



Lawyers Serving the Public and the Justice System

Final Report and Recommendations

**Commission on Judicial Service
State Bar of Georgia**

August 10, 2006

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I. Introduction

The State Bar of Georgia created the Commission on Judicial Service in 2005 to examine the salaries and other working conditions of the state's judges. The purposes of the Commission's efforts have been to ensure that Georgia is able to attract lawyers of the highest quality to serve as judges and to retain them once they have taken the bench. The Commission was chaired by former House Majority Leader Larry Walker, and it held a series of meetings in 2005 and 2006. A roster of the Commission's membership is attached as Appendix A. In this Final Report, the Commission sets forth its recommendations and the reasons for them.

II. Judicial Compensation in Georgia

A. The Current System

Georgia's judges serve on Superior Courts (trial courts of general jurisdiction), the Georgia Court of Appeals, and the Supreme Court of Georgia. Any discussion of compensation for Georgia's judges is complicated by the fact that, although Superior Court judges receive a base salary from the state (currently \$113,470), most of these judges also receive a supplemental salary from one or more of the counties they serve. A Superior Court judge's total compensation is the sum of the base salary paid by the state and any salary supplements applicable in the judge's circuit, and the supplements vary widely. The median total compensation for Superior Court judges is approximately \$133,000.¹ The system is much simpler at the appellate level. Justices of the Supreme

¹ The most recent comprehensive data available on supplements comes from the October 1, 2005 Salary Survey Summary of the Administrative Office of the Courts. The Summary is attached as Appendix B. Additional data on county supplements appears in Appendices C and D. Data related to current salaries in Georgia and the median salary for Superior Court judges comes from the most recent Judicial Salary Survey of the National Center for State Court, which is attached hereto as Appendix E.

Court of Georgia receive an annual salary of \$158,000. The judges of the Georgia Court of Appeals receive a salary of \$157,000.

B. Compensation Comparisons

Any attempt to discern whether judges are being compensated fairly is hampered by the fact that there is no “market” for setting judicial salaries. The best that the Commission can do is to compare Georgia’s compensation levels with the amounts being earned by lawyers in similar positions of responsibility. The Commission compared state judicial salaries to salaries of lawyers in private practice, to the current (and possible future) salaries of federal judges, and to the compensation of law professors at the University of Georgia.²

1. Private Practice

Lawyers in private practice earn their compensation in a market. Therefore, their salaries provide useful benchmarks for determining the fairness of judicial salaries. Because we expect judges to be drawn from the pool of the very best lawyers, it is tempting to compare judges’ salaries with the incomes of the highest paid lawyers, the partners in the largest firms. That comparison, however, would tend to overstate the inadequacy of judicial salaries. Large firm partners are a small percentage of the total number of lawyers in a given market. Furthermore, there are many non-pecuniary aspects of the judge’s job that make it attractive. The position is prestigious, and judges enjoy the satisfaction that comes from knowing that they are serving the public interest.

² The Commission chose not to compare judicial salaries across states. In the Commission’s view, the most useful comparison is between what lawyers make in private practice in Georgia and what they make as judges in Georgia. Those are the options that confront a Georgia lawyer who is contemplating a judicial career and a Georgia judge who is considering leaving the bench. Once the Commission reviewed this data and saw the disparities between judicial salaries and lawyer income, it also reached the conclusion that comparisons to other states were not apt because of the likelihood that other state judges are also systematically underpaid.

Judges also tend to have more control over their work and their schedules than do lawyers in private practice. For all of these reasons, the Commission decided to look beyond the reported incomes of big firm partners and try to find a more realistic, and more conservative, point of comparison.³

The Commission decided to use readily available data on total cash compensation for lawyers with five to eight years of experience and with some supervisory responsibility.⁴ For each market, we call this the “comparison group.” This is a conservative choice because most judges come to the bench with much more experience, and they have significantly greater responsibilities than, a lawyer with five to eight years of experience would have. Using lawyers this young might tend to underestimate the extent to which judges are being underpaid. In part to account for this possibility, the Commission used as its point of comparison the 75th percentile of compensation at this level rather than the mean. Using this data, the numbers for the metropolitan areas of Georgia are as follows:

Location	Albany	Atlanta	Augusta	Columbus	Macon	Savannah
Total Annual Cash Compensation	\$176,564	\$188,211	\$178,313	\$176,103	\$178,811	\$179,054

These figures enabled the Commission to make several useful comparisons.

³ It is worth noting, however, that the starting salaries at Atlanta’s largest law firms are now \$115,000 – more than the base pay of Superior Court judges -- with even summer associates making that salary on a pro rata basis. See Melanie Lasoff Levs, *Keeping Up With the Benjamins*, *Fulton County Daily Report* (June 5, 2006) (copy attached as Appendix F).

