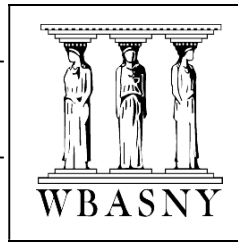

Women's Bar



Association

OF THE STATE

WBASNY

OF NEW YORK

TESTIMONY OF THE WOMEN'S BAR ASSOCIATION OF THE STATE OF NEW YORK (WBASNY)

DAWN A. LOTT, PRESIDENT

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

OCTOBER 31, 2023

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Dear Chairman Fahey and distinguished members of the Commission,

I am Dawn Lott, the President of the Women's Bar Association of the State of New York ("WBASNY"). Today, I am honored to appear before you to represent WBASNY, the nation's largest statewide women's bar association and the second-largest statewide bar association in New York. With our reach spanning nearly 4,000 attorneys throughout New York State, organized into 20 regional chapters stretching from the Adirondacks to Suffolk County, WBASNY has, for over four decades, been unwaveringly dedicated to advancing the rights of women, children, and families. We have also remained steadfast in our commitment to fostering the professional growth, networking, and leadership development of women lawyers. Our members are bound by a shared dedication to promoting the advancement of women in society and the legal profession, ensuring the fair and equal administration of justice, and advocating on matters of statewide, national, and international significance, especially those affecting women attorneys.

Today, I am requesting that you consider recommending that the compensation of New York State judges be restored to a position of parity with their counterparts in the Federal District Court, effective April 1, 2024. Simultaneously, we urge you to institute proportionate increases in the salaries of other State-paid judges, accompanied by implementing cost-of-living adjustments over the ensuing three years. Such actions are indispensable to maintaining parity, safeguarding the equitable value of judicial salaries, and preventing their diminishment.

It is WBASNY's privilege to boast that many judiciary members are among our ranks, and their narratives are inspirational and yet disconcerting. In preparation for this hearing, one of our members, a single mother, and graduate of Cornell Law School, shared her journey of commitment to the legal profession. She currently resides in Manhattan and serves as a commercial division judge, often working six days a week, tirelessly dedicating 12 hours each day to the noble cause of justice. Despite her unassailable dedication, she relies on the benevolence of her parents to sustain her honorable role, a poignant testament to the sacrifices judges make to fulfill their responsibilities.

Other members underscored the increased judicial workload in recent years. Notably, in 2019, the New York Legislature expanded early voting rights, requiring judges to be on-call for 18 days, including evenings and weekends, without supplementary compensation. Similarly, the

Legislature passed the Extreme Risk Protection Order law, which more effectively protects victims of domestic violence. However, it mandates that judges be available 24 hours a day, seven days a week, to hear applications, often involving intimate partner violence. These diligent judges have presided over thousands of these cases, many of which were heard after regular hours and during weekends. This is not to suggest that judges have not been, until now, required to work under similar circumstances. Judges throughout New York State have consistently had such responsibilities as night warrant duty, often requiring them to work during evenings, weekends, and holidays, devoid of due judicial compensation. Moreover, numerous County Court Judges bear the weight of multiple roles, adjudicating cases in Family Court, Surrogate's Court, and Supreme Court, involving emotionally taxing and complex subject matters. While these judges have unflinchingly embraced these additional responsibilities, the conspicuous absence of corresponding financial recognition exacts a toll on their personal lives and their ability to lead affordable lifestyles. This void in additional compensation is a testament to their unwavering commitment as public servants, impervious to financial incentives, and deserving of compensation commensurate with their contributions to a diverse and intricate judiciary.

In conjunction with the burgeoning workload and the rising complexity of cases, living costs have surged dramatically over the past decade. The prices of essential commodities, such as housing and food, have nearly quadrupled, while judicial salaries have languished in stagnation. This salary freeze bears immediate and negative consequences for the courts' capacity to serve our most vulnerable constituents, including women, children, and families. In practical terms, this constitutes an annual salary decrease, primarily due to the inevitable erosion of real income values wrought by inflation, which undermines judges' capacity to support their families adequately.

