



# Federal Bar Association

*Office of the President*

**LAWRENCE R. BACA**

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May 18, 2010

The Honorable Patrick Leahy  
Chairman  
Committee on the Judiciary  
United States Senate  
Senate Dirksen 224  
Washington, D.C. 20510-6275

The Honorable Jeff Sessions  
Ranking Minority Member  
Committee on the Judiciary  
United States Senate  
Senate Dirksen 224  
Washington, D.C. 20510-6275

**Re: Bankruptcy Judgeship Act of 2010, H.R. 4506**

Dear Chairman Leahy and Senator Sessions:

On behalf of the 16,000 members of the Federal Bar Association, I am writing to express our strong support for the creation or conversion of additional bankruptcy judgeships as authorized by the Bankruptcy Judgeship Act of 2010, H.R. 4506. The legislation, as approved by the House of Representatives on March 12, 2010, authorizes 13 new bankruptcy judgeships on a permanent basis, converts 22 temporarily authorized bankruptcy judgeships to permanent status, and extends the temporary authorization for 2 bankruptcy judgeships for another 5 years. These additional bankruptcy judgeships reflect the recommendations of the Judicial Conference of the United States. The legislation also increases bankruptcy filing fees by \$1.00 for filings under Chapter 7 and Chapter 13 of the Bankruptcy Code and by \$42.00 for filings under Chapter 11 of the Code to pay for the 13 new permanent bankruptcy judgeships.

As you know, our organization is the only national association of private and government lawyers and judges engaged in the practice of law before the federal courts and federal agencies, including the bankruptcy courts. Our Bankruptcy Section is comprised exclusively of practitioners who practice routinely in the bankruptcy courts and understand their needs. Because of this constituency and the informed perspective they bring, we urge Congress to establish the additional bankruptcy judgeships authorized by H.R. 4506, given the increasing strain of caseloads that the bankruptcy courts face and the increasing complexity of bankruptcy litigation.

The need for additional bankruptcy judgeships is longstanding and critical, with filings increasing to near-record levels and the bankruptcy courts in peril of losing many

of their judicial resources. Recent bankruptcy statistics confirm the growing volume of cases. According to the Administrative Office of the United States Courts, bankruptcy filings increased from 1,042,086 in fiscal year 2008 to 1,402,816 in fiscal year 2009, a 34.5% increase. Between fiscal year 2007 and fiscal year 2008, bankruptcy filings increased by 30.2%.

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) has further added to the complexity and burden of bankruptcy litigation. Approximately 35 additional proceedings, triggered by new motions, have been added by the BAPCPA, increasing the work of bankruptcy judges. The deep recession and its impact upon the rise in national and international corporate bankruptcy or reorganizations, such as Chrysler, Circuit City, CIT Group, General Motors, Lehman Brothers, Linens'N Things, Delphi, and Delta Air Lines, all have added to the need for more bankruptcy judges. The alternative is costly delay and the denial of timely justice, impacting debtors and creditors, as well as the larger economic interests of the nation.

Finally, as noted earlier, H.R. 4506 adopts the Judicial Conference's 2009 bankruptcy judgeship recommendations in full in authorizing the creation of 13 new permanent judgeships, the conversion of 22 temporary judgeships to permanent judgeships, and the extension of 2 temporary judgeships for 5 more years. We note that the Judicial Conference's recommendations likely understate the actual workload of bankruptcy judges because the recommendations rely in substantial part on the 1991 case weights. Those case weights do not account for any increase in workload as a result of BAPCPA's enactment in 2005. While the Judicial Conference is in the process of developing new case weights to account for the changes in judicial workload imposed by BAPCPA, we do not believe Congress should wait to authorize new bankruptcy judgeships until the Judicial Conference has adopted new case weights. Current needs are too great for the courts to wait any longer for relief.

We urge the Senate Judiciary Committee to provide approval to this necessary and critical legislation. Thank you very much for your consideration of our views.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Lawrence R. Baca". The signature is fluid and cursive, with a large initial "L" and "B".

Lawrence R. Baca