



The State of the Judiciary

2010

Jonathan Lippman CHIEF JUDGE OF THE STATE OF NEW YORK

JONATHAN LIPPMAN

CHIEF JUDGE OF THE STATE OF NEW YORK • CHIEF JUDGE OF THE COURT OF APPEALS

ANN PFAU

CHIEF ADMINISTRATIVE JUDGE OF THE COURTS

ASSOCIATE JUDGES OF THE COURT OF APPEALS

CARMEN BEAUCHAMP CIPARICK

VICTORIA A. GRAFFEO

SUSAN PHILLIPS READ

ROBERT S. SMITH

EUGENE F. PIGOTT, JR.

THEODORE T. JONES

PRESIDING JUSTICES OF THE APPELLATE DIVISION*

LUIS A. GONZALEZ

FIRST DEPARTMENT

A. GAIL PRUDENTI

SECOND DEPARTMENT

ANTHONY V. CARDONA

THIRD DEPARTMENT

HENRY J. SCUDDER

FOURTH DEPARTMENT

* The Chief Judge of the State and the Presiding Justices constitute the Administrative Board of the Courts.

The State of the Judiciary 2010

Jonathan Lippman CHIEF JUDGE OF THE STATE OF NEW YORK

INTRODUCTION	1
I. GROWTH IN DOCKETS AND INCREASE IN LABOR-INTENSIVE CASES	3
A. Burgeoning Dockets	3
B. The Barrage of Foreclosures and the Example of Suffolk County	4
C. Families and Children in Crisis	5
1. <i>Resolving Family Court Custody and Visitation Cases While Saving Judicial Resources</i>	5
2. <i>Fulfilling the Record Checking Mandate for All Custody and Visitation Matters</i>	6
3. <i>Improving the Process in Child Protective Cases</i>	7
D. Medical Malpractice Settlement Project	7
E. Criminal Cases	8
1. <i>Implementing Drug Law Reform</i>	8
2. <i>Streamlining Arraignments in New York City Criminal Court</i>	9
3. <i>Collaborating to Implement Changes in Alcohol and Drug-related Driving Offenses</i>	10
F. Access to Justice	10
1. <i>Ensuring Quality Legal Representation for the Indigent Criminal Defendant</i>	10
2. <i>Meeting Critical Needs in Civil Legal Services</i>	11
3. <i>Addressing the Crisis in IOLA Funding</i>	12
4. <i>Enhancing Pro Bono Representation and the Attorney Emeritus Program</i>	12
5. <i>Assisting Unrepresented Litigants</i>	13
II. JUDICIARY COST CUTTING	14
III. JUDICIAL SALARIES	16
CONCLUSION	18

INTRODUCTION

This is my first **State of the Judiciary message** as the Chief Judge of the State of New York. Months ago, I was expecting to give a live address at Court of Appeals Hall in Albany, similar to those given by some of my predecessor Chief Judges—and next year, maybe I will. But 2010 is very different from earlier years, and this will not be a typical State of the Judiciary message.

In our country and in our State, we have entered a particularly difficult financial period. The sad truth is that the same economic forces that are placing fiscal constraints upon government are also spurring tremendous growth in our already monumental caseloads. As the economy has soured, families are unable to pay their mortgages, consumers default on credit card debt, business deals go bad, and incidents of violence occur in families torn apart by lost jobs and homes in jeopardy. Inevitably, the courts are called upon to sort things out.

Given these hard realities, this State of the Judiciary report will not address broad reform programs and strategic planning efforts that have characterized previous reports (although certainly we are actively pursuing important systemic reforms on our own and in concert with the Legislative and Executive Branches). Nor does it attempt to offer a comprehensive description of everything we are doing in the Judicial Branch. Instead, the 2010 State of the Judiciary report will focus on how current caseload pressures are increasing the burdens and challenges our judges face on a daily basis; the steps we are taking to continue to meet our constitutional responsibility to deliver justice in each and every case; the efforts we are making to respond to the State's financial crisis; and the critical need for a judicial pay adjustment if the Judiciary is to remain a strong and vibrant co-equal and independent branch of government.