⁴ The data comes from the web site of www.salary.com. Copies of the salary comparisons for the six largest cities in Georgia are attached as Appendix G. The level of attorney used for comparison purposes is described in part as one who is “a graduate of an accredited law school with 5-8 years of experience and admitted into the state bar. Familiar with a variety of the field’s concepts, practices, and procedures. Relies on extensive experience and judgment to plan and accomplish goals. Performs a variety of tasks. May lead and direct the work of others. A wide degree of creativity and latitude is expected.” The data used is current as of August 9, 2006.

For Superior Court judges, the Commission compared these private practice salary figures with the total compensation for judges in each of these areas (base salary plus supplements). In each instance, the Commission discovered that judicial salaries were well below the figure used for comparison to private practice. The following table shows the comparisons:

Location	Albany	Atlanta	Augusta	Columbus	Macon	Savannah
Private practice annual compensation	176,564	188,211	178,313	176,103	178,811	179,054
Superior Court Judge compensation ⁵	139,145	144,070	150,794	143,370	151,437	157,534
Judicial raise needed to make compensation equal	27%	31%	18%	23%	18%	14%

Even in these populous counties, which tend to have the most generous supplements, substantial raises would be necessary to make judicial salaries comparable to the private practice salaries of the comparison groups. The average salary increase necessary to achieve parity in these five counties would be 21.5%.

That number, however, is somewhat deceptive. The only part of the judges' salaries that the state controls is the base pay. There is no guarantee that the county supplements would increase by a comparable amount if the state increased the base pay. In order to achieve parity with the comparison groups by increasing base pay alone, the percentages necessary are even higher:

⁵ The most recent data available on supplements is from October, 2005 (see Appendix B). These numbers in the text include the current base pay of \$113,470 plus the supplements as reported in October, 2005.

Location	Albany	Atlanta	Augusta	Columbus	Macon	Savannah
Percentage increase in base pay necessary to achieve parity with private practice salaries	33%	39%	24%	29%	24%	19%

An average increase in base pay of 28% (to \$145,242) would be necessary to achieve parity in these markets. It is worth mentioning again at this point that the definition of “parity” being used is the 75th percentile for an attorney with only 5-8 years of experience. By this standard, Superior Court Judges in Georgia are significantly under-compensated.

The analysis for appellate judges is even more straightforward. The Court of Appeals judges sit in Atlanta for an annual salary of \$157,000, in a market where the comparison group of attorneys makes \$188,211. To achieve parity, these judges would need a raise of 20%. Supreme Court Justices, who currently make \$158,000, would need a raise of 19% to reach the salaries being paid to the comparison group.

Comparisons to private sector incomes thus reveal that judges in Georgia are being paid well below the market for attorneys with significantly less experience and responsibility than a judge typically has. These numbers support a significant increase in Georgia’s judicial salaries.

2. Federal Judicial Salaries

Another useful point of comparison is the salary structure for judges in the federal system. The federal judiciary, like Georgia’s, includes trial judges, appellate judges, and

Supreme Court Justices. The salaries for federal judges, and how they compare to Georgia judges, are shown in the following table:⁶

Judicial Office	Federal salary	Georgia salary	State salary as a percentage of federal salary
Supreme Court	203,000	158,000	77.8%
Court of Appeals	175,100	157,000	89.7%
Trial Court	165,200	133,000 (mean) ⁷	80.5%

If you average the three categories, you see that Georgia judges make just under 83% of what federal judges make. If one makes the assumption that some differential between state and federal judges is to be expected, and if one makes the further assumption that a differential of approximately 20% is appropriate, then Georgia's salary situation appears to be acceptable.

These figures, however, are misleading. There is widespread consensus that federal judicial salaries in recent years have stagnated and that federal judges are significantly underpaid.⁸ Chief Justices Rehnquist and Roberts have called repeatedly for pay raises for federal judges. In his 2005 Year End Report on the Judiciary, Chief Justice Roberts noted that even a 30% pay raise for federal judges would only bring them to the same level, in real terms, where they were in 1969.⁹ A recent study by the Government

⁶ The federal judicial salaries come from the Sourcebook of criminal justice statistics Online, <http://albany.edu/sourcebook/pdf/1802006.pdf>. It is interesting also to note that United States Magistrate Judges and United States Bankruptcy Judges make \$151,984, which is well above the \$133,000 median salary for Superior Court Judges.

