

THE STATE OF NEW HAMPSHIRE  
SUPREME COURT

JOHN T. BRODERICK, JR.  
CHIEF JUSTICE



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June 9, 2009

His Excellency John Lynch  
Governor, State of New Hampshire  
State House, Rooms 208-214  
Concord, NH 03301

Dear Governor Lynch:

I am writing to follow up on the status of the judicial branch budget and, in particular, to review with you how decisions about our budget in the House and Senate over the past several months have influenced our thinking on judicial vacancies. We were delighted in February when you expressed your commitment to fill all seven judicial vacancies, which also has been high on our priority list. Since then, however, as the work on the budget moved through the legislature, the financial realities have changed.

Specifically, we would like to address the impact on our budget if all seven judicial vacancies are filled at the same time that we are asked to absorb a \$1 million reduction in our budget each year of the biennium, as voted by the Senate. When our court administrators met with your counsel Michael Delaney yesterday, he reinforced your intent to make all seven judicial appointments. We fully support you in that decision and feel it would be in the best interest of the citizens and businesses of our state. But in order to make those appointments without having an adverse impact on our justice system, we feel we need to ask House and Senate conferees to restore the \$1 million in reduction. Here's how we see the options:

- **Restore \$1 million in Senate reductions for each year of the biennium:** Our budget would fund all seven judicial appointments (three Superior Court; three District Court; one Probate Court) if the Senate reduction is restored and we make an additional \$481,000 in reductions. While these cuts are not easy for us to make, they are achievable. They include: reduce from \$294,000 to \$120,000 funds used by the District Court to pay for per diem judges when a salaried judge is ill or on vacation or attending continuing education programs; retain the current level of 55 clerical vacancies; cut our equipment

budget by about 25 percent or \$150,000; reduce senior active status judge time from \$207,000 to \$50,000.

- **Sustain \$1 million in Senate reductions:** If those funds are not restored, we would have to respectfully ask you to leave one superior court, one probate court, and three district court judgeships vacant for the entire biennium. In addition to that request, we would also have to make additional budget cuts. These further cuts would have a noticeable impact on the citizens we serve. At this level we would have to eliminate the entire reserve for district court coverage, increase staff vacancies to fifty-nine, eliminate the entire appropriation for senior active status judges, and reduce our equipment budget by another \$150,000 to about half of what is needed.
- **Appoint all seven new judges and sustain the \$1 million in Senate reductions:** This scenario would have the most dramatic impact on our obligation to provide efficient access to justice for our citizens over the next biennium. Our only options would be to further reduce staff throughout the court system, and/or further reduce per diem judge time in the district courts and the expanding family division. As you know, Judge Kelly heavily relies upon per diem judge time to provide for the efficient operation of our district courts throughout New Hampshire. Right now, our district courts and family division are operating at a 10 percent reduction in court sessions. Judge Kelly believes that he can continue to operate for two more years at that level, but the further reductions that would be necessitated if all seven judges are appointed and the Senate reduction is sustained would have a serious impact on district and family court operations, even with the appointment of three new District Court judges. Simply put, if we don't have the staff to do the work produced by our current and newly appointed judges, we don't achieve greater efficiencies. In fact, this imbalance might create further delay.

As we have done from the beginning, we fully support your goal to appoint seven new judges and we appreciate your commitment to strengthening our judiciary. With that in mind, we intend to ask the legislature to remove the \$1 million in cuts proposed by the Senate so that you can make those appointments and we can provide meaningful access to justice. In turn, we would make the additional \$481,000 in further reductions needed to clear the way for funding those appointments once the Senate reduction is restored.

We are firmly committed as a branch of government to doing our part in the face of very difficult economic conditions that confront our state. As you know, we have proposed increasing certain court fees to raise more than \$2 million in revenue. We feel we can take that step without infringing on the right of all citizens to access to justice. At the same time, however, we need to

His Excellency John Lynch

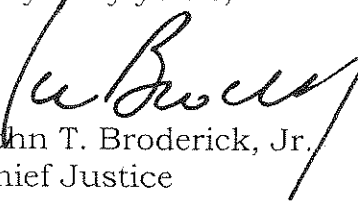
Page 3

June 9, 2009

be extremely cautious that we don't ask court users to pay more, but then provide them with less—so much less that true access to justice is jeopardized. I know you and your staff join us in recognizing that concern.

We would welcome the opportunity at any time to further discuss our analysis of these issues with you. I want to thank you and your staff, particularly Mike Delaney and Kristyn Van Ostern, for your willingness to meet with us, share ideas and candidly express concerns during a very difficult time.

Very truly yours,



John T. Broderick, Jr.  
Chief Justice

JTB/pah

C: Senator Lou D'Allesandro, Chair, Senate Finance Committee  
Representative Marjorie Smith, Chair, House Finance Committee  
Michael Delaney, Esquire  
Ms. Kristyn Van Ostern