Finally, this is not a typical State of the Judiciary report in its timing. The Chief Judge ordinarily reports on the State of the Judiciary by early February, but I decided to delay it this year because of the ongoing judicial salary crisis and resulting litigation. The last time New York State judges were granted any kind of salary increase was in 1998, effective January 1, 1999. This decade-long pay freeze led to the filing of three lawsuits, and on taking office as Chief Judge, I became the plaintiff in one of the cases,

The Chief Judge of the State of New York vs. The Governor of the State of New York. As a litigant, of course, I took no part in hearing or deciding these cases. The Court of Appeals heard oral argument in January 2010, and I, along with the entire Judiciary, awaited the Court's decision, which was rendered on February 23, after which I decided to issue this report. In deference to my Court of Appeals colleagues, I will not address the legal issues in the case, although I very much feel it appropriate and necessary to include commentary on judicial compensation.

I. GROWTH IN DOCKETS AND INCREASE IN LABOR-INTENSIVE CASES

A. Burgeoning Dockets

Last year, 4.7 million new cases were filed in the court system. Over the last decade, our annual caseload grew by 750,000 cases—a 20 percent increase. Recently, the recession has fueled dramatic increases in cases involving foreclosures, credit card defaults, business disputes, and family violence. Over the past five years, for example, foreclosure filings have more than doubled, and contract cases are up 23 percent. In the past two years, family violence filings are up 30 percent.

The size of our dockets is not the only challenge for the courts. Many of our cases now take more time than ever before to resolve. Legislative mandates are one reason, with judges having to meet additional requirements in whole categories of cases. For example, federal and State laws require a significantly greater number of appearances in every abuse and neglect case in Family Court. In addition, State law now requires preliminary settlement conferences in virtually all foreclosure cases. Although we have no quarrel with the mandates and their goals—indeed, we have supported and encouraged many of them—they come without providing the courts with commensurate resources.

As a further result of the recession, far more litigants are appearing in court without counsel—more than two million in 2009 compared to 1.6 million in 2005. And two million is most likely an undercount. Assuring these litigants access to justice requires disproportionate time and attention from judges and nonjudicial staff.

Larger caseloads, more mandated steps in case processing, more unrepresented litigants—these are today's realities. The constitutional obligation of the Judiciary is to hear and decide each and every case filed in the courts. We cannot turn away those litigants or cases that are crowding the dockets, or taking up too much time and attention, or requiring too many of our scarce resources. Our judges and court staff have responded magnificently, taking on each and every new challenge with extraordinary dedication and professionalism. They have been creative in increasing efficiency with existing resources so that we meet our mission of delivering justice to the citizens of New York State.

I will focus on only a few examples of these challenges.

B. The Barrage of Foreclosures and the Example of Suffolk County

Recent State legislation, with the goal of aiding homeowners at risk of losing their homes, mandates a settlement conference in court before a case may proceed to foreclosure. The Judiciary fully supports the purposes and goals of this legislation; indeed, many aspects of the legislation were modeled on a pilot foreclosure project we established in Queens County to promote early and active court involvement in foreclosure cases.

Our courts already have conducted more than 70,000 conferences, and we expect the number of conferences to rise dramatically.

How does the court system handle a huge influx of cases that have a time-sensitive conference requirement? Suffolk County is leading the way.

Suffolk had the most foreclosure filings in the State in 2009 (more than 7,500 cases) and the most new filings in the first two months of 2010. By the end of February, nearly 9,000 foreclosure cases were pending in the Suffolk County Supreme Court. Initially, a majority of the homeowner-defendants did not attend the conferences. Those who did appear rarely were prepared for settlement discussions; most were without counsel. Those early conferences proved to be marginally productive for all parties and diverted judicial and nonjudicial resources away from work on other cases.

To make settlement conferences meaningful, with real opportunities for reaching resolution, existing nonjudicial staff were assigned to a specialized foreclosure unit. Within 15 to 20 days after the commencement of a case, a pre-conference screening session with the homeowner is held, providing an opportunity to connect the homeowner to services and allowing for more tailored and effective case management. This early screening has proven to be critical to productive settlement conferences. The Suffolk courts also are fortunate to have available an excellent program, offered by Touro Law School in partnership with the Suffolk County Bar Association, that offers limited legal representation for the settlement conference. Thanks to this extraordinary volunteer effort, no Suffolk homeowner need appear for settlement discussions without the benefit of legal advice. I am happy to report that early evaluation of these efforts shows that homeowners and lenders are increasingly reaching mutually agreeable settlements that allow homeowners to remain in their homes.

