October 9, 2002

The Honorable Jo Anne B. Barnhart
Commissioner Social Security Administration
Room 900, Altmeier Building
6401 Security Boulevard
Baltimore, MD 21235-6401

Dear Commissioner Barnhart:

I write on behalf of the American Bar Association, representing over 400,000 lawyers and judges across our country, to express our grave concern regarding proposals that would jeopardize due process protections of Social Security disability benefits. We believe these proposals may be the subject of discussion within the Social Security Administration.

The ABA appreciates the urgent need to improve the operation of the Social Security disability program. We share with you the goal of rendering a full and fair determination of claimants' eligibility for benefits in a timely manner, and recognize the issues posed by the current appeals process. However, we object strongly to any attempt to reduce or eliminate the availability of a hearing conducted by an Administrative Law Judge.

Disability claimants have a right to a due process hearing before an administrative law judge, where they can testify and present evidence. We have consistently supported and promoted the use of the APA by federal agencies because it offers the best protection to our citizens in their dealings with the federal government.

As we have seen in the past, attempts to substitute non-ALJ hearing officers for ALJ's in the administrative hearing process only serves to lengthen the process and to deny claimants the benefits of having ALJ's hear their cases.

Regarding the inability to hire ALJ's due to the existing Azdell litigation, it should be remembered that SSA could perhaps again obtain a stay to allow for the hiring of ALJ's. The hiring or use of non-ALJ's only serves to compound the problem.

Our members stand ready to work with you and Deputy Commissioner Martin Gerry or other members of your staff to devise an approach to making the Social Security disability appeals process more streamlined, more timely, and more consistent. I urge you to avail yourself of the experience, expertise, and dedication within the ABA as you consider options to achieve your goals. Representatives of the ABA would be pleased to meet with you at your earliest opportunity to outline further how we could assist in your deliberations.

Sincerely,

Alfred P. Carlton, Jr.