

Testimony of
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On Behalf Of
**THE SUPREME COURT JUSTICES' ASSOCIATION
OF THE CITY OF NEW YORK**

Before The
**NEW YORK STATE COMMISSION ON LEGISLATIVE,
JUDICIAL & EXECUTIVE COMPENSATION**

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Good morning. My name is Ellen Spodek. I was elected to the Supreme Court in 2008, and currently serve on New York Supreme Court's 2nd Judicial District. I am President of the Supreme Court Justices' Association of the City of New York.

Thank you for the opportunity to speak today and to provide testimony.

It took over 20 years for a commission to be formed to consider judicial pay independently from the legislature. It was agreed by that Commission and this Commission's predecessors that the appropriate benchmark for NYS judges is *federal judicial pay*.

Despite this agreement, actual parity was last achieved in 2019, and even then, only fleetingly. The 2019/2020 Commissions declined to increase judicial salaries in line with our federal counterparts. By way of explanation, they cited fears of budgetary shortfalls and the COVID-19 pandemic. It is worth emphasizing, however, that the Commissions' economic fears in 2019 /2020 did not come to fruition. In fact, the State reported General Fund operating surpluses at the end of 2020 and 2022.

As a result of the Commissions' inaction, New York State Judges' compensation has remained frozen for four years. Once again, our salaries significantly lag behind other State and Federal District Court judges with far lower caseloads. We also lag behind the salaries of professionals in government and private practice.

This disparity has resulted in a continuing pattern of chasing, temporarily achieving, but then not maintaining, competitive pay. This is all against a backdrop of rising inflation and an increased cost of living, particularly for judges in New York City.

The 2015 Commission, faced with similarly static pay raises for New York State Judges, recommended the restoration of parity between the salary of a New York State Supreme Court Justice and that of a Federal District Court Judge. The Commission recognized the distinguished nature of the New York State court system and acknowledged that attracting and retaining a well-qualified judiciary depends on competitive judicial salaries.

Restoration of parity with Federal Judges should be achieved, particularly because New York is one of the only states that has not seen a judicial pay raise in the last few years.

A review of the history of judicial compensation is warranted. For decades, judicial compensation was used as a political bargaining chip, never receiving independent evaluation. From 1977, when the State assumed responsibility for paying judicial salaries for all judges it resulted in an increase in pay and those salaries until 1999 – a period of 22 years during which time judges received a pay adjustment only five times. In its groundbreaking decision in Maron v. Silver, a case in which the City and State Judges Associations both participated, the Court of Appeals found that Judges were long overdue for an increase in pay and that a different approach to judicial compensation was needed through legislative action.

This decision led to the creation of a Commission on Judicial Compensation. When the first judicial pay increase went into effect as a result of the first Commission report in April 2012, there had been a 13-year period without any pay adjustment for State Court Judges. We well remember this difficult time. Many assert that they felt disrespected and dissatisfied by the absence of a pay raise for 13 years. A significant number of judges retired and left office due to pay stagnation.

A failure to achieve parity at this time would effectively result in an 8-year wage freeze. This would not only devalue the important role that the judiciary plays as an independent and co-equal branch of state government, but it would also deter qualified lawyers from seeking judicial office.

Our performance merits this level of compensation, especially in light of the additional burdens that New York's judges faced throughout the pandemic, as we dispensed justice each day amid court closures and remote operations.

I believe it would be appropriate to discuss numbers and statistics that highlight my argument that New York State Judges particularly downstate face a crushing docket and should be compensated for their efforts in managing the needs of a severely overburdened court system in New York City.

There are 176 Supreme Court Justices in New York City out of 374 in the State authorized by statute to manage New York City's court system. The caseloads in New York City are staggering and increasing in complexity. In one year, 2022, New York's courts resolved more than 2.1 million cases across the State. During that same year, New York Supreme Courts managed 314,427 civil filings and 29,681 criminal filings. That represents over 840 new filings per Judge per year.

New York's Supreme Court Justices also handled 152,484 new cases, 34,527 Notes of Issue, 152,762 dispositions, and 31,020 settlements. Nearly half of all these cases were filed in New York City.

The success of the specialized Commercial Division parts have also made the New York Supreme Court the designated venue for contract disputes where the parties are not residents of New York.

New York State Judges' caseloads are nearly double that of their federal counterparts. Despite this additional workload, New York State Judges continue to see wage stagnation year after year. There continues to be a clear need for judges with the requisite legal training, experience, and communication skills to manage and adjudicate the millions of cases filed each year which impact the lives of millions of New Yorkers. Depriving Judges of salary increases for eight years will return New York to a time when qualified lawyers declined to serve in New York's court system in order to earn higher wages in the private sector.

The pay disparities that have resulted over time are striking. Since 2019, Federal District Court Judges earned \$47,400 more than New York State Judges. In the years

since 1990, Federal Judges have earned a staggering \$655,200 more than New York State Judges.

When one ignores the cost of living, New York ranks 9th amongst all states for judicial compensation. When adjusted for the cost of living, however, New York actually ranks 12th, with an adjusted salary of \$187,863.

We all know that inflation and the rising cost of living effectively diminishes one's buying power. Since 2019, when Judges last saw pay raises, the value of a dollar has dropped 20%. This means that New York State's Judges have taken a \$35,000 pay cut in real terms since they last received a pay increase.

Downstate has been particularly impacted by inflation. Manhattan, Brooklyn, Queens, and Nassau County, where nearly half the New York Supreme Court Judges sit, ranked in the top 15 most expensive urban areas in the country in 2022, with a Cost-of-Living Index significantly above the national average. Mortgage rates have doubled over the past few years as home prices have continued to skyrocket.

This loss of significant buying power over the last four years should be remedied by this Commission.

While achieving and maintaining parity is of vital importance to our judges, the outlay of funds required to do so is miniscule in the context of the \$229 billion dollars of expenditures in the State budget.

We urge the Commission to adopt the OCA proposal that the salary of the Supreme Court Justices remain at parity with the Federal District Court Judges, effective April 1, 2024, and that this parity be continued for the subsequent three years until the next Commission is convened.