

New York Law Journal

Editorial:

Bar Should Mobilize for Judicial Salary Hikes

There are few issues that have prompted an editorial in the Law Journal's 120-year history. The failure to raise the pay of New York's state judges is one of those issues.

Disgraceful. Shabby. Infuriating.

Chief Judge Judith S. Kaye used all those terms Monday in describing the failure of the Legislature and the executive to adopt a long-overdue pay raise for the state's 1,200 judges.

All these adjectives are well chosen, but the sting of Albany's inaction should be felt by more than just the judges. Every lawyer in New York should share their outrage and aggressively advocate the judiciary's position. Bench and bar must be united in this fight.

The irony is that no one questions that a pay raise - the first in more than eight years - would be justified. The annual salary of federal district judges is now \$30,000 more than state Supreme Court justices. Judicial compensation in New York ranks 38th among the states and last among the eight most populous states, when adjusted for cost of living.

After years of begging for a raise, judges had every right to be optimistic this year. Chief Judge Kaye, and Chief Administrative Judge Jonathan Lippman lobbied effectively for a pay raise and Governor Eliot Spitzer even set aside \$111 million in his budget to cover retroactive pay for judges. Further, the chief judge coupled the pay hike with an eminently rational suggestion for an independent commission to consider future increases.

Thus, the disappointment was all the more crushing and the judges, all the more furious when Albany lawmakers and the governor continued to hold the judiciary - ostensibly a co-equal branch of government - hostage to other priorities.

As the chief judge lamented in her eloquent statement Monday at a rare Albany press conference, the judiciary "has no seat at the bargaining table and nothing to give, nothing to barter, in the budget negotiation, nothing but the merit of our cause. As we've learned, that's just not sufficient capital in our Capitol."

To her credit, given the extreme provocation, the chief judge refused to condone some of the more radical ideas that have been proffered in response to the absence of a pay raise, such as work stoppages or closing courtrooms to legislators and other litigants. If the judges act irresponsibly, they will forfeit the ethical and moral ground that is their greatest strength.

Rather, she has suggested a series of measured and practical steps well calculated to get the judiciary's point across, and an agreement in place, before the Legislature adjourns in June. With the patience of Job, the chief judge pledges to continue to meet with legislators and the executive, while she investigates the possibility of unilateral steps for implementing pay hikes.

But talk alone will not puncture the disdain for the judiciary. The judiciary has stated its position over and over again. To give its position bite, the bar must step up.

To be sure, lawyers understand more than any other citizens the importance of attracting and retaining the most intelligent, dynamic and independent lawyers to the bench. Lawyers also recognize that a reasonable salary is essential to achieving that. Unfortunately, however, with the exception of statements from a few bar groups, there has been no organized effort to show support for the judiciary in the pay fight.

At this critical juncture, lawyers must exert their influence to give the judiciary the political capital it needs. Lawyers should take the lead in mobilizing, through letters to the editor and personal contacts, public support for the judges in their communities. Each should immediately send the most pointed possible message to his or her lawmakers and the governor that demonstrates support for the chief judge's proposals. And each should withhold future political support if active backing for a pay hike is not forthcoming.

The bar cannot be complacent, for this may be the last chance for common sense to take hold.

Unless Albany relents and gives the judges what they deserve, the judiciary will have little choice but to file a lawsuit against the governor and the Legislature, sparking a constitutional crisis with repercussions difficult to predict. But, as Chief Judge Kaye says, the judiciary must not remain docile in the face of the disgraceful, shabby and infuriating treatment it has received.

— The Editors