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WASHINGTON, D.C. 20544

January 7, 1991

Honorable James Lawrence King
Chief Judge, United States District Court
301 North Miami Avenue
Miami, Florida 33128-7799

Dear Judge King:

I am writing in further reference to our telephone discussion last week regarding the fiscal limitations presently constraining our implementation of the Civil Justice Reform Act.

I have again canvassed the Administrative Office for the latest word on this matter. I have also mentioned to Ralph Mecham, Peter McCabe, and Art White, who is presently acting for Bob Feidler as our Legislative and Public Affairs Officer, the purport of your conversations with the Senate Judiciary Committee staffer who expressed his understanding that funds are now available to the Judiciary from other sources to spend on implementation of the Act. All of us are at a loss to explain this perception but are grateful to you for reporting it to us. It is certainly a reality that we must be aware of in our discussions with the Committee and in seeking a supplemental appropriation for this purpose.

Enclosed herewith is the latest written advisory on implementation of the Civil Justice Reform Act, dated December 20, 1990. Although it was addressed to all judges, you may not have received it or had the chance to focus on it. I have underlined the relevant excerpts addressing the funding situation. I should state also that the determination announced by this memorandum - that funds for implementation of the Act, including the compensation of advisory group reporters, are not available until appropriated by Congress in a supplemental appropriation - reflects the deliberative decision of the Judicial Conference Executive Committee in its adoption of the Judiciary's spending plan for fiscal year 1991. Thus no one should conclude that this decision was reached merely by administrative fiat.

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As I understand it, the Executive Committee's decision that no distinct spending for implementation of the Civil Justice Reform Act is presently allowable was based upon two premises: (1) that funds for this program are simply not available under the Judiciary Appropriations Act, 1991, given the courts' other spending priorities as previously announced to the Congress in our appropriations request for this year; and (2) as a matter of appropriations law, it would not be legal to divert preexisting appropriations to the implementation of a new statutory program which has not yet been funded by the Congress.

I realize that the foregoing explanation does not help you do what you believe you need to do, but I hope it at least makes the situation more understandable and signals the prospect that the funding you seek to compensate your reporter is likely to become available in the form of a supplemental appropriation later this year. In the meantime, I stand ready to discuss this or any other aspect of the Civil Justice Reform Act further with you whenever that would be helpful.

With kindest regards and best wishes for the New Year,

Sincerely,


William R. Burchill, Jr.
General Counsel

Enclosure

bc: ✓ L. Ralph Mecham
Karen Siegel
Art White
Pete McCabe
Duane Lee