Suffolk County’s response to the foreclosure crisis is typical of the way all our judges and court staff respond to new challenges: with dedication, commitment, creativity, and hard work.

C. Families and Children in Crisis

While the influx of foreclosures is recent, cases involving families and children have always been among the most important and difficult cases for the courts. When the welfare of children is involved, the challenges presented by docket pressures are particularly acute. These cases must be resolved expeditiously, but also with great care, because the future of a child—as well as of a family—is at stake.

1. Resolving Family Court Custody and Visitation Cases While Saving Judicial Resources

Last year, Family Court filings reached a record high of nearly 750,000 cases. Among the most highly emotional and difficult category of Family Court cases are custody and visitation disputes. Many judges carry a caseload of a thousand or more of these high-conflict matters, which can take years to resolve as warring parents return to court over and over again.

Across the State, we are taking steps to resolve custody and visitation cases in the early stages, thereby better serving the children and families involved and making the most effective use of overworked Family Court judges.

In Kings County Family Court, we streamlined the process for identifying appropriate candidates for early settlement. Except for cases involving allegations of domestic assault or menacing, which are assigned directly to a judge, staff social workers meet with the parties to assess their level of conflict and determine whether the case should be referred to a court attorney/referee or alternative dispute resolution program to explore settlement, or whether the case should go directly to a judge for trial. The initial results have been that the majority of these cases are appropriate for referral to a court attorney/referee and are, in fact, resolved without the need for a trial or even judicial intervention, allowing judges to devote more time to the most protracted cases.

Similarly, the Monroe and Ontario County Family Courts instituted a program in which cases were selected, based on established criteria, for participation in an early mediation program. As in Kings County, many of the cases selected were resolved without the parties ever seeing a judge. The time spent resolving these cases was significantly reduced, the number of times the parties had to come to court was cut in half, and participants reported high satisfaction with the program.

Based on these successes, we are expanding this early screening model to other counties, offering children and families the opportunity to resolve these difficult disputes early, while, at the same time, freeing the courts for other matters.

2. Fulfilling the Record Checking Mandate for All Custody and Visitation Matters

An additional step in the resolution of custody and visitation cases was mandated by legislation that took effect in January 2009, which requires that multiple databases be searched for information about any person requesting child custody or visitation, and that the results be reviewed by the judge before the issuance of any temporary or permanent order.

We began our implementation efforts well before the effective date of the new legislation, by automating searches of the court system's records and working closely with the State Division of Criminal Justice Services, which manages the Sex Offender Registry, to facilitate access to that critical database. In addition, a Statewide committee of judges, court clerks, and nonjudicial personnel developed operational protocols to implement the legislation, and developed a training program for the nonjudicial staff assigned to conduct these searches. The group continues working to address new questions as they arise and will soon complete an update of the original protocols.

We support the goals of this legislation, which ensures that judges have essential information each time they issue an order of custody or visitation. However, the fact remains that this mandate has imposed significant burdens both on the nonjudicial staff who conduct the searches and on the judges who review the results. Since the effective date of the legislation early last year, record checks, in multiple databases, were conducted on more than 1.8 million individuals, a remarkable achievement that could not have been possible without the extraordinary efforts of our judges and court staff.

3. Improving the Process in Child Protective Cases

Child abuse and neglect cases make up another significant component of the Family Court docket. These cases must be resolved expeditiously so that a child is immediately removed from danger and does not linger unnecessarily in the uncertainty of foster care.

In the New York City Family Court, each year a typical judge handling child protective cases hears 2,100 cases—up from 1,600 in 2005. The increased number of cases per judge does not tell the whole story, because 2005 legislation has doubled the number of required permanency planning hearings in each case. The only way to accommodate the additional requirements is by improving practices and procedures, which led the court system to convene judges, government agencies, legal services providers, and others involved in child protective cases in New York City to develop and implement a comprehensive plan. The primary goals of the resulting Family Court Child Protective Plan are expediting cases, achieving permanency for the child, and conserving valuable court time by making sure that each of the parties and agencies is fully prepared for every appearance and that all court appearances are meaningful and achieve their intended purpose.

