

REPORT TO THE DELAWARE COMPENSATION COMMISSION

Delaware State Bar Association Committee on Judicial Compensation

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TABLE OF CONTENTS

A.	Executive Summary	2
B.	Background	11
C.	Preeminence of Delaware Judiciary	14
D.	Comparisons with Federal Courts and Other States	21
E.	Recommendations.....	24
F.	Conclusion	27

A. *Executive Summary*

The Delaware Compensation Commission (“Commission”) is charged by statute with the responsibility for recommending the level of compensation for various public officials in all three branches of State government on a quadrennial basis. The Report of the Compensation Commission becomes the basis for compensation unless rejected by the Legislature within thirty days following the commencement of the legislative session. Paraphrasing prior Commission Reports, the function of the Commission is to assure that compensation levels are adequate in Delaware from a national, regional, local, and marketplace perspective. One of the driving forces supporting the importance of the Commission’s Report is the need to attract and retain highly qualified public officials.

The Delaware Judiciary comprises approximately two-thirds of all persons affected by the Commission’s work. The 2013 Compensation Commission recognized “that Delaware has gained a national and increasingly international reputation for its outstanding courts and highly qualified Judiciary.” (Delaware Compensation Commission 2013 Final Report at *14). The Commission further noted that “recruiting and retaining outstanding, diverse, and high caliber judges is essential to the quality of life and economic well being of the people of Delaware.” (*Id.*). Unfortunately, the current compensation levels that have fallen far behind Delaware’s comparable counterparts are inconsistent with the reputation of our courts and seriously hampers our state’s ability to meet the goals identified by the last Commission.

The Judiciary in Delaware continues to play a unique and expanding role of a national and international importance. In the commercial world, major corporations rely on the quality, consistency and speed with which the Delaware Supreme Court, Court of Chancery and Superior Court render decisions that affect corporate governance,

stockholders' rights and the business marketplace in the United States and the world. In this capacity of domestic and international leadership, the Delaware Judiciary has been the keystone of corporate law in the last century and is widely recognized as the nation's preeminent forum for the determination of disputes involving the internal affairs of more than 1,181,000 legal entities are incorporated in Delaware through which a vast amount of the world's commercial affairs are conducted. The number of active business entities domiciled in Delaware has increased 34% in the last seven years. The confidence of 66% of the Fortune 500 companies is firmly rooted in the quality of the Delaware Judiciary. Delaware is home to half of all U.S. firms trading on the NYSE and NASDAQ. The growing strength of Delaware's national reputation is evidenced by the fact that 86% of U.S. based Initial Public Offerings in 2015 chose Delaware as their corporate home, including Box, Etsy, Go Daddy, Shake Shack, and Square. The reward for the State of Delaware from the Court system is the annual taxes, fees and abandoned property from business entities registered in Delaware paid to the State, as well as the substantial economic activity generated by those in the private sector who represent Delaware business entities. The annual taxes and fees in FY2015 from corporate, LLC, and business entities and UCC filings totaled \$1.032 billion and have increased more than 11% since the last Commission. Together with the revenue from abandoned property, these amounts represent 43.2% of the State Operating Budget. Additionally, the Delaware Court System makes significant annual contributions in excess of \$12.5 million, on average, through filing fees, cost payments and assessments paid by litigants.

Of equal importance are the "people's courts" of Delaware which render justice to the great majority of the citizens of the State. Currently the Family Court, Court of Common Pleas and Justice of the Peace Courts collectively handled 476,000 matters in

FY2016. The quality of the judges, commissioners and magistrates in these courts is of no less importance to the citizens of the State than those who serve the justice needs of the nation and the world. The personal health and welfare of Delaware's citizens depend upon and deserve the high quality of justice administered by these critical courts and their judicial officers.

