American College of Bankruptcy

Statement of the American College of Bankruptcy in Support of the Judgeship Bill (HR 2266 and S 632)

The American College of Bankruptcy is an honorary association of almost 900 bankruptcy and insolvency professionals. The College plays an important role in sustaining professional excellence in the bankruptcy field. College Fellows include commercial and consumer bankruptcy attorneys, judges, insolvency accountants, turnaround and workout specialists, law professors, government officials and others in the bankruptcy and insolvency community. It is a core value of the College that both individuals and businesses should have timely and efficient access to relief under the bankruptcy laws.

In furtherance of that value, the College supports and encourages the passage by Congress of the bills presently before it which would convert several temporary bankruptcy judgeships to permanent status and create several new judgeships. The bills are HR 2266 filed by Congressman Conyers and joined by Representatives Castor, Cicilline, Crist, DeSantis, Goodlatte, Marino, Nadler and Raskin, and a similar Senate bill, S 632, filed by Senator Coons and joined by Senators Carper, Mastow, Nelson, Rubio and Stabenow. These bills, which enjoy bipartisan support, track the 2015 and 2017 recommendations to Congress of the Judicial Conference of the United States.

There are currently 29 bankruptcy judgeships whose authorizations are set to expire on May 25, 2017. When the next judge in a temporary judgeship position retires, resigns or dies in office, that district loses that position unless it is converted to permanent or is further extended by Congress prior to May 25, 2017. A judge currently appointed to a temporary position is allowed to finish his or her term and be considered for reappointment. However, the next judge in that district who leaves the bench will result in the loss of the judgeship position.

The Judicial Conference recommended conversion of 14 judgeships from temporary to permanent status as well as four new judgeships in districts with high weighted filings including, among others, the District of Delaware, the Southern District of Florida, the District of Maryland, the District of Nevada and the District of Puerto Rico. Losing one or more judges in the districts that are the subject of the bills would significantly increase the workloads of the remaining judges and court staff and would slow down the administration of cases.

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The bankruptcy courts service hundreds of thousands of cases each year, and each case may impact a number of interested parties – debtors, creditors, employees, investors, and others. The high number of bankruptcy cases thus impacts millions of individuals and business entities. Often, the bankruptcy judge is the only judicial officer an individual will see during his or her lifetime. It is important to our democratic system of government that they experience this federal court as just, fair and efficient. Difficulties in managing the huge volume of cases by virtue of inadequate resources will cause delays in the entries of discharges, delays in hearing and deciding contested matters and adversary proceedings, and delays in distributions to creditors and exits from bankruptcy of both businesses and individuals.

In addition to negatively impacting parties to bankruptcy cases, inadequate judicial staffing would result in attorneys, trustees and other professionals who appear in bankruptcy cases not receiving the prompt service their constituencies require. Moreover, other judges and court staff will have to assume the additional workload, which will inevitably slow down the administration of bankruptcy cases. And prompt justice will not be delivered to participants, often involuntary participants, in the bankruptcy system. It is said that justice delayed is justice denied, and this certainly would be the case in bankruptcy courts where true emergencies abound.

For these reasons, the College joins the National Conference of Bankruptcy Judges in fully supporting the Judicial Conference's recommendation and the prompt enactment of the proposed legislation. There is a critical need for judges to adequately address the needs of the people and companies in their districts, and without adequate numbers of judges, particularly in the affected districts identified in the proposed legislation, inconvenience, delay and prejudice will most surely occur to the people who find themselves before the bankruptcy courts in times of great economic and emotional distress.