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December 11, 2009

The Honorable John Berry
The President's Pay Agent
U.S. Office of Personnel Management
1900 E Street, N.W.
Washington, D.C. 20415

Re: 2010 Basic Pay and Locality Adjustments for Administrative Law Judges

Dear Director Berry:

On behalf of the American Bar Association ("ABA") and its almost 400,000 members throughout the country, I write concerning salary equity issues of the federal administrative law judges (ALJs) appointed under 5 U.S.C. § 3105 of the Administrative Procedure Act. This is a subject of great concern to the American Bar Association.

We urge the following actions be undertaken with regard to 2010 pay adjustments for administrative law judges :

1. The President should adjust administrative law judge basic pay to reflect the same increase in basic pay that is authorized for the General Schedule in 2010;
2. The President should approve a supplemental adjustment for administrative law judges by exercising the authority under Public Law No. 106-97 to adjust the percentage of EL-IV pay to which their pay is linked; and
3. The President's Pay Agent should extend locality payments to administrative law judges in 2010.

We request that the President exercise existing authority to adjust administrative law judge pay by approving both the same basic pay raise that is authorized for the General Schedule and a supplemental adjustment within the EL-IV cap. Under P.L. 106-97, the President may grant them the same basic pay raise authorized for the General Schedule and adjust their basic pay within a range of a minimum of 65% of EL-IV basic pay and a maximum of 100% of EL-IV basic pay.

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In 2002, the President exercised this authority by granting ALJs a 5.4 percent basic pay increase for ALJs at levels 2 and 3. This included the same national pay raise authorized for the General Schedule and a supplemental adjustment within the EL-IV cap. The President's Pay Agent also extended locality adjustments to ALJs in the years 2002 through 2008. However, ALJ pay remains disproportionately compressed and relatively deficient compared to other professional pay. Accordingly, the American Bar Association urges the Office of Personnel Management and the President to exercise the authority granted to them 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 2009.

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 me at (202) 662-1765 or Lillian Gaskin, Senior Legislative Counsel, at (202) 662-1768.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Susman", with a long horizontal flourish extending to the right.

Thomas M. Susman

Director