Among the specific steps to achieve these objectives are an emphasis on case conferencing and mediation to help identify and resolve specific issues, protocols to provide all parties with relevant information and all required reports on a timely basis, the use of time-certain scheduling to ensure that each of the numerous parties and agencies in these complex cases is present and ready to proceed at each scheduled court appearance, and, beginning soon, continuous trial dates so that those cases that must be tried can be heard without adjournment. Family Court judges in each county are leading the implementation.

D. Medical Malpractice Settlement Project

Family Court is not alone in facing difficult and complex cases. Among the most complicated and protracted matters handled in the Civil Term of Supreme Court are medical malpractice cases.

In the Bronx and Manhattan, a dedicated judge presides over medical malpractice cases involving New York City's public hospitals, with the goal of assisting the parties in resolving these cases. The assigned judge has had special training—on topics such as medical terminology and the nature of injuries and diseases most often involved in medical malpractice cases—enhancing the judge's ability to participate effectively in settling these cases. With the support and cooperation of litigants and counsel on both sides, the parties have been able to reach settlements much earlier in the process than typically occurs. This benefits everyone: injured litigants and their families are relieved of the stress and uncertainty that accompany any litigation; both sides are spared the expense of lengthy discovery, motion practice, and trial, including the substantial expense of expert witnesses; and the court's resources can be directed to other cases.

Having received enthusiastic endorsements from both the plaintiffs' bar and the hospitals involved, we soon will expand this idea to other jurisdictions.

E. Criminal Cases

1. Implementing Drug Law Reform

I am proud to say that the New York State Judiciary, with our experience in implementing some 200 Drug Treatment Courts since the 1990s, has been a national leader in demonstrating that court-supervised drug treatment is a far less expensive and more effective approach to drug-related, nonviolent crime than incarceration. A drug court judge employs a hands-on, tough-love approach, closely monitoring the defendant's progress in drug treatment and using the discipline of regular court appearances and the threat of jail to promote success in treatment.

The results achieved by our drug courts have been impressive, reducing substance abuse, incarceration, and recidivism. So when Governor Paterson and the Legislature made statutory reforms in 2009 to increase the number of defendants eligible for drug treatment instead of prison and grant more discretion to judges to impose treatment, they explicitly relied on the success of our drug courts. We anticipate that these reforms will lead to more effective justice for defendants. In addition, because the average cost of confining an inmate in State prison in New York is approaching \$40,000 per year,

while the annual cost of drug treatment ranges from roughly \$14,000 for outpatient treatment to \$26,000 for inpatient treatment, these reforms will generate cost savings for the State.

We certainly welcome this change in the law, but must note that the increase in these labor-intensive cases obviously adds to the workload of our judges. On average, judicial monitoring in a drug court requires nearly 40 court appearances per defendant. Since the diversion program took effect, the number of defendants linked to judicially monitored drug treatment has increased by 40 percent. In Monroe County, the number has increased by nearly 50 percent. Yet judges in Monroe County and throughout the State are managing the sizable increase in the number of court appearances to ensure that we meet our obligations under the legislation.

2. Streamlining Arraignments in New York City Criminal Court

We know that improvements can and must be made in processing our criminal caseloads, particularly in the high-volume New York City criminal courts. There, where public safety and individual rights must constantly be balanced, avoiding delay is both an essential part of doing justice and at certain stages a legal requirement.

The legal presumption is that arraignments be held within 24 hours of the arrest. Last year, New York City Criminal Court judges conducted more than 370,000 arraignments—a staggering figure—under conditions and circumstances where the 24-hour arrest-to-arraignment standard is very difficult to meet.

Arraignments in four of the City's five counties are conducted in two daily sessions running from 9:00 a.m. to 5:00 p.m. and from 5:00 p.m. to 1:00 a.m. The court system took the lead in bringing together all the parties involved in arraignments—prosecutors, defense attorneys, police, corrections—in an effort to eliminate the downtime and delays that arose during breaks and shift changes between the day and evening sessions. The result is a collaborative effort we call “seamless arraignments,” involving staggered work schedules that allow all concerned to be more efficient and more effective without having to add resources.

