

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

-----X  
EMILY PINES, DAVID DEMAREST, JEFFREY D.  
LEBOWITZ, STEPHEN FERRADINO and RALPH A.  
BONIELLO, III,

Plaintiffs,

VERIFIED COMPLAINT

-against-

Index No.

STATE OF NEW YORK,

Defendant.  
-----X

Plaintiffs, by STEVEN COHN, P.C., their undersigned counsel, complaining of the Defendant, do hereby allege as follows:

1. Plaintiff, Emily Pines, a duly elected Justice of the Supreme Court, resides in Suffolk County.
2. Plaintiff, David Demarest, a duly elected Justice of the Supreme Court, resides in St. Lawrence County.
3. Plaintiff, Jeffrey D. Lebowitz, a duly appointed Judge of the Court of Claims, resides in Queens County.
4. Plaintiff, Stephen Ferradino, a duly elected Justice of the Supreme Court, resides in Saratoga County.
5. Plaintiff, Ralph A. Boniello, III, a duly elected Justice of the Supreme Court, resides in Niagara County.
6. All of the Plaintiffs at the time of commencement of this action are duly elected or appointed judges or justices of the State of New York.

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7. Defendant is the State of New York.

8. Article VI, § 25(a) of the New York State Constitution defines the manner in which the salary of judges and justices of the Unified Court System of the State of New York (hereinafter “New York judges and justices”) is determined.

9. The 2009-2010 New York State Budget enacted and appropriated the lump sum of \$51,006,759 as follows:

**§3. The several amounts named in this section, or so much thereof as shall be sufficient to accomplish the purposes designated, being the unexpended balances of a prior year’s appropriation, are hereby reappropriated from the same funds and made available for the same purposes as the prior year’s appropriation, unless amended herein, for the state fiscal year beginning April 1, 2009.**

\* \* \*

**The appropriation made by chapter 51, section 2, of the laws of 2008, is hereby amended and reappropriated to read:**

**For expenses necessary to fund adjustments in the compensation of state-paid judges and justices of the unified court system and of housing judges of the New York city civil court, and for such other services and expenses specified in section two of this act.**

(Laws of 2009, Chapter 51, §3 [hereinafter “Chapter 51” or “2009 appropriation”])

10. The 2009 appropriation contained no language of limitation or further contingency necessitating further legislative action to become effective.

11. The 2009 appropriation became fully effective and enforceable when it was passed

by the Legislature and signed into law by the Governor.

12. The passage of the 2009 appropriation mandated that the compensation of all of the New York judges and justices be adjusted and paid as of April 1, 2009.

13. Notwithstanding the enactment of Chapter 51, the compensation of the New York judges and justices has not been recalculated, adjusted or paid.

14. The right to adjustment of judicial compensation pursuant to chapter 51 vested as of April 1, 2009, and thereafter.

15. There exists an actual controversy among the parties hereto, within the jurisdiction of this Court, involving the rights and liabilities of the parties under the 2009 appropriation, as to the parties and the obligations, which controversy may be determined by a judgment of this Court.

16. By virtue of the enactment of Chapter 51, this Court should declare that the compensation of the New York judges and justices had been adjusted; effective to April 1, 2009.

17. The Court should declare that the Defendant State of New York is obligated to pay the New York judges and justices in accordance with Chapter 51 and Article VI, §25(a) of the Constitution of the State of New York retroactive to April 1, 2009.

WHEREFORE, Plaintiffs demand judgment declaring that the compensation of the judges and justices of the Unified Court System of the State of New York has been duly increased pursuant to the Laws of 2009, Chapter 51, §3 and that the Defendant State of New York is obligated to pay the judges and justices of the Unified Court System of the State of New

York in accordance therewith retroactive to April 1, 2009, and granting appropriate costs and disbursements and such other and further relief as the Court may deem just and proper.

Dated: Carle Place, New York  
July 13, 2010

A handwritten signature in black ink, appearing to read 'Steven Cohn', written over a horizontal line.

STEVEN COHN, ESQ.  
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