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January 5, 2007

Dear Members of the FJA:

This report will focus on the critical issue of judicial pay and supplements my recent "From the Top" article in In Camera regarding the FJA's efforts to obtain a pay raise during the latter portion of the 109<sup>th</sup> Congress.

First some history. Recognizing that the Congress would never vote for a pay raise before an election - not even a delinked one for judges - in early May, the FJA Board decided that the best strategy and opportunity would be to persuade Congress to include a pay raise in the judiciary's appropriations bill that would be included in an omnibus appropriations bill in a lame duck post-election session. Shortly after this, I appointed a Search Committee to identify candidates to replace Jim Duff, our Washington representative appointed by Chief Justice Roberts as the new Director of the AO. Mindful of our pay strategy, that committee investigated firms with proven access to both the Democratic and Republican congressional leadership to assist us in achieving our goals. Ultimately, the Committee focused on The Livingston Group, a preeminent Washington firm headed by Bob Livingston, former Chair of the House Appropriations Committee, who enjoys an excellent reputation for access and effectiveness on the Hill.

FJA President-Elect Sarah Barker, Past President Larry Piersol and I met in Washington with Bob Livingston and several other members of his firm to discuss the dire pay crisis faced by the federal judiciary and assess how their group could assist us in obtaining a substantial pay raise before the end of the year. We told them no issue was more important to us than that of the pay raise. Although Bob Livingston immediately apprehended the worthiness of our cause, he also recognized the obstacle presented by Congress'

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historical unwillingness to delink its pay from ours, and candidly stated that we faced an uphill battle in persuading the leadership, especially in the House, to pass such a pay raise in an election year. Nevertheless, Livingston agreed that including a pay raise in an omnibus appropriations package after the election during the lame duck session presented our best opportunity for success and agreed to help us.

During the summer, I also had the opportunity to meet with the leaders of both the National Conference of Bankruptcy Judges (NCBJ) and the Magistrate Judges Association (MJA), and raised with them the possibility of pursuing a united pay effort and jointly hiring The Livingston Group as our representative. Following discussions within their respective memberships and with The Livingston Group, both the NCBJ and MJA agreed to join forces to push for a pay raise. Thus, in September, 2006, the FJA, NCBJ and MJA jointly hired The Livingston Group to represent us through September, 2007 on judicial pay issues. All of us agreed, however, that the primary focus of Livingston's efforts would be to obtain a pay raise as part of an omnibus appropriations package during the lame duck session of the 109<sup>th</sup> Congress.

During the time all this was occurring, I stayed in contact with Jim Duff at the AO and worked closely with him and his legislative staff to assure that our efforts meshed with those of Chief Justice Roberts, whose advocacy for a substantial judicial pay raise was deemed critical to the success of our efforts. Under the Chief Justice's able leadership, the support of the AO and the united front of all federal judges, we spent the fall of 2006 moving our strategy into place. Congressional staffs were contacted and key leaders advised of our intentions.

Unfortunately, our strategy never bore fruit due to the fact that, after the November elections, the Republican leadership refused to consider an omnibus appropriations bill and used the lame duck session simply to extend the Continuing Resolution ("CR") into February. A further disappointing development was the decision by the new Democratic leadership to operate the Government on a CR through the end of FY 2007. These developments obviously frustrated our strategy, but I don't believe anyone involved in our effort could have predicted that the entire Government would remain on a CR through FY 2007.

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Despite these setbacks, the FJA remains as resolved as ever. We are developing a long-term strategy for 2007-08 and intend to launch a pay initiative early in 2007. First, we will be meeting with the new Congressional leadership, many of whom previously have publicly stated their support for a judicial pay raise. We also will continue to work with the bankruptcy and magistrate judges to present a united front to Congress. And we will support in every way we can the magnificent effort of Chief Justice Roberts to achieve the goal of a substantial pay raise. By now, I hope that each of you has read the Chief's remarkable year-end report on the state of the judiciary, which is devoted entirely to our pay crisis. Be grateful for the extraordinary force with which he has expressed his commitment to obtain a significant pay raise for judges and please send him a note of thanks. Never before has a Chief Justice devoted his entire report to a single issue. That he chose to describe the critical issue of judicial pay as a constitutional crisis signals our Chief's commitment to champion the cause and do all things necessary and appropriate to obtain the pay raise the judiciary deserves.

For those of you frustrated by our lack of success in 2006, I urge you not to abandon hope. To paraphrase something we often tell juries about bench conferences: "While you are waiting, the FJA is working." Because there is no debate about the justice of our cause, we intend to persist and are committed to act in every way necessary to move a pay bill through Congress. To achieve a pay raise, however, we must practice the art of the possible with patience and political skill, maintaining our congressional contacts and adding a healthy dose of good marketing through public comments about the pay crisis from our friends in the Bar, the press and other communities of interest. We can and will press for positive editorials that beat the drum loudly across the nation about the necessity of a pay raise to avoid an exodus of experienced judges from the bench and the continued unfairness of inadequate pay. If we falter now, not only will we judges suffer but the American system of justice also will lose. That simply is not an option for the FJA. We were born out of the determination of a few, farsighted Article III judges determined to protect judicial independence by working for better pay. Over the years we have struggled for every victory, whether large or small, and we will continue that struggle until we reach our goal.

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In closing, let me assure you that, after the "dust" of the first days of the 110<sup>th</sup> Congress has settled, the FJA Executive Committee will review our 2007 pay strategy and consult with the NCBJ, the MJA and The Livingston Group to get our efforts underway. No issue is of greater importance than pay, and I emphasize again that no setback will deter us from pressing on for passage of a pay raise.

Happy New Year to each of you.

Sincerely,

A handwritten signature in black ink, reading "Irene M. Keeley". The signature is written in a cursive style with a large, looping initial "I".