The last four Compensation Commissions in setting judicial compensation levels favorably received the Delaware State Bar Association's recommended approach for evaluating the status of compensation of the Delaware judiciary. As in past years, given the commercial importance of the Delaware Court system, it is appropriate to compare Delaware to those states that attempt to compete with Delaware as national and international business centers ("Commercial Jurisdictions"). This comparative approach served the 2001-2009 Commissions and Delaware well as Delaware not only maintained, but also further enhanced its recognition across the nation as a model judiciary. The Delaware State Bar Association suggests that the states most comparable to Delaware, considering both current legal jurisdiction and business competition, are California, Illinois, New York, and Pennsylvania, with California and Illinois having the greatest degree of similarity.

The 2013 Compensation Commission specifically referenced the Delaware State Bar Association's report and relied upon it in some significant ways, most notably in recommending a six percent (6%) increase in judicial compensation in recognition of "the significant contributions of Delaware's Judiciary and its outstanding national reputation." (Delaware Compensation Commission 2013 Final Report at *14). The increase was recommended over a two year period but was not approved for implementation. The

failure to adjust salaries in 2013 adds significance and immediacy to the current review cycle to ensure that the judges are adequately compensated.

Delaware's status as a national leader in all areas of the justice system should be reflected in the compensation awarded to its judges. Judicial compensation in Delaware needs to be adjusted to appropriately reflect the status and stature of the Delaware judicial system and to take into account the fact that the members of the Delaware Judiciary have sacrificed and continue to sacrifice the opportunity to pursue economically lucrative careers in the private sector. The Delaware State Bar Association recommends that the 2017 Commission Report once again employ the average of the top two Commercial Jurisdictions as the benchmark for the Delaware Supreme Court and, in 2017, employ a percentage approach to recommend compensation for each of the trial court judges, chief judges, commissioners, and magistrates to ensure that our justice system remains a leader across the nation. As a matter of collateral verification, the Delaware State Bar Association recommends that the 2017 Commission Report review the level of compensation Delaware state court judges with their federal counterparts. Both the primary methodology examining the top two commercial jurisdictions and the collateral verification examining the federal counterparts strongly argue for significant adjustment in Fiscal Year 2018.

The inherent difficulty in a quadrennial review is to find a common point for comparison as the States adjust salaries on different cycles. The most recent study of all States' judicial salaries with a common base is July 2016 report from the National Center for State Courts. Using this report as a baseline to derive the average compensation of the top two Commercial Jurisdictions for their highest courts and separately for their trial

courts of general jurisdiction, Delaware can establish a reliable basis for equitable salary levels for all of its courts over the next four years. The salary levels recommended for Supreme Court Justices based upon the average salaries of judges on the highest courts of each of the top two Commercial Jurisdictions and applying a recommended 5% supplement for the Chief Justice are:

DELAWARE SUPREME COURT

Position	FY2018
Chief Justice	\$ 240,721
Supreme Court Justices	\$ 229,258

TRIAL COURTS:

The trial courts in Delaware with direct appeal to the Delaware Supreme Court currently receive 94% of the compensation of Supreme Court Justices. The presiding administrative judge should receive the 5% supplement above the level of the courts they serve. Applying the current percentage of Supreme Court compensation to the trial court, the recommended salary levels are:

COURT OF CHANCERY / SUPERIOR COURT / FAMILY COURT

Position	FY2018
Chancellor/President Judge/Chief Judge	\$ 226,278
Vice Chancellors/Judges	\$ 215,503

COURT OF COMMON PLEAS

The Court of Common Pleas has extensive jurisdiction over both criminal and civil matters and resolves large numbers of cases annually. Appeals from the Court of Common Pleas are taken to the Superior Court. The Delaware State Bar Association recommends that the Court of Common Pleas judges receive compensation at 94% of the level of the Superior Court judges to whom appeals are taken. The Chief Judge of the Court of Common Pleas currently receives 98% of the level of a Superior Court Judge. Maintaining these percentages, the recommended salary levels for the Court of Common Pleas are:

