

WADLEIGH, STARR & PETERS, P.L.L.C.

WILLIAM C. TUCKER
EUGENE M. VAN LOAN III
JOHN E. FRIBERG, Sr.
JAMES C. WHEAT
JOHN A. LASSEY
RONALD J. LAJOIE
KATHLEEN N. SULLIVAN
JEFFREY H. KARLIN
DONALD J. PERRAULT
MARC R. SCHEER
GREGORY G. PETERS
ROBERT E. MURPHY, Jr.
DEAN B. EGGERT

Attorneys At Law
95 Market Street
Manchester, New Hampshire 03101
Telephone (603) 669-4140
Facsimile (603) 669-6018

INTERNET: WWW.WADLEIGHLAW.COM

Serving New Hampshire since 1899

MICHAEL R. MORTIMER
KATHLEEN C. PEHL
RICHARD THORNER
CHARLES F. CLEARY
CHRISTINE GORDON
JENNIFER L. ST. HILAIRE
TODD J. HATHAWAY
STEPHEN J. JUDGE
STEPHEN L. BOYD
GREGORY M. SARGENT
ALISON M. MINUTELLI
MICHAEL J. TIERNEY
PIERRE A. CHABOT
JOSEPH G. MATTSON

April 15, 2010

Representative Majorie Smith
Finance Committee Chair
House of Representatives
107 North Main Street
Concord, NH 03304

Senator Lou D'Allesandro
Senate Finance Committee Chair
New Hampshire Senate
107 North Main Street
Room 302
Concord, NH 03304

Re: Testimony in Opposition to Judicial Branch Budget Cuts

Dear Honorable Representative Smith, Senator D'Allesandro and Committee Members:

My name is Dean Eggert and I live in Bow, New Hampshire. For the past 25 years I have practiced law with the firm of Wadleigh, Starr & Peters, PLLC in Manchester, New Hampshire. I respectfully appear before you today to register my strong opposition to the second round of proposed budgetary cuts affecting our state's Judicial Branch. It is my understanding that the legislature is now considering a proposal to cut over \$4,000,000 from the court system's proposed FY 2011 budget. There are four fundamental reasons why these cuts are unwise and irresponsible. They are as follows:

1. The proposed cuts breach the duty of the Legislative and Executive Branch to support criminal and civil justice in our state.

It is axiomatic that the state's justice system is a co-equal to the executive branch and the legislature. This fact of governance is clearly articulated in Part I, Article 35 and Part I, Article 37 of our New Hampshire Constitution. As indicated in Article 37, "In the government of this

April 15, 2010

Page 2.

state, the three essential powers thereof, to wit, the legislative, executive and judicial, ought to be kept as separate from, and independent of, each other, as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of unity and amity.” NH Court, Part I, Article 37. These cuts are so severe that they fall short of our duty to preserve, nurture and honor justice in the State of New Hampshire. A well known former statesman by the name of Daniel Webster put it this way, “Justice, sir, is the great interest of man on earth. It is the ligament which holds civilized beings and civilized nations together.” I respectfully request that the legislature not tear those ligaments.

2. The proposed budgetary cuts threaten our citizens’ right to civil jury trials.

Part I, Article 20 of our New Hampshire Constitution provides that all persons have a right to a trial by jury in civil matters. The same constitutional provision indicates that, “This method of procedure shall be held sacred...” See NH Const. Part I, Article 20. Even more sacred than the right to a civil jury trial however, is the right to a jury trial in criminal cases. This right is guaranteed by Part I, Article 15 and 16 of our New Hampshire Constitution. It is clear from the testimony of our Chief Justice that the cuts contemplated by the executive and legislative branch are so severe that will deny access of civil litigants to timely jury trials. As the British Statesman and Prime Minister William Gladstone put it, “Justice delayed is justice denied.”

3. The budgetary cuts threaten the citizens’ constitutional right to free, complete and prompt justice.

Part I, Article 14 of our Constitution states that, “Every subject of this state is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character; to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws.” NH Court, Part I, Article 14. It is apparent from the testimony of our Chief Justice that these budgetary cuts may jeopardize that constitutional entitlement. If the intent of the legislature is to force our judicial system to become a fee based system, this effort is ill-advised in that it will force citizens to become obliged to purchase their justice. The forced furloughs and further diminution in court business hours have begun to adversely affect the ability of citizens seeking justice to obtain prompt justice without delay. I respectfully submit that these proposed cuts threaten this constitutional principle.

4. These cuts are penny-wise and pound foolish.

There are numerous other pragmatic reasons why these cuts are ill-advised. As we enter the 21st century, we should seriously consider the tone we will set for justice over the next

April 15, 2010

Page 3.

decade. While our federal system has made great strides in technology and automation, these budgetary cuts represent a step backwards in the efforts to make our court system more accessible to citizens and attorneys through technology.

Over the course of the past 15 years, our firm has been able to manage personnel costs and overhead through the implementation of technology. The visionary pathway to good fiscal management does not include budget cuts which threaten the ability of the judicial system to implement automation and technology. Today at Wadleigh, Starr, the majority of our attorneys receive their litigation support based on a ratio of one administrative assistant to three attorneys. That efficiency was only obtained through the implementation of current technology. For example, electronic filing and other late 20th century tools need to be included within the judicial branches' budget. These are not part of a wish list, but represent a necessity for prudent planning.

Recently, our firm opened its 50,000th case file. The firm has had a numbering system in place since the early 1980's. Over the years, we have been proud to be part of a judicial system that has provided our clients, both large and small, with fair and equitable justice. We respectfully request that the legislature consider each of its constituents who found themselves in the position of needing justice. The very fabric of our state government depends on a robust, effective and honored justice system. I thank you for your consideration of these thoughts. I certainly would be glad to entertain any questions at the behest of the Chairs.

Very truly yours,

/s/ Dean B. Eggert

Dean B. Eggert

/ajm

cc: Honorable Chief Justice John Broderick
Honorable Justice Robert Lynn
James J. Tenn, Jr., President, NH Bar Association