⁷ The mean salary for Superior Court judges is used for comparison purposes because of the disparities in income that result from the supplement system. If the \$113,470 base salary for Superior Court Judges is used instead, then Superior Court judges are only making approximately 69% of the salary of their federal counterparts.

⁸ See, e.g., FEDERAL JUDICIAL PAY EROSION: A REPORT ON THE NEED FOR REFORM, American Bar Association (2001).

⁹ Chief Justice Roberts' Report is available online at www.uscourts.gov/newsroom/ChiefsYearEndStatement.pdf. A copy is attached to this Report as Appendix H.

Accountability Office concluded that raises of between 20% and 34% (depending upon geographic location of the court) would be necessary to bring judicial salaries in real terms to where they were in 1970.¹⁰ Although Congress has not attempted to raise judicial salaries as much as Chief Justice Roberts or the GAO study suggest would be appropriate, bills have been introduced this session to give all federal judges an immediate raise of 16.5%.¹¹

If one takes that conservative 16.5% figure as the difference between what federal judges earn and what they should be earning, then more realistic comparisons to Georgia’s judicial salaries can be made. The following table illustrates what raises would be necessary to bring Georgia’s salaries up to 80% of where the analogous federal salaries should be:

Judicial Office	Federal salary if 16.5% increase is enacted	Georgia salary	Percentage increase necessary to bring Georgia salary to 80% of federal salary
Supreme Court	236,495	158,000	19.7%
Court of Appeals	203,992	157,000	4%
Trial Court	192,458	133,000 (mean)	15.8%

Once the recent stagnation of federal judicial salaries is accounted for, it becomes clear that the comparison between federal and state judicial salaries also leads to the conclusion that Georgia’s judges are significantly underpaid, at least on the Supreme Court and the Superior Courts.

¹⁰ See Marcia Coyle and Alyson Palmer, *Federal Judicial Pay Continues to Fall Behind*, FULTON COUNTY DAILY REPORT, August 1, 2006, at 1.

¹¹ See the Federal Judicial Fairness Act of 2006, S. 2276, H.R. 5014, 109th Cong., 2nd Sess.

C. Law Professor Salaries

Law professor salaries provide another basis for comparison. The job of a law professor has some interesting parallels with that of a judge. The professor, like the judge, enjoys many non-pecuniary benefits such as prestige, the freedom to structure one's own work, and the intrinsic satisfaction of service. There is a market that sets law professor salaries, and it provides additional useful information about the appropriate level of compensation for judges.

One must first decide which professors to compare to the judges. Academic ranks include some people whose responsibility and level of professional achievement would not be comparable to a judge. For example, junior faculty at the Assistant Professor or Associate Professor rank would tend to be younger people at the beginning of their academic careers. The appropriate professional comparison between a judge and an academic would involve senior faculty holding the rank of full professor (or holding endowed professorships or chairs). These law teachers have reached levels of experience and professional success that would be comparable to what judges have attained.

Salaries for professors at public law schools in Georgia are matters of public record. The most recent data available on salaries of those who hold senior academic rank at the University of Georgia Law School reveals that their average salary is \$149,843.¹² The average salary of full professors at the University of Georgia is well above the base salary of Georgia's Superior Court judges. A raise of 32% would be necessary to bring the base salary of Superior Court judges up to the average full

¹² This data uses professor salaries for 2004 and excludes the salaries of the Dean and the immediate past Dean because those salaries include compensation for administrative duties. The source for the data is the State of Georgia, Department of Audits and Accounts, <http://www.audits.state.ga.us/esa/index.html>. A summary of the data appears as Appendix I.

professor's salary. Even if one takes into account the regional supplements that Superior Court Judges receive, the judges would need a raise of 12.7% to reach the level of their academic counterparts.

The comparison at the Supreme Court level is also revealing. The seven members of the Supreme Court of Georgia are at the pinnacle of the Georgia judicial system. The best comparison for them would be the seven most senior, and thus best paid, professors at the University of Georgia Law School. Those seven professors earn an average of \$173,625. Members of the Georgia Supreme Court would have to receive a raise of 10% to reach this average. To reach the level of the highest paid professor (excluding the dean and the immediate past dean), Supreme Court Justices would need a 19.6% raise. These figures, like those related to private practice and the federal judiciary, support significant increases in pay for Georgia's judges.