COURT OF COMMON PLEAS

Position	FY2018
Chief Judge	\$ 221,752
Judges	\$ 202,572

COMMISSIONERS

The burden of voluminous filings in each of our courts is manageable only in concert with the expert work of Commissioners and Masters in Chancery. Statistics on salary levels and responsibilities for Commissioners in the Commercial Jurisdictions are inconsistent and, in most cases, not comparable. The recommendation with respect to the Commissioners and Masters in Chancery is that salaries be set at 60% of the level of the judges the courts they serve, resulting in the following salary levels:

COMMISSIONERS

(Superior Court, Family Court, Court of Common Pleas, and Masters in Chancery)

Position	FY2018
Master in Chancery	\$ 129,302
Superior Court Commissioner	\$ 129,302
Family Court Commissioner	\$ 129,302
CCP Commissioner	\$ 121,543

JUSTICE OF THE PEACE COURTS

The Justice of the Peace Court handles an immense volume of criminal and civil matters and, at the same time, provide swift access to justice to the citizens of Delaware. As with the Court of Common Pleas, there are few truly comparable courts in the other states. Appeals from the Justice of the Peace courts (other than Summary Possession cases) are taken to the Court of Common Pleas. The third term magistrates should receive a salary equal to 45% of Court of Common Pleas judge to whom appeals are taken. There currently is a \$2,000 differential between the second and third term magistrates, and a \$3,000 differential between the second and first term magistrates.

The Chief Magistrate has been the least adequately compensated judicial officer in the Delaware Judiciary in the last twenty years. The 20% increase cap on Compensation Commission recommendations has hampered the state's ability to provide just compensation to this judicial officer who is responsible for more judges than any other presiding judge than the Chief Justice. While the Delaware State Bar Association believes that the Chief Magistrate should be compensated at 75% of a Court of Common Pleas judge, the Compensation Commission will be limited in this cycle to recommending a 20% increase. Future Commissions, or Legislative initiatives, should

attempt to rectify the below-standard compensation for the Chief Magistrate. The recommended salary levels for the Justice of the Peace Court are:

JUSTICES OF THE PEACE

Position	FY2018
Chief Magistrate	\$ 153,379
Magistrates – 3 rd term	\$ 91,158
Magistrates – 2 nd term	\$ 89,158
Magistrates – 1 st term	\$ 86,158

Since the 1996 Commission Report, judges have received annual increases when afforded to all State employees. Such incremental increases have allowed Delaware to reduce the loss in salaries compared to other state jurisdictions over the four-year period. However, in the four-year period preceding this Commission’s study, there was an increase of \$500 in FY 2015, and increase of 1.5% for the judges and commissioners in FY2017, resulting in an increase *per annum* in the aggregate of a fraction of 1%, and requiring a larger recommended quadrennial increase than might otherwise apply.

Ideally, the Compensation Commission should have to make minor adjustments at the end of each quadrennial cycle to realign Delaware with the other comparable jurisdictions. In order to make this possible, it is desirable to maintain the annual incremental increases afforded to all State employees on an annual basis into the future so that the Delaware Judiciary does not experience slippage during the ensuing four years.

The standing of the Delaware Courts in the legal community, the large percentage of State revenues generated based on the Judiciary’s stability, and the significance of the courts to the citizens of Delaware argue strongly for the recommended increases in the

compensation levels for the judges in all of the Courts. The Delaware State Bar Association Committee on Judicial Compensation recommends that the Compensation Commission ensure that the Delaware Courts maintain their proper status and proposes salary levels commensurate with the national and international status of the Courts that ensure that the personal, corporate, and financial health of Delawareans will be maintained.

