



**VICTOR A. KOVNER'S ADDRESS AT  
LAW DAY COMMEMORATION  
May 1, 2007**

**SUPREME COURT OF THE STATE OF NEW YORK  
FIRST JUDICIAL DISTRICT**

When Justice Sklar invited me to speak about the crisis facing the judiciary, my initial reaction was that there was much to be said, but that most of you know it all - - you are in your 9<sup>th</sup> year of a salary freeze, longer than any other state judiciary in the nation - - many of you have received only two adjustments in over 19 years of service - - New York ranks 38<sup>th</sup> in the nation when salaries are adjusted for statewide cost of living and that is statewide. The statistics are far more dramatic for those who live and work in New York City - - the annual salary of a federal district court judge is nearly \$30,000 more than a State Supreme Court justice.

The case for a change is overwhelming. The failure to act for more than 8 years is outrageous and egregious, but either separately or together, these characterizations would be a profound understatement.

But yesterday, as Chair of Modern Courts, I spent the day in Albany where Law Day was observed, the 5<sup>th</sup> in a series of visits I have made this year on judicial issues. And I thought it better to give you a report from the front.

The bad news is, as you know from this morning's papers, that whatever understandings were reached between whomever at the end of last week, the bill which, at the end of last week had the support of all 62 members of the Senate, has become stalled on issues unrelated to the judiciary. I regret to report that the atmosphere in Albany is still toxic and threats of further delay are in the air.

The good news is that there is a broad consensus behind this bill, and for those of you who have not had a chance to review it, it provides for the following relief: A 21% increase for all justices of the Supreme Court effective January 1, 2007 (regrettably it is not January 1, 2005 as proposed by both the Chief Judge and the Governor), but it still has significant relief in that it brings justices of the Supreme Court to the level of federal district judges once again.

But more important, after 2008, justices of the Supreme Court will automatically receive the same percentage increase as federal judges may thereafter receive.

And even more important is the creation of a quadrennial commission which will review compensation and non-salary benefits every four years based on a variety of factors, such as the increase of public sector spending since January 1, 1999. Effective January 1, 2008, the conclusions of that commission, will have the force of law.

Yesterday, I met with the leadership of both houses and with senior officials in the Governor's office. Notwithstanding yesterday's heated rhetoric and its disappointments, I believe this bill will become law shortly - perhaps by next week, and probably by the end of the

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month. But for those of you that have been waiting for nine years, this is still a promise, and in Albany, nothing is done until it is done.

But when it is done, it will mean that the long night of governmental indifference to the plight of the judiciary has come to an end. Never again will you be held hostage to the vagaries of legislative action or inaction. And when these bills reach the floor, I predict that, if there is any opposition, it will be nominal at most. In my view, it is inconceivable that there will be a veto.

I cannot leave this group without saying a word about court simplification or merger because, as I made the rounds in Albany yesterday, the opposition filed by the Association of Supreme Court Justices had preceded me by a matter of minutes. I know many of you have reservations, but I urge you to read the report of the Commission appointed by the Chief Judge and headed by Carey Dunne and give your position further reflection. As you well know, Modern Courts has supported such a Constitutional amendment for many years now. We have long thought it vital to the courts as a whole and to the public. The avoidance of inter-court jurisdictional disputes alone would be invaluable. Countless families requiring judicial intervention would be able to see a single judge in the Family Part of the Supreme Court, rather than face repeated visits to Criminal Court, Supreme Court and Family Court encountering a multiplicity of different court personnel.

But to this group, I draw special attention to the fact that the proposed amendment lifts the constitution's population-based ceiling on the number of Supreme Court justices that may be

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created. To my knowledge, this limit affects New York County only, the county with the greatest judicial business in this state. To lift that ceiling will enable the Legislature to create additional Supreme Court justices in this county (none have been created for decades) and we can begin to reduce drastically the need for acting Supreme Court justices.

I urge those of you who have opposed this measure to review this matter carefully and, if you agree with Modern Courts, to speak out on the subject.

Thank you.