Since we introduced seamless arraignments in Bronx County in February 2009, the arrest-to-arraignment time has been reduced by more than 25 percent. In the first two months of this program in Queens County, we experienced a 20 percent improve-

ment in arrest-to-arraignment time. We hope to replicate these improvements in Kings County, starting next month, and we are in the process of developing a similar project for New York County.

3. Collaborating to Implement Changes in Alcohol and Drug-related Driving Offenses

In November 2009, the Legislature enacted significant changes to laws on alcohol and drug-related driving offenses. One amendment enhances punishment for driving while intoxicated with a child in the vehicle and is already in effect; another requires that ignition interlock devices be installed in vehicles owned or operated by convicted offenders, and goes into effect in August 2010.

An estimated 20,000 cases a year will be affected by the mandatory ignition interlock device requirements, primarily in the Town and Village Courts outside New York City. This new law poses complex implementation issues involving not only the courts but also a number of Executive Branch agencies. Therefore, in advance of the August effective date, the court system is working closely with the State Department of Motor Vehicles, the Division of Probation and Correctional Alternatives, and other agencies, to develop the protocols and rules that will govern the interlock program. We are also developing training programs to ensure that judges and nonjudicial personnel are prepared to implement these legislative changes.

F. Access to Justice

One cannot discuss increased caseloads in the courts without recognizing that the surge of new cases has serious implications for the availability of legal services for the poor.

1. Ensuring Quality Legal Representation for the Indigent Criminal Defendant

A longstanding concern for all of us in the justice system has been providing quality legal representation for indigent criminal defendants. The 2006 report of the New York State Commission on the Future of Indigent Defense Services recommended that the

Legislature establish a Statewide, State-funded indigent defense system.

Among the many specific problems that led to the Commission's recommendation were excessive caseloads and a lack of caseload standards for indigent defense attorneys. As a result, the Legislature authorized the Chief Administrative Judge to promulgate rules establishing caseload limits for each attorney appointed in New York City to represent indigent clients in criminal matters.

Pursuant to that legislative authority, we issued rules, effective April 1, 2010, setting in New York City a workload standard per lawyer of no more than 150 felony cases or 400 misdemeanor cases or a proportionate combination (a ratio of 2.66 misdemeanors for every one felony). The standards apply to institutional defense organizations as well as individual attorneys appointed under Article 18-B of the County Law. Although the standards will serve as guidelines during the statutorily prescribed four-year phase-in period, they will become binding on April 1, 2014. Annually, the Chief Administrative Judge is required to review the standards and modify them if appropriate, and may include in the Judiciary budget a request for funding deemed necessary to meet these benchmarks.

This is an important first step in addressing the serious problems in New York's indigent defense system, and it may well serve as a template for Statewide application in the future.

2. Meeting Critical Needs in Civil Legal Services

Although defendants in criminal cases have a constitutional right to counsel, litigants in civil cases do not. Only in certain limited types of civil cases does State law allow for the appointment of counsel for indigent parties. Yet we know that representation by counsel can make a meaningful and substantial difference in outcomes for our most vulnerable citizens, especially in cases involving the necessities of life.

As a court system, we have been working on access to civil justice in three ways: by advocating for funding for free civil legal services for the poor; by encouraging the bar to contribute pro bono legal services and, although it is no substitute for full legal representation, by increasing the availability of court pro bono programs providing limited legal help; and by enhancing services for those who are unrepresented.

3. Addressing the Crisis in IOLA Funding

This year promises to be one of the worst in memory for funding of civil legal services. The New York State Interest on Lawyer Account Fund, a major supporter of civil legal services for the poor, is experiencing a drastic decline in revenues, from \$31 million in 2008 to \$8 million or less for 2010. Despite the economic climate *and* because of it, we had no choice but to take the unprecedented step, at the request of the justice community, of including in the Judiciary Budget \$15 million to help meet the IOLA shortfall. Without that support from the State, the most vulnerable people in our communities, like seniors, children, struggling families, disabled people, and abuse victims, will face life-altering problems without the benefit of legal counsel.

4. Enhancing Pro Bono Representation and the Attorney Emeritus Program

The need for civil legal services has never been greater. In response, a number of volunteer programs have been created throughout the State, sponsored by the courts, bar associations, legal services providers, and others. These programs address a wide range of civil justice needs.