B. BACKGROUND

The Delaware Compensation Commission ("Commission") is authorized by Chapter 33, Title 29 of the Delaware Code, and is charged with the duty to

"...make a study of the salaries, emoluments, mileage, per diem, travel and other expense allowances and reimbursements ... of the members of the General Assembly, the Governor, members of the Governor's cabinet, the Lieutenant Governor, the State Auditor, the State Treasurer, the Attorney General, the Insurance Commissioner, the Justice of the Supreme Court, the Chancellor and Vice Chancellors of the Court of Chancery and all judges, associate judges and court commissioners of the Superior Court, the Court of Common Pleas and the Family Court, the Chief Magistrate, and justices of the peace and the Public Defender."

29 Del. C. § 3303(a).

The historical function of the Commission is to assure that compensation levels are not inadequate in Delaware from a national, regional, local, and marketplace perspective. One of the driving forces supporting the importance of the Commission's Report is the need to attract and retain highly qualified public officials. Although the Commission's recommendations focus on public officials from all three branches of government, the majority of the Commission's charge centers on the justices, judges, commissioners and magistrates of the Delaware Judiciary.

The Report of the Compensation Commission becomes the basis for compensation unless rejected by the Legislature within thirty days following the commencement of the legislative session. 29 Del. C. § 3304. With the exception of the most recent cycle, past Commission reports have been enacted with the notable exception of the 1993 that nevertheless resulted in appropriate increases in compensation for the Judiciary outside the Commission process.

Over the thirty-one years of the Commission's existence, compensation for public officials has been subject to an objective review on a quadrennial basis. This review has been moderately successful in re-establishing compensation levels consistent with the marketplace, comparable states, and Delaware's financial health. The recommendations of the Commission are essential to ensuring that the compensation level for public officials (and most notably for judges) remains appropriate with respect to comparable states in the interim between Commission reviews. The annual incremental increase when afforded to all state employees has been applied traditionally to public officials, thereby reducing the comparative decline in compensation for these critical positions. These annual incremental increases have enabled the Commission to "fine tune" compensation levels every four years rather than having to recommend increases that would dramatically affect Delaware's fiscal year budgets. The flagging economic environment in recent years has resulted in erosion of the compensation level of the Delaware judicial branch in comparison to the other States. In the four-year period preceding this Commission's study, there was an increase of \$500 in FY 2015, and increase of 1.5% for judges and commissioners in FY2017, resulting in an increase *per annum* in the aggregate of a fraction of 1%, and requiring a larger recommended quadrennial increase than might otherwise apply. Consequently, adjustment at the present time is essential simply to return Delaware to its position at the time of the 2013 report.

COMPARATIVE METHODOLOGY

Since 2001, The Delaware State Bar Association Committee on Judicial Compensation's recommendations has employed a methodology based on comparisons to

states with comparable judicial jurisdictions and marketplace dynamics -- both of which have direct bearing on recruitment and retention of the highest quality judges for each court in Delaware. The 2001 Delaware Compensation Commission favorably received the Commercial Jurisdiction methodology and modified the comparison states of prior Commissions to more accurately evaluate the similarities of Delaware with its true counterparts. The 2005 Delaware Compensation Commission continued to endorse the Commercial Jurisdiction approach as the appropriate group by which to measure the adequacy of judicial compensation. The 2005 and 2009 Compensation Commissions recommended salary levels placing Delaware approximately at the average of the top two Commercial Jurisdictions. Although the 2013 Compensation Commission recommended a 6% across-the-board increase, which recommendation was not implemented, the most recent Commission Final Report acknowledged the usefulness of the comparison to top Commercial Jurisdictions.

The 2016 Delaware State Bar Association Committee on Judicial Compensation report builds upon the work and precedent of the last four Compensation Commissions to recommend levels of compensation that maintain the status quo for Delaware courts in relation to the comparable courts in comparable states.