D. Recommendation

In light of the foregoing data, the Commission on Judicial Service recommends that the salaries of Justices of the Supreme Court of Georgia, Judges of the Georgia Court of Appeals, and Judges of the Superior Courts of Georgia be increased across the board by 20%. For 2007, this would bring the salary on the Supreme Court to \$189,600 and salaries at the Court of Appeals to \$188,400. These increases would bring these judges to levels that are very close to the average salaries being earned by the comparison group of attorneys in Atlanta, where these courts sit. It would also bring the salaries on the Georgia Supreme Court to 80% of where the United States Supreme Court salaries should be (according to the 2006 Judicial Fairness Act). The salaries of Georgia's

appellate judges would then also be roughly equal to the salary of the highest paid professor of the University of Georgia Law School.

The base salary of Superior Court Judges would become \$136,164, with the result that the median income for these judges (including supplements) would be approximately \$155,700. This would put these judges at 81% of what federal trial judges should be making (and will be making if the proposed increases take effect). This figure would also place these judges just above the average salary of full professors at the University of Georgia Law School. In four of the six largest metropolitan areas in the state, Superior Court Judges would be making within 6% of what the comparison group of private attorneys is making, and the difference in the other two areas would only be 8.4% in one and 11.4% in another.

All three of the means of comparing Georgia's judicial salaries to comparable groups support the Commission's recommendation. The recommended increase comes the closest to putting Georgia's judicial salaries where they should be to attract excellent lawyers to a career serving the citizens of Georgia as judges and to keep them on the bench once they are there.

III. Compensation Commissions

A. The Existing System and Comparisons to Other States

Georgia is not the only state to face problems relating to adequate compensation for its judges. In many states, the issues are addressed by having an independent commission that sets, or at least recommends, salaries for judicial officers. Georgia has such a commission, the purpose of which is to make non-binding recommendations to the General Assembly for setting the salaries of judges and other constitutional officers of the

State.¹³ In recent years, however, the compensation commission has become moribund. The Commission on Judicial Service believes that the role of a compensation commission for judicial officers in Georgia deserves renewed attention.

In August, 2003, The American Bar Association House of Delegates adopted a resolution that encouraged states and territories to determine judicial compensation through commissions. A copy of the ABA Resolution is attached as Appendix J. The Report that accompanied the Resolution explained that the need for commissions:

Judicial compensation in many states has stagnated..., as legislators have delayed or denied salary adjustments for political reasons. Tension between the legislative and judicial branches over the issue of appropriate levels of compensation for judges is a recurrent theme in state governments across the country.¹⁴

The ABA encouraged states to create compensation commissions with particular characteristics: they should deal only with judicial salaries and their recommendations should be binding unless the legislature rejects them. The following table is a summary of the existing judicial compensation commissions and the extent to which they conform to the ABA’s vision of an “ideal” commission:¹⁵

State	A commission for recommending judicial salaries exists.	The commission deals only with judicial salaries.	The recommendations of the commission are binding unless rejected by the legislature.
Alabama	X	X	X
Alaska	X		
Arizona	X		
Arkansas			
California			
Colorado	X		

¹³ O.C.G.A. 45-7-90 (2005).

¹⁴ The Report is available at <http://www.abanet.org/leadership/2003/journal/105a.pdf>.

¹⁵ In 2002, the National Center for State Courts published a research paper on judicial compensation commissions around the country. That paper is attached as Appendix K. The summary in the text is an update of that study as of March, 2006.

Connecticut	X		
Delaware	X		X
Florida			
Georgia	X		
Hawaii	X	X	X
Idaho			
Illinois	X		X
Indiana			
Iowa	X	X	
Kansas			
Kentucky			
Louisiana	X	X	
Maine	X	X	
Maryland	X	X	X
Massachusetts			
Michigan	X		X
Minnesota	X		
Mississippi			
Missouri	X		X
Montana			
Nebraska			
Nevada	X		
New Hampshire			
New Jersey	X		
New Mexico	X	X	
New York			
North Carolina			
North Dakota			
Ohio			
Oklahoma			
Oregon	X		
Pennsylvania			
Rhode Island			
South Carolina			
South Dakota			
Tennessee			
Texas			
Utah	X		
Vermont			
Virginia			
Washington	X		X (can be rejected by referendum)
West Virginia			
Wisconsin			
Wyoming			

It is also possible to group states according to the type of commission, if any, that they have, and according to the effect of the commission's recommendations. The following table compares states in these ways.

