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April 27, 2010

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

## Re: Compensation for the Federal Judiciary (S. 2725)

Dear Senator Feinstein:

On behalf of the National Association of Criminal Defense Lawyers (NACDL), I am writing to voice our strong support for the Federal Judicial Fairness Act (S. 2725), legislation that would provide automatic, annual cost-of-living adjustments to federal judicial salaries. Federal judges have received only two meaningful pay increases in the past 20 years, and have been denied COLAs in 1995, 1996, 1997, 1999, 2007 and 2010. The resulting salary erosion threatens the quality, diversity and independence of the federal bench. The Federal Judicial Fairness Act would correct the deeply flawed pay-setting system responsible for irregular and inadequate judicial COLAs.

It goes without saying that federal judges could easily make significantly more as partners at major law firms, but judicial salaries have been surpassed in other areas as well. Many federal employees, including SEC trial attorneys, can now receive significantly more than the annual \$174,000 salary for federal district court judges. As Chief Justice Roberts has pointed out, judicial law clerks who go on to associate positions at major law firms are able to command starting salaries in the same range or higher than their judges. And the judicial branch no longer enjoys an edge over the nation's top law schools when competing for the nation's brightest legal minds.

We are sensitive to the fact that judicial salaries are hardly meager by most standards and that federal judgeships remain prestigious. But this oversimplifies the reality of the problem and ignores the constitutional values at stake. For evidence that the inadequacy of judicial pay undermines life tenure, one need only point to the unprecedented number of departures from the federal bench in recent years. Such attrition cannot but diminish the quality, and ultimately, the independence of the judiciary.

Re: Compensation for the Federal Judiciary

We also are concerned about the detrimental effect of salary erosion on the diversity of the bench. As Senator Leahy stated, “Diversity on the bench helps ensure that the words ‘equal justice under law,’ inscribed in Vermont marble over the entrance to the Supreme Court, is a reality and that justice is rendered fairly and impartially.”

As an association of lawyers who appear daily in our nation’s federal courts, we know first-hand the importance of a highly qualified and independent judiciary. The fair administration of justice and the rule of law will suffer immeasurably if our nation’s judiciary is not made up of a diverse group of our country’s best lawyers. We urge you to guard against this consequence by passing the Federal Judicial Fairness Act this session of Congress.

Sincerely,

A handwritten signature in black ink, reading "Cynthia Hujar Orr". The signature is written in a cursive, flowing style.

Cynthia Hujar Orr  
President