C. Preeminence of Delaware Judiciary

The Delaware Courts were ranked first in the nation by the United States Chamber of Commerce and the Institute for Legal Reform for each of the eleven years of that organization's surveys. Delaware has continued to top the list as the best system for overall treatment of tort and contract litigation; having and enforcing meaningful venue requirements; treatment of class action suits and mass consolidation suits; punitive damages; timeliness of summary judgment or dismissals; and discovery matters. Most importantly, Delaware is the most respected state in the nation in the key areas of Judges' Impartiality and Judges' Competence. This recurring recognition continues the longstanding status of Delaware as having the predominant business courts in the nation for the last two centuries. In addition to the ranking of the Delaware Judicial Branch as a whole, individual judges have garnered national recognition.

The Court of Chancery as the court of equity, the Superior Court as the court of law, and the Supreme Court as the court of last resort, have placed the Delaware Courts in a unique role as a national and international entity. In this capacity of domestic and international leadership, the Delaware Judiciary has been the keystone of corporate law for more than a century.

The Court of Chancery over the last two centuries has been the forum for the major corporate decisions affecting the economic health of business entities. The 1,181,000 corporations and other business entities domiciled in Delaware include 66% of the Fortune 500 companies and 50% of the corporations listed on the New York Stock Exchange and NASDAQ. The growing strength of Delaware's national reputation is evidenced by the fact that 86 percent of U.S. based Initial Public Offerings in 2015 chose

Delaware as their corporate home, including Box, Etsy, Go Daddy, Shake Shack, and Square. The reward for the State of Delaware from the Court system is the annual taxes, fees and abandoned property from business entities registered in Delaware paid to the State, as well as the substantial economic activity generated by those in the private sector who represent Delaware business entities. The annual taxes and fees in FY2015 from corporate, LLC, and business entities and UCC filings totaled \$1.032 billion and has increased more than 11% since the last Commission. Together with the revenue from abandoned property, these amounts represent 43.2% of the State Operating Budget. Additionally, the Delaware Court System makes significant annual contributions in excess of \$12.5 million, on average, through filing fees, cost payments and assessments paid by litigants.

The Delaware Supreme Court leads the Delaware judiciary, strengthening and enhancing the reputation of excellence of the Court of Chancery, Superior Court, and Family Court through its swift review and consistent interpretation of Delaware law and rulings in direct appeals from these courts. Strict internal guidelines for hearing and deciding appeals from all of the Courts provide the corporate and personal worlds with confidence that disputes will be resolved quickly with the minimum impact on corporate operations and its citizens' lives.

The Court of Chancery is a state treasure and a national ideal. Its members have the responsibility to issue more formal opinions each year than state and federal appellate courts. That duty is made all the more challenging due to the complexity of the court's case load and the regular burden to turn out opinions within days in high-profiled, expedited corporate matters. As important, trends in commercial litigation have

increased the mix of the Court's caseload that consists of trials, increasing the difficulty for the judges of balancing their opinion-writing and trial responsibilities.

Although elite in corporate stature, the Court of Chancery serves the ordinary citizen with equal diligence and care, yearly handling thousands of important equity matters - such as guardianships, will contests, property disputes, and expedited requests for injunctions - on top of its corporate and commercial caseload. In sum, Chancery judges must produce opinions of the quality and quantity of a federal appeals court while handling a demanding case load comprised of complex cases and a high-volume of smaller matters, and continues to do so with a dispatch and with a commitment to quality that is unparalleled by any comparison court, state or federal.

The Superior Court of Delaware plays an equally important role in the external operations of corporations and has earned its national reputation for the efficient handling of complex litigation. The handling of complex litigation on a special docket was a model for the nation and inspired similar processing across the country.

Each of these business courts has a reputation of individual as well as collective excellence. Competing states are modeling their business courts after the Court of Chancery. The Chancellor is routinely requested to provide technical assistance to other states interested in mimicking the Court of Chancery. The Superior Court of Delaware has received national acclaim for its handling of complex litigation. Notably, the Superior Court and the Supreme Court must combine their responsibilities as business courts with their critical role as the courts that handle felony criminal cases - a

responsibility of the utmost importance in maintaining our citizen's sense of security and in protecting the legitimate rights of criminal defendants.

