

THE NEED TO INCREASE JUDICIAL SALARIES - IF YOU PAY FOR CRAP, YOU GET CRAP

By Evan Gutman CPA, JD (2013)

There is no doubt you get what you pay for. Currently, in this country the salaries, which Judges earn do not even faintly compare with those earned by partners in successful law firms. If you are a skilled, competent lawyer with a family and children, becoming a Judge is not a realistic economic option. From a moral perspective there is no way you can fulfill your obligation to the general public, if you are unable to fulfill the financial obligations you have to care for your family. I do not suggest judicial salaries should be equal to amounts earned by lawyers at large firms. However, they should not be a paltry 25% in comparison. Judges throughout the nation depending on their position typically earn between \$100,000-\$160,000. Considering the immense responsibility they have that is a small amount.

A good Judge who is knowledgeable in the law can positively earn a substantially greater amount working for a law firm. Yet, when Judges as a group complain to legislatures about their abhorrently low salary levels, their arguments are generally not received too kindly. That is unfortunate and wrong. While this book makes clear I do not hesitate to criticize certain Judges quite harshly, the arguments in favor of higher judicial salaries are totally correct. They deserve more pay. It's simple as that.

The problem is that the average legislator or citizen when faced with Judges requesting higher salaries typically responds with the statement, "they shouldn't complain, I wish I made \$125,000 per year." But, that citizen really needs to consider whether they "wish" they made \$125,000 per year if it required living a life in virtual seclusion and loneliness, being detested by large numbers of people for the opinions written, and often worrying about the welfare of your family in countless ways. It's my guess the average citizen probably really wouldn't be willing to adopt all aspects of the judicial lifestyle for \$125,000 per year or be willing to put in the work that is necessary to do the job properly. Instead, when people make such statements they're really saying, "I wish I made \$125,000 per year, but still maintained all the freedoms of my life without being subjected to the difficult aspects of being a Judge." Of course however, it doesn't work like that.

This problem has created an interesting situation. Previously, it used to be that one would become a skilled lawyer and upon establishing their reputation make a distinguished step up in their career by becoming a Judge.

Now however, the exact reverse is true. Becoming a Judge is the means by which one establishes the valuable relationships that will guarantee a high-paying job as a partner in a law firm upon leaving the bench. Thus, the low salaries of Judges cause undedicated attorneys to seek judicial positions simply as resume builders.

Law firms, although typically dishonest and immoral are not stupid. They are aware Judges establish relationships with other Judges. They know that being a Judge make you part of a "Club within a Club." A good ol' boy network within a good ol' boy network. All lawyers who promote self-serving interests of the legal profession and State Bars are component elements of the main "Club." However, those who become Judges are part of their own separate "Club" as well.

All Judges are supposed to render judicial rulings on a fair and impartial basis. They are supposed to apply the rule of law evenly regardless of who presents the argument. It is supposed to be the legal validity of the argument, not the stature of the person presenting it, that is determinative of the Judicial decision. That means if a criminal defendant acting Pro Se asserts a valid legal argument it should be given the exact same precise degree of consideration by the Court as if, the argument were presented by a former Judge appearing in the same Court.

As we now exit Fantasyland and enter the secular world, the simple fact is that arguments presented to Courts by former Judges have a significantly higher probability of being accepted by current Judges than those presented by anyone else. The reason is twofold. First, it is a product of the personal relationships the former Judge developed with other Judges when he was on the bench. This is because people have an innate desire to approve of ideas presented by their friends. Judges are nothing more than humans with a propensity towards error. They are subject to the same frailties of personality and emotional influences as everyone else. The tendency of Judges to rule in favor of former peers, is improper and immoral, but it's also a cold hard fact. Second, former Judges are treated by Courts with more respect than other attorneys.

These are the reasons why law firms seek to hire former Judges. It gives them an unfair advantage in litigation. By doing so the law firm has a greater probability of obtaining favorable judicial rulings than if the exact same legal arguments were presented by other attorneys. Since the very existence of law firms is predicated on making money, and since making money is predicated on the law firm obtaining favorable judicial rulings, hiring former Judges equates to greater profits for the law firm.

And that is something law firms are willing to pay former Judges quite handsomely for. Although it is blatantly illegal for a sitting Judge to sell his

position for personal profit, it is quite acceptable for a "former" Judge to profit from a judicial position previously held. That is substantively what is occurring when Judges leave the bench to earn much more money with law firms.

The key dilemma is how to get qualified individuals to become Judges and then how to keep them on the bench. When salary levels for Judges are too low, it increases the probability a Judge will engage in judicial corruption. Low salary levels also result in a higher proportion of Judges who only seek to acquire power. This occurs quite simply because more ethical individuals do not compete for the position because they would not be able to support their families. Low salary levels cause attorneys to seek judicial positions as resume builders, with the intent from inception that they will leave the bench once they can obtain a high-paying position. Concomitantly, it causes competent, dedicated attorneys with a respect and love for the rule of law to decline seeking judicial positions. In their place, incompetent, greedy lawyers without the slightest degree of respect for the rule of law get the position instead. Roughly speaking, I'd say that if you have more than two kids approaching the expensive college years, there is no possible way you can realistically consider becoming a Judge.

So if you think judicial salaries do not need to be increased just ask yourself the following question. If you or someone you care for is facing a criminal prosecution, or has been victimized by a criminal, or is involved in a child custody battle, personal injury case, or any other type of litigation, do you want the Judge to be fair and impartial with a courageous respect for the rule of law? Or alternatively, is it okay with you if that guy never became a Judge because he wouldn't have been able to put his kids through college?

In his place, you got the guy who intends to be a Judge just for a few years in order to build his resume so that he can then leave the bench and enjoy the economic windfall characteristically provided by law firms to former Judges. That guy in order to secure his economic windfall is trying to render his judicial rulings in a manner, which will best foster personal relationships to serve his future economic interests. And coincidentally, the person that he's trying to develop the best relationship with right now is the lawyer on the opposing side of your case.

If you pay for Crap, you get Crap. And that's your current Judge.