The repercussions of another four years of salary stagnation are ominous. Seasoned judges may opt to depart the bench in favor of more financially rewarding or lucrative career paths, particularly in Family Courts and lower courts, where their expertise is quintessential in assessing risk and safeguarding lives. This trend could deter talented lawyers from pursuing a career in the judiciary, imperiling New York's status as home to one of the nation's preeminent judiciaries.

It is pivotal to underscore that attracting and retaining the finest legal minds for the judiciary is indispensable to upholding the high quality of justice in our state. Traditionally, lawyers aspired to assume judicial roles after many years in practice, often after most of their financial commitments had been met. However, the contemporary landscape reveals that judges now assume these roles at a younger age, a phase in their careers when they might shoulder significant financial obligations, such as raising children, funding college tuitions, and managing mortgages. These judges may not have the luxury of working for a fraction of what they could potentially earn in the private sector or at well-endowed agencies. It is imperative that the New York State Judiciary refrain from losing these exceptionally talented individuals.

In addition to the ever-increasing workload and the persistence of inflation, we must not overlook the escalating criminal threats of violence, intimidation, harassment, and inappropriate communications directed at judges and court personnel in recent times. WBASNY has been an ardent advocate for measures ensuring that judges can exercise their duties without fear of retaliation or retribution. The safety of the judiciary, court personnel, and their families constitutes an indispensable pillar for an independent judiciary, preserving the rule of law and fortifying our democracy. In the face of these personal attacks, judges have valiantly continued to fulfill their obligations, notwithstanding the stagnation of their salaries.

It is equally important to emphasize that, during the period of salary stagnation, judges have not only been constrained to resign but many have been compelled to retire upon reaching the age of 70, leading to pensions that remain capped based on stagnant annual incomes sustained for over a decade. Implementing yearly cost-of-living adjustments (COLA) is paramount to ensuring that judges can maintain an affordable lifestyle during their tenure and retirement. The decisions in 2019 and 2020 to deviate from federal parity for judicial salaries have culminated in a scenario where judges are currently paid nearly \$50,000 less than their Federal District Court counterparts. It is quintessential to restore the value of judicial salaries by aligning them with the compensation afforded to their counterparts in the federal judiciary. Such a measure underscores the appreciation and esteem with which we regard the labor of our judges, guaranteeing their equitable and competitive remuneration as the cost of living escalates.

The judicial system will confront a constellation of formidable challenges in the coming years, most notably in its response to pre-pandemic case backlogs, which the pandemic has only exacerbated. It is crucial to maintain the morale of our judiciary, retain experienced judges, and attract the most exceptional legal talents to confront these challenges. Any further depreciation of the value of judicial salaries can precipitate the exodus of our most experienced judges, precisely when their collective experience is most indispensable.

New York State can eminently afford the recommendation presented today. During his testimony presented to this esteemed Commission, Chief Administrative Judge Joseph Zayas revealed that the total cost of implementing the proposed salary adjustments amounts to \$34.5 million in the first year, with an estimated \$4.6 million required for subsequent modest cost-of-living adjustments. He underscored that this represents a mere 1% of the judiciary's budget and an insignificantly small fraction of 1% of the entire State budget. Additionally, he noted that the Commission's past decisions have accrued savings of over \$40 million for the State over several years, a period during which judges' salaries remained essentially stagnant in real terms.

In conclusion, we implore this Commission to judiciously scrutinize the findings of your predecessors, particularly the Commissions of 2011 and 2015, which endorsed federal parity as a salient benchmark. This benchmark is both logical and equitable, fostering sustainability while emphasizing our appreciation for the invaluable work undertaken by our judges. Such action is essential for ensuring the equitable administration of justice, fostering equal access to justice, and upholding the principles of judicial independence. Indeed, it is the right course of action.

We extend our profound gratitude for your unwavering commitment to the sustenance of a robust judiciary that continues to serve the people of New York with excellence, and that administers justice for all. The Women's Bar Association of the State of New York appreciates your dedicated efforts in this noble endeavor.

Thank you for your time and attention.