



# AMERICAN BANKRUPTCY INSTITUTE

July 30, 2007

Honorable Patrick Leahy  
Chairman  
Senate Judiciary Committee  
Washington, D.C. 20510

Re: Judicial Salary Restoration Legislation

Dear Mr. Chairman:

I am writing to add the voice of the American Bankruptcy Institute (ABI) to the dozens of bar associations, professional organizations, environmental and labor groups, prominent corporations, top law firms and leading academics in support of S. 1638, badly-needed legislation to adjust the salaries of Federal judges, including U.S. bankruptcy judges.

The ABI is the nation's largest organization of bankruptcy professionals, with over 11,500 members in disciplines such as attorneys, accountants, restructuring, finance and more. ABI members represent both debtors and creditors in commercial and consumer matters. We are non-profit and non-partisan, and do not engage in legislative advocacy. However, ABI has consistently supported legislation that we believe will advance the administration of justice in the bankruptcy system. Senate Bill 1638 meets this criteria, and we enthusiastically endorse its enactment.

The need for a salary adjustment in the bankruptcy system is particularly acute, as bankruptcy judge salaries are set by statute at only 92 percent of that of the District Courts. The loss of experienced, seasoned judges to the private sector before those judges would otherwise retire or leave the bench is a serious problem for the bankruptcy system.

Bankruptcy courts are America's commercial courts, and its judges handle some of the largest and most complex cases in the Federal system. This year, for example, bankruptcy courts are handling some 32 new public company bankruptcies with over \$28 billion in pre-petition assets at stake. As

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1 Denotes Executive Committee Member

Senator Patrick Leahy  
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recently as 2002, there were 133 such cases, with nearly \$152 billion in assets; many of these cases are still pending. The rights of millions of employees, retirees and other stakeholders are at issue in these cases, and so retaining and attracting the top members of the legal profession is vital to the administration of the bankruptcy system.

As Chief Justice Roberts has noted, in the past six years 38 judges have left the Federal bench due to the salary issue. It is projected that by 2009, this figure will reach 68. The bankruptcy courts have lost some of our most experienced and skilled judges because judicial salaries have eroded so dramatically from what is available in private practice. Included in this number are Judges Melanie Cyganowski (E.D.N.Y.), Lisa Hill Fenning (C.D. Cal.), James L. Garrity (S.D.N.Y.) and the late Tina Brozman (S.D.N.Y.). The losses are not confined to the highest cost-of-living cities: the Sixth Circuit, for example, has twice had to re-advertise bankruptcy judgeship vacancies in Louisville and Detroit because of the inability to attract the top practitioners to low-paid judicial service. Nationally, there are more than a dozen current bankruptcy vacancies – many that have gone unfilled for years.

We urge you and your colleagues to act now on this bipartisan legislation, which will restore some balance to Federal compensation practice and demonstrably improve the administration of justice. Please contact our Executive Director Sam Gerdano at (703) 739-0800 if you or your staff would like more information.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Penn". The signature is fluid and cursive, with the first name "John" being the most prominent.

John D. Penn  
ABI Chairman

cc: Members of the Senate Judiciary Committee