October 5, 2001

Ms. Kay Coles James
Director and the President's Pay Agent
U.S. Office of Personnel Management
1900 E Street, NW
Washington, DC 20415

Dear Ms. James:

On behalf of the American Bar Association ("ABA") and its over 400,000 members throughout the country, I commend you on your interest in addressing the salary equity issues of the federal administrative judiciary. This is a subject of great concern to the American Bar Association.

The ABA has long advocated that the compensation of the administrative judiciary be appropriate to its judicial status and functions. Unfortunately, over the last decade, entry level administrative law judge (ALJ) salaries have not kept pace with salaries for the most senior government attorneys under the General Schedule, for senior attorneys in the SES, or for experienced attorneys in the private sector. This situation is making it increasingly difficult to attract and retain the best talent to the administrative judiciary.

ALJ compensation is determined according to a separate pay scale that is linked to the Executive Schedule. Enacted by Congress in 1990 to improve the ALJ pay system, it instead has failed to maintain the parity that previously existed with the compensation levels of other senior executive personnel. ALJ basic pay has deteriorated in comparison with the General Schedule due to ALJs not receiving pay increases (i.e., cost-of-living adjustments) similar to those granted under the General Schedule. In 1991, ALJ entry level basic pay was comparable to the pay at GS-15, Steps 5 and 6; by 2001, basic pay slipped to a rate comparable to the pay at GS-14, Steps 7 and 8.

In 1999, Congress enacted ABA-supported legislation (P.L. No. 106-97) to permit the President annually to authorize the same national pay raise for ALJs that is authorized for the General Schedule. The legislation also modified the ALJ basic pay structure by eliminating the specific percentage links of Executive Level (EL) IV applicable to AL-3A through AL-3F and AL-2 basic pay and authorizing the President to adjust ALJ basic pay subject to a minimum of 65% of EL IV and a maximum of 100% of EL IV.
October 5, 2001
Page 2

The President has the opportunity to exercise the authority granted under P.L. No. 106-97 and restore parity of ALJ pay to the General Schedule by adjusting ALJ basic pay to reflect the same increase in basic pay that has been authorized for the General Schedule. ALJ pay should at least be restored to the level where it was in 1991, vis-à-vis the General Schedule. One way to accomplish this goal would be to increase the entry level ALJ basic pay (AL-3A) to 73% of EL IV basic pay (rounded out to the next full percent) and the other levels of the AL schedule as follows: AL-3B-77%; AL-3C-81%; AL-3D-85%; AL-3E-89%; AL-3F-94%; AL-2-97%; AL-1-100%.

Accordingly, the American Bar Association urges the Office of Personnel Management and the President to exercise the granted authority to make these basic pay adjustments, in addition to granting ALJs the same national pay raise that is expected to be authorized for the General Schedule for Fiscal Year 2002.

Thank you for your consideration of this letter. If you would like to discuss the ABA's views on this issue in greater detail, please feel free to contact Denise Cardman, Senior Legislative Counsel, at (202) 662-1761, or Judge Jodi B. Levine, U.S. Administrative Law Judge, Social Security Administration, Office of Hearings and Appeals, at (405) 234-5505.

Sincerely,

Robert D. Evans

Robert D. Evans

cc: Mr. Ray Limon
    Acting Director
    Office of Administrative Law Judges
    U.S. Office of Personnel Management
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