One notably successful program is the Volunteer Lawyer for the Day Program in New York City Civil Court. In this program, pro bono attorneys provide limited-scope representation for litigants in housing and consumer debt cases. Judge Fern A. Fisher, Deputy Chief Administrative Judge of the Courts of the City of New York and Director of the court system's Access to Justice Program, has issued a "best practices" guide for use in developing such court programs elsewhere in the State.

In January, we took an important step to tap into an underutilized segment of the legal community—retired lawyers—for pro bono work. We have made it considerably easier for them to help low-income New Yorkers. We amended the attorney registration rules, effective at the beginning of this year, to provide an option called Attorney Emeritus. Retired attorneys who are at least 55 years of age and have a minimum of ten years of practice experience are now authorized to practice law on a pro bono basis, if they commit to at least 30 hours a year of legal services to low-income clients.

Attorney Emeritus status resolves many of the deterrents to pro bono service by this segment of the bar. The attorney works with a qualified volunteer program that

provides malpractice coverage and access to offices and staff; the attorney is exempt from both the \$350 attorney registration fee and Continuing Legal Education requirements; and the pro bono program provides any necessary training.

Currently, 49 qualified organizations are already participating—six of them being court-sponsored volunteer programs—and 128 retired lawyers have been referred to programs that provide free legal services to low-income New Yorkers.

5. *Assisting Unrepresented Litigants*

We know that at least 80 percent of the civil needs of the poor were not being met even before the recession, and there are recent reports that legal services providers, because of limited resources, have had to turn away 90 percent of those who seek their help. Although the bar has stepped up and made an enormous contribution of pro bono services in recent years, pro bono services alone cannot possibly fill the gap.

All this means that the number of individuals litigating cases without counsel is increasing, and it is important for us to continue to expand and enhance our efforts for those litigants. We have a wide array of volunteer programs to assist unrepresented litigants, as well as ever-expanding information and forms available online.

One of the newest efforts is in Family Court, Bronx County, where we set up a special petition room for unrepresented litigants so that when they file a petition they will have access, in one place, to a help center, including do-it-yourself computers and volunteers who can assist them with document preparation. We are now expanding this idea to other counties in New York City.

These are just a few examples of the access issues we are addressing, but this is an area where so much more needs to be done.

II. JUDICIARY COST CUTTING

It bears repeating that I am fully aware of the grave economic problems that face our State and of our obligation to join the other branches of government in responding to the financial crisis. In addition to taking measures wherever we can to make the most of existing resources, we have taken specific actions over the past two years to cut spending whenever possible.

Since more than 90 percent of our budget is for the judges and court staff who decide and help process these cases—now more complex and time-consuming than ever—reductions in our personnel budget cannot be allowed to jeopardize our ability to fulfill our constitutional obligation to hear and decide each and every case that is filed in the courts. Nevertheless, we have with great care and thought established employment ceilings throughout the courts. These employment levels are the minimum necessary to meet our constitutional responsibilities and maintain the level of services the public must have in these demanding and trying times for all New Yorkers.

The court system is also well into the second year of a strict hiring freeze on administrative positions. We have left vacancies at the Office of Court Administration unfilled, so that we can direct scarce funds to court operations where they are most needed. As a result of these efforts, and the fact that our workforce is more productive and effective than ever before, the court system has reduced the nonjudicial workforce by more than 300 positions over the past year. We also reduced the number of Deputy Chief Administrative Judges and Administrative Judges, creating a more streamlined administrative structure that is both cost efficient and effective.

Stringent controls have been imposed to reduce spending in areas like travel, equipment purchases, and overtime. Increasingly, technology is being used to save money. For example, instead of purchasing printed legal research material, we are relying more and more on online research. Another example is the use of prisoner video appearances, which significantly reduce transportation costs and improve public safety, while protecting defendants' rights and making it easier for them to participate in routine court appearances.

The increasing array of case information available online also enhances access to

the courts, lightens the burden of litigation, and reduces costs for both the courts and court users. We are particularly pleased with the success of eTrack, an automated system, now with more than 25,000 users, that sends parties email notices of all activity in their case, as well as reminders of upcoming court appearances. Projects, such as the one in Broome County, in which case files are scanned and made available online, similarly enhance public access to the courts, while reducing storage costs and increasing the efficiency of court operations.

