Frozen pay drives out bankruptcy judges

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WASHINGTON – U.S. bankruptcy judges are abandoning the bench in a steady trickle to seek alternative careers as their pay has remained stagnant for the fourteenth year in a row, according to judicial experts.

Bankruptcy judges currently make an annual salary of $151,984, a number that has remained frozen since the government's last batch of raises took affect in 1993. The pay problem is shared with district judges, who make slightly more at $165,200 but also haven't seen a raise.

The Administrative Office of the U.S. Courts doesn't track departures of bankruptcy judges, a spokesman said, but their meager pay has attracted attention at the highest levels of the judiciary. Supreme Court Justice Samuel Alito recently told a congressional committee that the pay of bankruptcy-court clerks and their deputies "now exceeds the salary of bankruptcy and magistrate judges" in some parts of the country.

Concerned with the welfare of their families and the rising cost of living, some bankruptcy judges have opted to pursue new careers in private practice. In March, Melanie Cyganowski quit her job as chief bankruptcy judge for the Eastern District of New York after her aging mother moved into her home and her husband faced a potential layoff at work. The decision to leave what she had expected to be a lifelong career was gut-wrenching.

"It was a heartbreaker," said Cyganowski, who now leads a team of restructuring consultants at Greenberg Traurig LLP in New York. "But it was increasingly difficult to have a 12-year-old looking at college, my husband's job in jeopardy, and my mother living with us, while considering her healthcare as she ages. All these financial issues were part of my decision."

"No one goes on the bench to make money," Cyganowski said. "It's out of desire to do public service. I was content with that, but disappointed that the pay eroded."

Between 1969 and 2006, the average U.S. worker's salary increased by 18 percent, while the inflation-adjusted pay of bankruptcy judges has dropped by about 25 percent, according to the Social Security Administration. If bankruptcy judges were afforded the same raise as the average worker, their current salary would increase to $240,396, according to the Administrative Office of the U.S. Courts. District judges, who make 8 percent more than bankruptcy judges, would make $261,300.

Government-authorized cost-of-living adjustments, which are paired with adjustments given to members of Congress, have been sporadic for judges. Judges received only nine adjustments in the past 14 years, ranging from 3.4 percent to 1.9 percent, according to the American Bar Association. In four different years, members of Congress elected to forgo their entitled adjustments, forcing judges to forgo their own as well.

Experts warn that shrinking salaries could discourage would-be judicial candidates from applying, shrinking applicant pools and seating less qualified candidates on the bench. Several high-ranking judges, including Alito, have publicly urged Congress to revive the salaries.

"I'm afraid that today's eroding federal judicial salaries will lead, sooner or later, to less capable judges and ultimately to inferior adjudication," Alito said while testifying before the House Judiciary Committee in April. "If this comes to pass, the function of our courts as guardians of the rule of law will be undermined."

As judges salaries have decreased in inflation-adjusted terms, salaries of partners at law firms have grown dramatically. According to data from American Lawyer Magazine, partners in the nation's largest law firms made an average of $1.2 million in 2006, more than seven times the salary of bankruptcy judges.

The difference is making it harder to attract top-notch judicial candidates, and easier to lure current judges away from the gavel. Between 2000 and March 2007, 65 percent of the 48 federal district and appellate judges who left the bench went into private practice, according to the Administrative Office.

As bankruptcy filing rates rise, the already-heavy workload for bankruptcy judges is predicted to increase. New procedural requirements put in place by the 2005 bankruptcy laws have put additional strain on judges and courthouse staff, according statistics from the Administrative Office.

Many bankruptcy judges contend that restructuring cases have become increasingly complicated in the past decade, as corporate bankruptcies like Enron can put billions of dollars at stake and require endless hours of prep work. As the trend continues, some judges say it's sometimes almost painful to approve young attorneys' ever-growing bankruptcy fees, which are often in the millions.