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October 11, 2002

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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 Director James:

On behalf of the American Bar Association and its 410,000 members throughout the country, I write to thank you for your past efforts to improve the compensation of administrative law judges and to urge you to continue to address salary equity issues affecting the administrative judiciary in the course of setting federal pay levels for FY 2003.

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 ALJ salaries have not kept pace with salaries for the most senior government attorneys under the General Schedule or in the SES, or for experienced attorneys in the private sector.

ALJ compensation used to fall under the General Schedule but is now controlled by a separate pay scale that is linked to the Executive Schedule. Enacted by Congress in 1990 to improve ALJ pay, the revised pay schedule has backfired: rather than improving ALJ pay over the years, it has not even succeeded in maintaining the parity that previously existed with the compensation paid to other senior-level government attorneys. This deterioration in ALJ basic pay is the result of ALJs not receiving many of the cost-of-living adjustments (COLA) that were granted under the General Schedule during the past twelve years. In 1991, ALJ entry-level basic pay was comparable to the pay at GS-15, steps 5 and 6; today, ALJ basic pay has slipped to a rate comparable to the pay at GS-14, steps 7 and 8. As a result of these developments it has become increasingly difficult to both attract and retain the best talent to the administrative judiciary.

In 1999, Congress attempted to rectify these problems by enacting ABA-supported legislation (Pub. L. No. 106-97) granting the President authority to authorize the same annual COLA for ALJS that is authorized for the

General Schedule and to adjust ALJ basic pay within the statutorily mandated range of 65% to 100% of Executive Level (EL) IV. The President exercised his authority to authorize COLAs for ALJs in 2000 and 2001, thereby providing the administrative judiciary with assurance that ALJ pay will not fall farther behind, relative to the General Schedule. We are hopeful that he will do the same for FY 2003.

However, recent COLA authorizations do nothing to recoup the cumulative loss of wages resulting from COLAs that were denied in the past. Fortunately, the President has the ability to ameliorate this condition also, and last year, he took the first step toward remedying ALJ pay erosion. We sincerely appreciate that action and request that this year he take full advantage of his authority to improve pay parity by authorizing a supplemental adjustment within the EL IV cap sufficient to restore at least some levels of ALJ pay to a rate comparable to where it was in 1991 *vis-a-vis* the General Schedule. One way to accomplish this would be to increase entry level ALJ basic pay (AL-3A) to 77% of EL IV basic pay and other levels of the ALJ schedule as follows: AL-3B-78%; AL-3C-84%; AL-3D-89%; AL-3F-100%; AL-2-100%; AL-1-100%.

We are sensitive to the fact that the adequacy of compensation for all levels of the federal workforce is one of the central issues being examined by your office and Congress in the course of evaluating proposed reforms to enable the government to continue to attract and retain the best and the brightest in public service. Therefore, we want to emphasize that implementing the ALJ pay adjustments recommended in this letter would not single out ALJs for special treatment this year; rather, it would partially restore their compensation to comparable 1991 rates and help level the playing field before any broad-based federal workforce reform measures are instituted.

We state that it will only help level the playing field because authorizing a FY 2003 COLA and adjusting pay rates within the range currently set by law will restore pay parity to less than half of the ALJ workforce because of the spiraling phenomenon of pay compression. As of 2001, approximately 800 of the 1300-member ALJ workforce had reached the statutory pay cap; these judges will not even be able to reap the benefit of a FY 2003 COLA, should it be awarded. Moreover, if pay compression is not relieved, it is estimated that by 2004, the salaries of almost the entire administrative judiciary will be frozen because of the statutory cap.

The 106th Congress took the first step to relieve pay compression among federal employees whose salaries are linked to the Executive Schedule by doubling the President's salary. Enactment of additional remedial legislation is necessary to relieve the compression problem; we hope you will join us in encouraging Congress to promptly take action.

While we realize that a long-term fix to pay compression cannot be achieved by the ALJ pay adjustments we are urging the Administration to implement for FY 2003, they will nonetheless contribute significantly to improving pay parity for the administrative judiciary. We join many other national organizations in sincerely thanking you for your interest in the concerns of the ALJ community. We would like to continue our

collaborative efforts to strengthen the federal administrative judiciary and would welcome the opportunity for us and representatives of other ALJ organizations to meet with you at your earliest convenience to discuss these concerns.

If you would like to discuss these matters in greater detail, please feel free to contact Denise Cardman, ABA Senior Legislative Counsel, at 202/662-1761 or Hon. Ruth Kleinfeld, Chair of the ABA National Conference of Administrative Law Judges, at 603/641-2963.

Thank you for consideration of this letter.

Sincerely,

Robert D. Evans

CC. Mr. Ray Limon
Acting Director
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