States that do not have any commission to help set judicial salaries	States with commissions for judges and other public officials; recommendations are advisory only	States with commissions for judges and other public officials; recommendations take effect unless legislature rejects	States with commissions just for judges; recommendations are advisory only	States with commissions just for judges; recommendations take effect unless legislature rejects
Arkansas California Florida Idaho Indiana Kansas Kentucky Massachusetts Mississippi Montana Nebraska New Hampshire New York North Carolina North Dakota Ohio Oklahoma Pennsylvania Rhode Island South Carolina South Dakota Tennessee Texas Vermont Virginia West Virginia Wisconsin Wyoming	Alaska Arizona Colorado Connecticut Georgia Minnesota Nevada New Jersey Oregon Utah	Delaware Illinois Michigan Missouri Washington (can be rejected by referendum)	Iowa Louisiana Maine Maryland New Mexico	Alabama Hawaii

Georgia's commission, even if it was active, would fulfill only one of the three criteria for an ideal commission, as defined by the ABA. On paper, Georgia's commission falls short of the ideal because it deals with salaries other than judges (and

thus is subject to more politicization) and because its recommendations are merely advisory. As a practical matter, given the Georgia compensation commission's inactivity and its lack of influence over judicial salaries, Georgia does not satisfy even the first criterion, the existence of a compensation commission at all. Georgia is most realistically grouped with the first set of states, those that have no commission for setting or recommending judicial salaries.

B. Recommendation

The Commission on Judicial Service recommends that immediate further study should be given to the creation in Georgia of a compensation commission that would deal only with the judiciary and whose recommendations would be binding unless the legislature explicitly rejects them.¹⁶ As the first part of this Report demonstrates, Georgia's judges are underpaid. They were underpaid in 1993 when the State Bar of Georgia last conducted a comprehensive study of judicial salaries.¹⁷ It may be that the best way to prevent future erosion of judicial salaries in Georgia is to ensure that a commission exists for the sole purpose of preventing it and with sufficient authority to insulate judicial compensation from politics. At the very least, the issue deserves serious, immediate attention.

IV. Travel Allowances for Appellate Judges

The Supreme Court of Georgia and the Georgia Court of Appeals routinely sit in Atlanta. Not all of the members of these courts, however, live in the Atlanta area.

Legislators receive a state allowance for one trip per week between their home districts

¹⁶ The Commission has compiled the statutes relating to the commissions that exist in other states. They are not being attached to this Report because of their volume, but they are available for any future study of a compensation commission for Georgia.

¹⁷ The 1993 Commission is known as the Lambert Commission, after its chair, Roy Lambert. A copy of the Lambert Commission Report, without its voluminous exhibits, is attached as Appendix L.

and Atlanta.¹⁸ Appellate judges receive no such allowance. The financial burden on these judges, particularly at a time of rising fuel costs, is unfair. It also creates a disincentive for lawyers and judges from outside the Atlanta area to seek judicial office in the highest courts of our state. For these reasons, the Commission on Judicial Service recommends that the legislature authorize reimbursement for appellate judges for one trip per week between the judge's home and Atlanta while the judge's court is in session.

V. Conclusion

Georgia's judges perform vital public services. To ensure that the state's judiciary is of the highest quality, it is essential that judges receive adequate compensation. The Commission on Judicial Service has concluded that Georgia's judges presently are significantly underpaid, and that an immediate increase of 20% for Supreme Court Justices, judges on the Court of Appeals, and Superior Court judges is warranted. Travel allowances for appellate judges would also correct an existing disparity and encourage lawyers from outside Atlanta to serve. For the long term, the best solution for ensuring fair compensation for Georgia's judges may be the creation of a compensation commission dedicated solely to judicial salaries and with the authority to make recommendations that are binding if not expressly overridden. That issue deserves immediate attention. The citizens of Georgia deserve nothing less than the best from their judges. The recommendations in this Report are intended to see that this is what they receive, now and in the future.

¹⁸ See O.C.G.A. 28-1-8 (b)(1) ("During regular and extraordinary sessions of the General Assembly, each member ... shall also receive the mileage allowance for the use of a personal car when devoted to official business as provided for in Code Section 50-19-7, for not more than one round trip to and from the member's residence and the state capitol by the most practical route, per calendar week, or portion thereof, during each regular and extraordinary session.").

Appendices

- A: Roster of Commission Members
- B: Superior Court Judge Salary Survey as of October 1, 2005
- C: Superior Court Salary Supplements by Amount
- D: Superior Court Salary Supplements by Geography
- E: 2006 State Judicial Salary Survey of the National Center for State Courts
- F: Melanie Lasoff Levs, *Keeping Up With the Benjamins*, Fulton County Daily Report (June 8, 2006)
- G: Salary Comparisons for Georgia Lawyers from salary.com
- H: 2005 Year End Report on the Federal Judiciary
- I: Summary of Law Professor Salaries at the University of Georgia Law School
- J: American Bar Association Resolution Regarding Compensation Commissions
- K: National Center for State Courts Study of Judicial Compensation Commissions
- L: Lambert Commission Report (without exhibits)