

THE STATE OF NEW HAMPSHIRE
SUPREME COURT

JOHN T. BRODERICK, JR.
CHIEF JUSTICE



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March 8, 2010

His Excellency John Lynch
Governor, State of New Hampshire
State House
Concord, NH 03301

Dear Governor Lynch:

Last month, your legal counsel Jeff Meyers asked that the judicial branch explore the prospects and consequences of additional judicial branch budget cuts totaling \$7,100,000 by June 30, 2011 (a two percent cut for the last quarter of FY 10 and an eight percent cut for all of FY 11). All of my colleagues on the Supreme Court and I examined the possibility for further budget cuts with the input of our financial officer, Dale Trombley, the Director of the Administrative Office of the Courts, Don Goodnow, our legal counsel Howard Zibel as well as with Chief Justice Lynn of the Superior Court, Judge King of the Probate Court and Judge Kelly of the District Court and Family Division. We took your request seriously with the certain knowledge that our state government is experiencing unprecedented economic difficulties.

As you know, the judicial branch has taken, and is taking, significant steps to assume its fair share of needed reductions. To date, we have cut district court and family division sessions by almost 12 percent to save on per diem payments to judges, and we have held fifty-nine unfunded staff positions vacant, which represents almost 10 percent of our non-judicial workforce. Both of these reductions carry consequences for the essential services we provide.

At our request, in an effort to conserve scarce resources during the previous biennium, you agreed to delay for many months filling any judicial vacancies—a reduction in judge time that we knew we could not sustain for the long term. We have also substantially reduced our mileage reimbursement rates to the lowest in state government and have limited mileage reimbursement for judges (with few exceptions) to only that mileage in excess of one hundred miles round trip from home to court assignment.

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We have eliminated reimbursement for virtually all organizational dues and have cut more than half of our judicial education budget. We have also cut equipment spending in half and eliminated non-essential maintenance contracts. Fewer jurors are being summoned to our courthouses which reduces compensation expenses for their services. Last year, we suspended jury trials for one month in eight of our ten counties to save an additional \$73,000. We have also closed the New London District Court and moved its caseload to the Newport and Henniker District Courts to save lease payments, maintenance costs and security costs. We no longer operate a facility in Durham as a satellite of the Dover District Court. All cases from Durham, Madbury, and Lee are now heard in Dover. We were also willing (and remain willing) to close several additional district courts to save on similar expenses. The legislature, however, has declined to do so.

Beginning April 2 we expect virtually all judges, all marital masters and all staff to take the first of several unpaid furlough days needed to reduce our biennial budget by the \$3.1 million we voluntarily agreed upon last fall. Staff represented by the SEA (about two-thirds of our non-judicial workforce) is currently voting on a tentative contract which provides for furloughs. If the contract is not ratified, employees represented by the SEA will incur layoffs. Judicial branch employees will, as far as we know, be the only state government employees, so far, who will absorb a salary reduction through furloughs in an effort to aid the state budget. To my knowledge, no one else in state government has done more in this budget crisis than has the judicial branch (although I understand that you and your office have contributed much by forgoing the 5.5 percent pay raise in January 2009), and many agencies and departments who are not general fund dependent have contributed far less. On each of our furlough days, the courts will be closed to the public (although we will make arrangements for arraignments and emergencies). This will not only reduce employee compensation but, more importantly, will reduce needed services to the citizens of New Hampshire. As you may know, almost 20 percent of our full-time court staff earn less than \$30,000 a year so their payless days will take a huge toll on them. The delays in the system, which are already unacceptable, will increase.

Almost 75 percent of the judicial branch budget goes to salaries and benefits. With our 59 staff vacancies and reduced court sessions, we have steadily fallen behind. Further cuts of the magnitude you suggested would have a devastating effect on our ability—and obligation—to provide essential judicial branch services. For example, we would have to temporarily lay off 275 employees (44 percent of our workforce) by March 25, 2010 in order to come up with a two percent reduction (\$1.4 million) in FY 10, which ends on June 30. This is unrealistic and would have an incalculable impact on the administration of justice.

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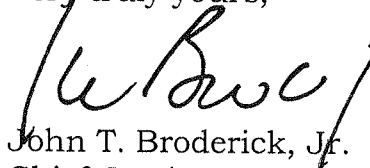
To save eight percent (\$5,700,000) of our FY 11 budget, we would need to maintain 90 of those staff layoffs. Because we would still have 59 unfunded vacancies, we would be without 149 of our 631 authorized staff positions, a reduction of approximately 24 percent. Were that to happen, the administration of justice in New Hampshire would slow dramatically.

Other "options" to effectuate large cuts are also unacceptable. For example, we could suspend the use of security screening at the entrances to our courthouses to save \$900,000 annually—a move we firmly believe would threaten public safety. We could eliminate all per diem judge time from the District and Family Courts to save \$1,300,000 which would mean those courts—the busiest in our state—would operate at only 70 percent of the time they need to get their job done. Increasing and unacceptable delays and backlogs would result.

Our core obligation, as the third branch of government, is to provide a safe, efficient and fair court system for the protection of public safety through the criminal courts and the resolution of civil disputes. That is our duty even in the worst economic conditions that any of us can remember. Our judges, court administrators and staff have made tough choices and personal sacrifices to help our state deal with its budget crisis, but after much reflection and examination, we have concluded that we are unable to do more.

If you would like to discuss this letter, I would be pleased to make myself available at your convenience.

Very truly yours,



John T. Broderick, Jr.
Chief Justice

JTB/pah

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