Of equal importance as courts of corporate and fiscal significance are the "people's courts" of Delaware which render justice to the great majority of the citizens of the State. Currently the Family Court, Court of Common Pleas and Justice of the Peace Courts collectively handled 476,000 matters in FY2016. The quality of the judges, commissioners and magistrates in these courts is of equal importance to the citizens of the State as the "corporate courts" are to the corporate citizens in serving the justice needs of the nation and the world.

These personal matters comprise the heart and soul of Delaware families at the most difficult times of their lives and are the matters most critical to the personal health of our State. The cases cover the life and death of Delaware citizens from the newborn to the aged. The dissolution of marriage, domestic violence, child abuse and neglect, termination of parental rights, drug and alcohol abuse, tragic personal injury, housing, welfare, and child support are but a sampling of the matters that the judges, commissioners, and magistrates decide on a daily basis. To the average Delaware citizen, the ability to provide for their daily needs is significantly more important than the extent of disclosure in a proxy statement. Our government exists to serve our citizens, and they deserve the same quality of justice as the corporations that enable Delaware to thrive.

The collective and individual excellence of these courts is equal in prominence to that of the business courts. The Family Court of the State of Delaware is the leading family court in the nation. Only one of three unified family court systems, Delaware has been touted as a model by the American Bar Association, National Council of Juvenile

and Family Court Judges, National Center for State Courts, State Justice Institute and the Association of Family and Conciliation Courts. The Family Court regularly serves as a study site and pilot for programs of national importance including the frequently cited Family Court Performance Standards and Measures, programs for the self-represented litigant, full faith and credit for domestic violence protection orders, and alternative dispute resolution programs. Individual judges have received national recognition, and have served as trustees of national organizations including the National Council of Juvenile and Family Court Judges. Delaware Family Court's initiatives have been cited in the annual reports of the Federal Advisory Committee on Juvenile Justice over the last decade.

The Court of Common Pleas' attention to efficiency has maintained the court's reputation for excellence in conducting its affairs, most notably in its success in using the problem-solving courts approach and in its collection of fines, costs and restitution. Along with the Justice of the Peace Courts, the Court of Common Pleas has made great progress in improving its services for self-represented litigants, and has an electronic filing and docketing system providing Delaware litigants with increased service.

The Justice of the Peace Court, through its 60 magistrates in 15 courts, serves as the gateway to justice for the majority of citizens, with a broad jurisdiction affecting the daily lives of Delawareans. The Justice of the Peace Court has led the way in the areas of court process improvement and truancy.

The Delaware Judiciary's efficiency is most notable in comparison with other states. Employing a two-tiered system of appellate and trial courts, Delaware has avoided the need for intermediate appellate courts that increase costs to the State and

decrease the speed at which cases can be resolved. In contrast to many other states, Delaware assigns appellate responsibility to each court in varying degrees. The Superior Court, Court of Chancery and the Family Court all have appellate functions under the Administrative Procedures Act.

The Court of Common Pleas has appellate jurisdiction through *de novo* trial appeals from cases originating in the Justice of the Peace Courts. Three-judge panels in the Justice of the Peace Courts handle appeals in landlord-tenant actions. Sharing of these appellate responsibilities permits the Supreme Court to review decisions with finality in a swift manner.

The use of Commissioners has increased the efficiency of all of the Delaware trial courts immeasurably. Court Commissioners are assigned high volume and expedited cases providing access to the courts in unprecedented time. This highly trained group of judicial officers serves the trial courts in disposing of routine matters, thereby freeing the judges of their respective courts to grapple with more difficult and complex legal matters. Appeals from Commissioners are taken to the judges of the court providing quick resolution of disputed results. Fewer than 3% of Commissioners' orders are appealed to judges with an insignificant number of the cases being reversed upon review. Delaware Commissioners differ significantly from counterparts in other states not only in the importance of cases assigned, but also in the appointment process that requires nomination by the Governor and approval by the Senate. The burden of volumes of filings in each court is manageable only in concert with the expert work of Commissioners.

