

SUMMARY OF THE COMMENT

The enclosed letter is directed to the Quadrennial Commission examining pay for high-ranking Federal employees, including judges on the boards of contract appeals. The letter urges the Commission to consider changing the present salary structure for these judges. Under the present salary structure, some judges have worked for years without any salary increases. This salary stagnation has prompted judges to leave the Federal service. To retain these judges and to continue to attract new, well-qualified judges, the Section urges the Commission to consider changing the present salary structure.

GOVERNMENT, CONTRACTS AND LITIGATION SECTION

Steering Committee:

Susan Warshaw Ebner, Chair
Gregory Smith, Vice Chair
Paul G. Dembling
Bernard Fried
Gerson B. Kramer
Lisa Anderson Todd
Joseph A. Vergilio



The District of Columbia Bar

Committees:

Court and Board Practice
D.C. Procurement

November 15, 1988

The Honorable Lloyd Cutler
Chair
Quadrennial Commission
736 Jackson Place, NW
Washington, DC 20415

Re: Comments on the Federal Pay for Judges
in the Boards of Contract Appeals.

Dear Mr. Cutler:

The Section on Government Contracts and Litigation of the District of Columbia Bar deems the Quadrennial Commission's review of salaries for judges on Federal boards of contract appeals to be an important matter requiring our comment. We submit the following comment stating our position on this matter.

Sincerely,

Susan Warshaw Ebner
Chair
Section on Government Contracts
and Litigation,
The District of Columbia Bar

COMMENTS ON BEHALF OF THE GOVERNMENT CONTRACTS
AND LITIGATION SECTION OF THE DISTRICT OF COLUMBIA BAR¹

Every four years a Quadrennial Commission is convened to examine the federal pay structure for judicial, legislative and executive salaries. The Commission has focused much of its attention on the remuneration of Federal court judges, congressmen, cabinet officials, and other senior Government personnel. While we believe that the attention to these groups is highly appropriate, we urge you to consider the problems that salary stagnation fosters for judges on the boards of contract appeals.

Judges on the boards of contract appeals retain jurisdiction over highly complex, large dollar value contract claims brought against United States Government agencies. The combined value of these claims amounts to billions of dollars. Pursuant to the Contract Disputes Act, 41 U.S.C. § 601 et. seq., these judges and Claims Court judges exercise concurrent jurisdiction over these cases. Their pay, however, is not the same. Unlike the Claims Court, the salaries of judges on the boards of contract appeals are tied to the salaries paid federal civil service employees at the GS-16 through GS-18 grade levels. Moreover, because of the current pay structure, judges on the boards of contract appeals, including those with the most extensive experience, have not received any salary increases in recent years because of the present pay ceiling. By contrast, members of the Senior Executive Service who try cases before these judges, and judges in the Claims Court who work on similar cases, have received salary increases.

There have been, and probably will continue to be, judges who have retired or changed jobs rather than continue at a salary that has not been increased to reflect their added contributions. Their departure from this judicial service is, and will continue to be, a loss to the Government, the Bar and, most important, the public. The failure to increase these judges' salaries in amounts similar to those provided to other judges with similar workloads and members of the Government who practice before these boards, is likely to have other ramifications. Not only will the boards of contract appeals suffer because the most experienced judges will leave Federal service once their salaries stagnate, but it will become harder for the boards of contract appeals to attract well-

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The views expressed herein represent only those of ~~Division~~ ^{the} Government Contracts and Litigation Section of the District of Columbia Bar and not those of the D.C. Bar or of its Board of Governors.

qualified individuals to replace these judges because of this salary structure. This loss of talent and expertise will damage the quality of justice delivered by the boards.

As members of the Government Contracts and Litigation Section of the District of Columbia Bar, we represent clients from both the Government and the private sector before these boards of contract appeals. We urge the Commission to consider the need to retain and to attract experienced, high quality judges to hear these cases when it prepares its recommendations on changes to the present salary structure because the quality of justice is important to us all.

Susan Warshaw Ebner, Chair
Gregory A. Smith, Vice Chair
Paul G. Dembling
Bernard Fried
Gerson Kraemer
Lisa Anderson Todd
Joseph A. Vergilio

November 17, 1988