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November 2, 2007

Honorable Patrick J. Leahy
Chair, Committee on the Judiciary
United States Senate
Washington, DC, 20510

Dear Mr. Chairman:

I am writing to express the American Bar Association's concern over the growing consequences of inadequate judicial pay and to urge your unequivocal support for S. 1638, your bipartisan legislation that will provide an immediate pay increase for federal judges.

Paying our judges adequately is an investment in the future excellence of our courts. We repeatedly have ignored the warnings of our justices and judges that persistently inadequate judicial salaries are undermining the judiciary as an institution by deterring a growing pool of candidates from seeking judgeships and acting as a disincentive for experienced judges to remain on the bench for life.

As Justice Kennedy recently stated, "Without a functioning, highly qualified judiciary, no nation can hope to guarantee the prosperity and secure the liberties of its people.... We are in real danger of losing, through gradual but steady decline, the highly qualified judiciary on which our Nation relies."

We are aware that a major objection to enacting judicial pay legislation is that it will disturb pay parity between Members of Congress and federal judges by breaking the linkage in base salary levels. We are also aware that the salaries of Members of Congress, like those of our federal judges, have not kept pace with inflation and have not been adjusted to maintain some kind of reasonable relationship with the private sector. In short, there is no doubt that congressional salaries also need to be raised.

We hope that any objection to S. 1638 on the basis of its effect on pay parity will be reevaluated in light of two important points.

First, history has amply demonstrated that, since emergence of the notion of linkage of the base salaries of top-level federal officials in 1969, disparities in salary levels between congressional members and judges have arisen over the years and have always been temporary. Pay parity has always been restored because it is rooted in the firm public policy conviction that there should be inter-branch pay parity for work of comparable complexity and importance.

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Second, no matter the legislative vehicle used to provide public servants in upper levels of government with the pay raise they deserve, a temporary delinkage of congressional and judicial salaries will inevitably result because of the requirements of the 27th Amendment to the U.S. Constitution respecting congressional pay.

Investing in judicial salaries is an investment in maintaining the excellence of our federal courts. The cost of continued inaction is far greater than the budgetary cost of this proposed pay raise legislation.

We urge you to schedule a committee mark up of S. 1638 as soon as possible. We thank you for your leadership on this issue and hope that you will continue to do everything within your power to assure the enactment of an immediate and substantial judicial pay raise during this session of Congress.

Sincerely,

A handwritten signature in cursive script that reads "Denise A. Cardman". The signature is written in black ink and is positioned below the word "Sincerely,".

Denise A. Cardman
Acting Director

cc. Members of the Senate Judiciary Committee