The expansive use of alternative dispute resolution techniques in the Delaware trial courts has enabled the courts to deal with the high volume of cases in an expeditious manner. Mediation and arbitration are employed in these courts with great success. By way of example, mediation has been used in the Family Court for a quarter-century and resolves nearly three-quarters of the cases referred to court-employed mediators. Mandatory alternative dispute resolution in the Superior Court has allowed litigants to settle their claims in short order with reduced legal fees. Mediation in the Court of Chancery and Court of Common Pleas is used regularly to narrow, focus and resolve issues short of trial with remarkable results.

The financial and personal health of the State are highly dependent upon the individual and collective Delaware Courts, each of which has earned its position of prominence to form an efficient and effective system recognized as the finest in the country.

D. Comparisons with Federal Courts and Other States

In setting judicial compensation levels, the early Commissions focused on salaries in a study group of states in geographic proximity to Delaware. The 2001 Commission expanded its perspective by adding states of similar size and similar budgets. Although these states may have some significance in comparing salaries for the Executive and Legislative branches of government, the comparison is inappropriate for the Delaware judiciary. The last four Compensation Commissions in setting judicial compensation levels favorably received the Delaware State Bar Association's recommended approach for evaluating the status of compensation of the Delaware judiciary. As in past years, given the commercial importance of the Delaware Court system, it is appropriate to compare Delaware to those states that attempt to compete with Delaware as national and international business centers ("Commercial Jurisdictions"). This comparative approach served the 2001-2009 Commissions and Delaware well as Delaware not only maintained, but also further enhanced its recognition across the nation as a model judiciary. The Delaware State Bar Association suggests that the states most comparable to Delaware, considering both current legal jurisdiction and business competition, are California, Illinois, New York, and Pennsylvania, with California and Illinois having the greatest degree of similarity. The ranking as first in quality in comparison with all fifty states supports the approach for national comparison for compensation purposes.

While comparison with the Commercial Jurisdictions provide a national perspective, a collateral comparison with the federal courts validates the need for significant increases for Delaware Court judges, as recommended by the Delaware State Bar Association. The Third Circuit Court of Appeal, based in Philadelphia but serving

Delaware, is the court of review from the federal trial court. The Circuit Court judges' salaries increased 17% in the last four years to the present level of \$215,400. Additionally, the federal judges have lifetime appointments and receive cost of living adjustments not available to our state court judges. In contrast to federal Circuit Court judges, the Delaware Supreme Court justices (and the highest courts of the Commercial Jurisdictions) decide all state matters with finality. It is understandable, therefore, that the comparative Commercial Jurisdictions have set salaries between the federal Supreme Court justices and the Circuit Court judges. It is equally reasonable that the proposed salary for the Delaware Supreme Court mirrors the Commercial Courts approach, and that the other Delaware Court judges receive comparable increases.

The general trial court in the federal system is the District Court for the District of Delaware. District Court judges currently receive a salary of \$203,100. It is significant to note that the Delaware trial courts handle more cases, more quickly, than their federal counterpart.

The closest federal comparison to the Court of Common Pleas judge is the District Court Magistrate Judge. Appeals, or exceptions, from decisions of the federal Magistrate Judges are reviewed by the District Court judge just as Court of Common Pleas decisions are reviewed by a Superior Court judge. The current salary of a federal Magistrate Judge in Delaware is \$186,852, and the variety of responsibilities for Court of Common Pleas judges support a higher salary within the overall salary structure for the Delaware courts.

Administrative law judges review specific challenges to regulations and appeals from the decisions of these judges of the District Court, similar to the procedure for review of commissioners' orders in Delaware. The lowest salary for an administrative

law judge in Delaware is \$130,775 which is comparable to the recommendation for a Commissioner in the Delaware courts.

