \$233,400 per year, which is 81.8% of the \$285,400 salary of Associate Justices of the United States Supreme Court. *Compare* State Survey at 2 with Federal Survey at 1.

We do not want to lapse back into the flatlining of judicial compensation that occurred in the years that led up to this Commission’s creation. But without some urgent intervention we will have exactly that: it is only going to get worse and our judges will fall further and further behind, with their salaries worth less and less due to inflation. And these disparities are particularly acute in New York City – where NYCLA has its home – because of the substantially higher cost of living.

We understand the budgetary constraints that led us to this place. And the Commission is, quite rightly, directed to take into account the state’s ability to fund any increase in compensation.¹⁰ But that ability is only one of a number of factors the Commission is directed to consider. Another of those factors is the national and federal comparison discussed above.¹¹ Another is inflation¹² – which (as noted) in the last four years has hit levels we have not seen since the 1970s, while our judges continue to see no salary adjustments. Indeed, since their last pay increase in 2018, prices have risen a cumulative total of over 20%.¹³ We urgently need a mechanism to ensure that judicial pay at least keeps up with the rapidly-rising cost of living.

Yet another factor the Commission is directed to consider is the compensation received by professionals outside of government.¹⁴ I want to pause for a moment on this one. We all hear about how compensation in the legal profession has skyrocketed, and it is literally true that Supreme Court Justices in New York County currently make less than first year associates at

¹⁰ See L. 2015, ch. 60, Part E, § 2(3).

¹¹ See *id.*

¹² See *id.*

¹³ See <https://www.calculator.net/inflation-calculator.html?cstartingamount=1&cinmonth=13&cinyear=2018&coutmonth=8&coutyear=2023&calctype=1&x=Calculate#uscpi> (last visited October 11, 2023).

¹⁴ See L. 2015, ch. 60, Part E, § 2(3).

some of the firms that appear before them.¹⁵ While of course government service is a high calling that has many non-monetary rewards, our judiciary must pay competitive salaries in order to continue to attract top talent.

This brings me back to the third core value of NYCLA that I mentioned at the beginning of these remarks: a strong and independent judiciary. Fair compensation – compensation that not only takes careful account of the need to continue to attract and retain excellent jurists in an increasingly expensive world in which more and more is asked of them, but also demonstrates that we place a high value on our judges – is in NYCLA’s view essential to that strength and independence.

One final note. It goes without saying that a strong and independent judiciary is indispensable to the rule of law, which in turn is vital to our democracy. That is even more true now than it was when this Commission completed its last report in 2020.¹⁶ In recent years, we have seen judges across the country and right here in New York come under personal attack – not only with criticisms that are at times vitriolic (and against which judges are ethically prohibited from defending themselves), but also with actual threats to their safety and the safety of their families. NYCLA’s own voice has been loud among those who seek to defend and support them with words, and we believe that this is important.¹⁷ This Commission now has an opportunity to defend and support New York’s judges with more than just words.

¹⁵ Compare State Survey at 2 with Chambers and Partners 2023 Salary Survey, available at <https://www.chambers-associate.com/law-firms/law-firm-salaries> (last visited October 11, 2023).

¹⁶ See *supra*, n.8.

¹⁷ See, e.g., <https://www.nycla.org/resource/statement-letter/the-new-york-county-lawyers-association-statement-on-justice-engoron-and-the-trump-gag-order/> (last visited October 11, 2023); <https://www.nycla.org/resource/statement-letter/new-york-county-lawyers-association-issues-statement-on-donald-trumps-attacks-on-sdny-judge-kaplan-and-on-the-federal-courts/> (last visited October 11, 2023); <https://www.nycla.org/resource/statement-letter/letter-to-the->

We urge that, perhaps more than ever, it is critical to democracy that judges be fairly compensated – and that the Commission should take steps toward that end by restoring pay parity between the judges of our own courts and their federal counterparts and ensuring that we retain such parity going forward.

Thank you again for allowing NYCLA to be heard on these critical issues.

Respectfully submitted,

New York County Lawyers Association
By Adrienne B. Koch, President

About the New York County Lawyers Association

The New York County Lawyers Association (www.nycla.org) was founded in 1908 as one of the first major bar associations in the country that admitted members without regard to race, ethnicity, religion or gender, and has a long history of supporting the rights of LGBTQ+ people. Since its inception, NYCLA has pioneered some of the most far-reaching and tangible reforms in American jurisprudence. For more information on NYCLA please visit nycla.org.

[editor-of-the-new-york-law-journal-re-trumps-attacks-on-the-judiciary/](#) (last visited October 11, 2023).