The cost savings and benefits of technology are not limited to the court system, but are accruing to attorneys, jurors, and other court users. For example, potential jurors can now qualify online and, starting later this year, New York's 250,000 attorneys can complete their biennial registration online.

Undoubtedly the initiative with the greatest potential for transforming the court system, and making it more efficient and cost effective, is electronic filing. With the recent legislative authorization of *mandatory* e-filing pilots in Supreme Court civil cases in a number of counties, we are on the verge of finally realizing the full benefits, including the cost efficiencies, of this important innovation. At our request, the Legislature has also given us authority to expand the use of e-filing on consent. These case-related efforts bring significant savings not only to the court system, but also to litigants and other government entities in the justice community.

While the current economic climate has given increased urgency to these efforts, the court system remains committed to prudent management of the public resources entrusted to us, without sacrificing the services to the public that we are required to provide by the constitution and statutory law.

III. JUDICIAL SALARIES

It is only fitting that this year's *State of the Judiciary*, which so vividly illustrates how our judges are working tirelessly to meet the justice needs of New Yorkers, end with the urgent cry of justice for judges.

The same judges who served a record number of citizens in 2009 while handling increasingly complex cases are receiving the precise salary today as they did in 1999—more than a decade ago. There has been no cost-of-living increase, no keeping up with inflation, no percentage raise. That is both very unfair to the hard-working judges who are on the bench now, and dangerous for the future of this State's Judiciary.

Earlier this year, the Court of Appeals issued its decision on judicial compensation, the first decision by a state court of last resort to hold that there is a constitutional violation of the separation of powers doctrine based on a legislature's failure to address the issue of judicial compensation. While the Court did not set a precise time frame for action, it made clear that compensation must now be considered on the merits, apart from issues unrelated to judicial salaries.

In response to the anticipated question—how can we ask for increases in judicial salaries when the economy is so strained—I have a heartfelt response: This longstanding, pernicious problem simply cannot be ignored if the Judiciary is to remain a strong, independent and co-equal branch of government. Raising judicial salaries to the federal level, as we have proposed, would represent but 3/100ths of one percent of the State budget—surely not in any way impacting the State's overall fiscal situation.

I do not believe it can be seriously argued that judges, in their 12th year since a salary adjustment, are not entitled to the equitable salary treatment that State employees have received over this period. Ensuring the viability of the Judicial Branch—so vital to our tripartite system of government—is a smart and necessary move in any budget climate.

Giving New York judges pay parity with federal judges and establishing an independent commission to permanently resolve the issue of judicial compensation are fundamental both to the Judiciary's ability to attract and retain the qualified bench that New York's citizens deserve, and to our ability to meet our constitutional obligations

in the years ahead. To do otherwise surely would be grossly inequitable to the dedicated and skilled jurists who serve our State so well, and counterproductive for New York and the well-being of its citizens. The time for action is long overdue. New York's judges deserve salary treatment that reflects their unique role in fostering the rule of law, protecting individual liberties, and meeting our mandate to provide equal justice for all New Yorkers.

I do not believe it is an overstatement to say that New York cannot remain the Empire State or continue as a national and global center of public and commercial life when the New York Judiciary ranks next to last in the country in the level of compensation paid its judges. If this unconscionable situation continues in its downward spiral, it will inevitably lead to a sub-par Judiciary that would be alien to the hallowed history of New York and its Judicial Branch. Equity, by any standard, and the best interests of the State of New York—particularly in these dire financial times that strain the fabric of our society and our governmental institutions—demand a permanent resolution of this festering problem that has vexed and anguished the Judicial Branch for more than a decade.

CONCLUSION

In the face of the financial situation facing the citizens of New York State, I want to assure the public we serve and the other branches of government that the Judiciary will continue to rise to the occasion by providing increased access to the courts and additional and enhanced services in courtrooms around the State. We understand that meeting our ethical, statutory and constitutional obligations requires nothing less. ■

Jonathan Lippman

CHIEF JUDGE OF THE STATE OF NEW YORK

April 2010