Compensation for Delaware judges should be set at the average of the top two Commercial Jurisdiction for the highest courts in those states. Delaware's judges and the courts they serve are ranked above both of the comparison courts and the revenue generated as a result of the quality of the Delaware judges far exceeds the percentage generated by the comparison courts for their respective states. Collateral review of federal salaries indicates that the recommendations are sound and reasonable. The differential for the federal courts is understandable given that Delaware is affected significantly more by its state court judges than their federal counterparts.

E. Recommendations

In light of the status of the Delaware Courts, comparisons with the Competitive Commercial Litigation Jurisdictions, and the precedent of prior Compensation Commissions, The Delaware State Bar Association Committee on Judicial Compensation recommends the following:

- 1. Compensate the Delaware Supreme Court at the 2016 average of the highest court in the top two Commercial Jurisdictions, plus a 5% supplement for the Chief Justice.**

DELAWARE SUPREME COURT

Position	FY2018
Chief Justice	\$ 240,721
Supreme Court Justices	\$ 229,258

- 2. Compensate the Court of Chancery, Superior Court, and Family Court at the current 94% differential of a Delaware Supreme Court Justice, plus a 5% supplement for the Chancellor, President Judge of the Superior Court and the Chief Judge of the Family Court.**

COURT OF CHANCERY / SUPERIOR COURT / FAMILY COURT

Position	FY2018
Chancellor/President Judge/Chief Judge	\$ 226,278
Vice Chancellors/Judges	\$ 215,503

- 3. Compensate the Court of Common Pleas at 94% of the level of a Superior Court judge, plus the current percentage supplement for the Chief Judge in comparison to President Judge of the Superior Court.**

Position	FY2018
Court of Common Pleas Chief Judge	\$ 221,752
Court of Common Pleas Judges	\$ 202,572

- 4. Compensate Commissioners and Masters in Chancery at 60% of the level of the judges of the court in which they serve**

COMMISSIONERS AND MASTERS IN CHANCERY

Position	FY2018
Master in Chancery	\$ 129,302
Superior Court Commissioner	\$ 129,302
Family Court Commissioner	\$ 129,302
CCP Commissioner	\$ 121,543

- 5. Increase compensation for the Chief Magistrate to 120% of current salary with future goal of achieving 75% of a Court of Common Pleas judge. Increase compensation for the third term magistrates to 45% of a Court of Common Pleas judges and maintain the current differential for first and second term magistrates as shown below.**

JUSTICE OF THE PEACE COURT

Position	FY2018
Chief Magistrate	\$ 153,379
Magistrates – 3 rd Term	\$ 91,158
Magistrates – 2 nd Term	\$ 89,158
Magistrates – 1 st Term	\$ 86,158

6. Continue to give the judiciary the annual incremental increases awarded to State employees.

Ideally, the Compensation Commission should have to make minor adjustments at the end of each quadrennial cycle to realign Delaware with the other comparable jurisdictions. In order to make this possible, it is essential to maintain the annual incremental increases as afforded to all State employees on an annual basis into the future so that the Delaware Judiciary does not experience the decline which has occurred during the past four years. Continuation of the annual incremental increases is desirable to maintain the effectiveness of the present Commission's recommendations and future Commissions' reviews.

F. Conclusion

The first-place ranking of the Delaware Courts in the national legal community, the percentage of revenues generated based on the Judiciary's stability, and the significance of the courts to the citizens of Delaware argue strongly for significant increases in the compensation levels for all of the Courts. Recognizing the precedent of the prior Compensation Commission and the current economic climate, the Delaware State Bar Association Committee on Judicial Compensation recommends that the Compensation Commission adopt the proposed salary levels commensurate with the national and international status of the Courts that ensure the personal, corporate, and financial well-being of all Delawareans and the financial well-being of the State of Delaware will be maintained.