

**Testimony of Michael A. Cardozo Before
The Special Commission on Judicial Compensation**

Albany, NY, July 20, 2011

Introduction

Chairman Thompson and members of the Commission, thank you for the opportunity to testify concerning the critical need for judicial salaries in this State to be increased, increased substantially and increased so that judges will know – now – that within a short and specified time period they will be receiving compensation equivalent to their pay more than a decade ago.

On behalf of Mayor Bloomberg I am here today to tell you that the judiciary in the State of New York is in crisis and as a result, the very structure of government of this State is in crisis as well. A strong and independent judiciary is essential to the proper functioning of government. New York's failure to compensate judges properly is weakening the judiciary and therefore weakening our entire government. This *must* be corrected. Now.

I have had the honor of serving as Corporation Counsel of New York City since 2002 and in this role have had the opportunity to work closely with the judiciary – in fact, my office is the attorney of record in approximately 20% of all civil cases brought in the Supreme Court in New York City. Much of my professional career has been devoted to efforts to improve the judiciary, including serving as President of the New York City Bar Association, Chair of the Fund for Modern Courts and as chair and member of various other court committees and task forces.

As others have already recounted, the last time State judges received a cost of living salary adjustment was in 1999. The statistics resulting from 12 years without a raise, including the effects of inflation and increases in salaries of others in the judiciary, have been thoroughly

covered – and they are shocking. The erosion in judicial pay for New York State judges is a national disgrace and is something that the State can no longer continue to ignore.

The Value of an Appropriately Compensated Judiciary Cannot be Understated

Let me begin by acknowledging that the \$136,700 earned by Supreme Court and Family Court judges, or even the \$125,600 earned by Criminal and Civil Court judges, is not an insignificant amount of money, particularly given the current economic times. But it is a grossly inadequate sum to pay the people we expect to make extraordinarily difficult decisions involving children, family, our freedoms and our economy. Judges should be people who have undergone years of training, have developed a thorough understanding of the law, have proven themselves leaders in their fields, and who have had substantial life experiences. To attract such individuals to the bench – and encourage them to remain there – becomes ever more difficult when compensation not only in the private sector, but in most public sector legal positions as well, is substantially higher.

The New York City Experience

In my role as adviser to the Mayor, I have the responsibility, together with a few others, of advising the Mayor regarding the appointment and reappointment of judges on the New York City Criminal and Family Courts, and judges serving on an interim basis on the New York City Civil Court. To date the Mayor has appointed 58 individuals to the bench and reappointed approximately 100 others. This firsthand experience has served to reinforce my belief that appointments to these courts, which deal with some of the most important cases in the lives of New York residents, businesses and the government, must come from the most highly-qualified individuals available.

While we are very proud of all the judicial appointments that the Mayor has made over the last nine and one-half years, judicial salaries pose a significant hurdle to our efforts to attract a broad cross-section of the legal community from which to select potential candidates. There are many qualified practitioners whom we simply never have an opportunity to consider, individuals who wish to serve the public as judges but for whom the economic sacrifice we ask of them is simply too great.

The public sector government salary information, which the statute establishing this Commission mandates be considered in setting judicial compensation, offers persuasive evidence that judicial salaries should be increased. That information reveals that senior public servants, for example attorneys in my office, assistant district attorneys, or Legal Aid attorneys, earn far more in senior positions at these public institutions than do the judges before whom they appear on a daily basis.

For example, 14 of the 58 new judges the Mayor has appointed were selected from positions as either assistant district attorneys or attorneys for the Legal Aid Society – and in most cases these individuals were not serving in sufficiently senior levels at their organizations that their appointment required a financial sacrifice. These men and women, while highly qualified, could more easily make the transition to judgeships because they did not face the same financial sacrifice that would be asked of more senior, management level attorneys at the District Attorney's Offices, the Legal Aid Society or similar public law offices.

Let me put this in concrete dollar terms. Consider the hypothetical example of a lawyer in my office who has risen through her career to become the head of our Appeals Division. In order for her to accept a position as a Criminal Court Judge, she would have to accept a pay cut of \$33,000; a 20% pay *decrease*. While some fortunate individuals in our society – by virtue of

marriage or inheritance – may be able to afford such an extraordinary compensation change for the honor of serving as a judge, it is a significant amount to ask someone with a family, or with educational loans, or with other financial obligations, to do without. A review of the Appendix submitted with the written testimony of Zachary Carter, the Chair of Mayor Bloomberg’s Committee on the Judiciary, offers a vivid and compelling comparison of present judicial salaries with those of attorneys in my Office, the District Attorneys’ Offices, and the Legal Aid Society.

As a result of the existing salary disparity, more experienced public sector attorneys are simply not applying for judgeships. Instead, many of the people who are willing to be appointed to the bench are those for whom the economic sacrifice is less drastic. They are people who, while exceptional, have fewer years of experience, and have not risen as high through the ranks thereby demonstrating their qualifications to be a judge, and, of course, have less life experiences to draw upon as a judge. This deprives us of a broad cross-section of qualified candidates. We need to encourage not only young, bright attorneys to become judges, but we need to ensure that those senior, experienced individuals also have the opportunity to serve in the judiciary.

Mayor Bloomberg has long recognized that we ask judges to make intellectually and emotionally difficult decisions every day. For many years he has repeatedly urged that judicial salaries be increased. As he reminded us more than three and one-half years ago in his weekly radio address that he devoted to just this topic, “judges safeguard us from criminals, stabilize families broken apart by domestic violence, and protect children who have been abused or neglected.” I would add that judges also decide commercial cases worth billions of dollars, tort suits worth millions of dollars, and scores of other disputes as well.

Clearly we want the best and the brightest. And we want the judges who deal with the most complex and important cases to represent a diverse ethnic, religious and gender background

and to come from all parts of our profession, not just those who will not have to take a pay cut to become a judge, or those who because of marriage or birthright, or because they have already had financial success in their professional lives, can afford to work as judges at low pay.

Conclusion

We are living through a period of great economic uncertainty and financial difficulty for many in New York State. This economic situation, however, should not be a reason to fail to protect the judiciary from continued and future harm. On the contrary, difficult times – when government is cutting back, individuals may be at risk, and some are looking at ways to avoid legal obligations – are precisely when the need for a strong and respected judiciary is at its highest.

As members of this Commission, you have an awesome responsibility; to prevent the further erosion of the third branch of government at a time when the State, and most of its citizens, are facing terrible economic distress. I urge you to embrace this opportunity, and to act so that our judges will know now that within a short and specified time period they will once again be properly compensated.

I would be happy to answer any questions you may have.