

CENTER for JUDICIAL ACCOUNTABILITY, INC.*

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September 7, 2011

Shawn Kerby, Records Access Officer & Assistant Deputy Counsel
Office of Court Administration
25 Beaver Street, 11th Floor
New York, New York 10004

RE: Request for Chief Judge Kaye's "2005 Judicial Salaries Report"
Pursuant to §124 of the Rules of the Chief Administrator & F.O.I.L.

Dear Ms. Kerby:

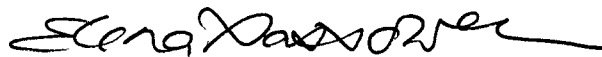
Pursuant to §124 of the Chief Administrator's Rules and Public Officers Law, Article VI [Freedom of Information Law (F.O.I.L.)], this is to request access to Chief Judge Kaye's "2005 Judicial Salaries Report". Such report is referred to at pages 39-40 of the Supplemental Appendix to Chief Administrative Judge Pfau's Submission to the Commission on Judicial Compensation (Attachment #5, at pp. 17-18) – and copies of those pages are enclosed for your convenience.

If the report is available in pdf form, please supply same.

Pursuant to §124.6 of the Chief Administrator's Rules and Public Officers Law §89.3, your response is required "within five business days" of your receipt of this request. I would appreciate if you e-mailed it to me at elena@judgewatch.org.

Thank you.

Yours for a quality judiciary,



ELENA SASSOWER, Director
Center for Judicial Accountability, Inc. (CJA)

Enclosures

* **Center for Judicial Accountability, Inc. (CJA)** is a national, non-partisan, non-profit citizens' organization, working to ensure that the processes of judicial selection and discipline are effective and meaningful.

effective Federal District Court salaries). For other trial and appellate judges, it proposed the same 19.5% pay adjustment.³⁵

The 1998-99 Judicial Pay Raise

In December of 1998, pay raise legislation was enacted affecting the Judiciary, members of the Legislature and the section 169 officers of the Executive Branch. See L. 1998, c. 630. The apparent catalyst for this enactment was an agreement between then-Governor Pataki and legislative leaders pursuant to which the former agreed to approve a legislative (and judicial and executive) pay increase in return for passage of legislation including: (1) increase in the authorized number of charter schools in New York, and (2) deferred payment of legislative salaries for such period as the State goes without an on-time budget.

The pay increase approved for the Judiciary, which was effective January 1, 1999, amounted to pay parity for State Supreme Court Justices with Federal District Court Judges, together with proportionate pay increases for other State-paid judges.

The Chief Judge's 2005 Judicial Salaries Report

During the six years following the 1999 judicial salary pay raise, there was no further action either to increase judicial salaries yet again or to adopt a new methodology for keeping such salaries current. In 2005, prompted by concerns that the cost of living had risen by over 18% since 1999, that regular (every three years) collectively-bargained pay increases for nonjudicial personnel³⁶ were causing considerable salary compression within the courts (with many court employees attaining salary levels at or above those paid judges) and that Federal District Court Judges salaries had been increased to

³⁵The Commission determined to bifurcate its study and its recommendations. The first phase was to include review of economic, statistical and historical information for the purpose of formulating an appropriate judicial salary schedule. The second phase was to develop an appropriate mechanism for providing ongoing adjustment of judicial salaries so as to prevent recurrence of the many problems experienced as a result of the prevailing non-system for revising such salaries. No formal report was ever issued memorializing the Commission's findings as to this second phase.

³⁶During the six-year period, those increases amounted to a minimum of 18.25%, which figure does not include the impact of tenure-based salary increases routinely received by many nonjudicial employees.

\$162,100,³⁷ then- Chief Judge Judith Kaye published a special report on judicial salaries as part of her launch of a new campaign to achieve pay reform. This report detailed the history of judicial salaries in New York, set forth justifications for judicial pay reform and provided a specific pay proposal calling for (1) restoration of pay parity between State Supreme Court Justices and Federal District Court Judges; (2) proportionate adjustments in the salaries of other State trial and appellate judges; (3) mitigation of longstanding *intra* and *inter*-court pay disparities among the judges of New York’s many trial courts; and (4) payment of automatic future cost-of-living adjustments to assure New York’s trial judges of continuing pay parity with Federal District Court Judges.

Following publication of this report, the Judiciary mounted an unprecedented effort to secure legislative approval of the salary proposal it provided. Many judges traveled personally to Albany to lobby their representatives and aggressive steps were taken to secure strong editorial support in many of the State’s newspapers. Also, the Judiciary began, routinely, to include funding for a judicial pay increase in its annual budget requests. Notwithstanding these efforts, no pay reform legislation was enacted — in 2005 or in any of the four succeeding years — although the Legislature began, in the State’s 2006 fiscal year, to include an appropriation for a pay increase in the Judiciary Budget.³⁸

Supplementing the effort, then-Chief judge Judith Kaye, in 2007, asked the National Center for State Courts to conduct a study of New York State judicial compensation. The National Center’s report,³⁹ published in May 2007, concluded that New York State needed to adjust its judicial salaries to fair and competitive levels through a means insulated from the political process; and that Chief Judge Kaye’s prevailing proposal calling for establishment of a permanent commission-based system for regular adjustment of judicial salaries should be enacted.

Judicial Pay Litigation

As 2006 came to an end — marking two years of unsuccessful campaigning for a pay raise, and nearly eight years with no judge receiving any pay adjustment — patience

³⁷Approximately an 18.6% increase since 1999, when State Justices of the Supreme Court were given pay parity with District Court Judges.

³⁸The appropriation language in the Judiciary’s budget was qualified through addition of a stipulation that the pay increase thereby to be funded should be “pursuant to a chapter of the laws of . . .”

³⁹See Attachment L, *infra*.