

Prevent Sequestration Crisis in the Federal Court System

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The Congressional Budget Office refers to “sequestration” (also referred to as “the sequester”) as “an enforcement mechanism by which the President orders the cancellation of budgetary resources in amounts sufficient to eliminate a deficit.”

On August 2, 2011, the Budget Control Act of 2011 (BCA) was signed into law. The BCA provides that the sequestration process shall cause automatic, across-the-board spending cuts if Congress approves a budget higher than spending caps set forth in the law. Because a budget within the limits of the caps was not adopted by the deadline in November 2011, the caps were imposed and, after expiration of a continuing resolution, took effect on March 1, 2013.

On December 26, 2013, the President signed into law the Bipartisan Budget Act of 2013 (Pub. L. 113-67). Negotiated by Senator Patty Murray and Representative Paul Ryan, the law raised the sequestration caps for fiscal years 2014 and 2015, in return for extending the imposition of the caps into 2022 and 2023, and miscellaneous savings elsewhere in the budget.

On January 17, 2014, the President signed into law the Consolidation Appropriations Act (the “Act”), funding the federal government to the end of the Fiscal Year 2014. According to testimony before Congress in March 2014, Judge Julia Gibbons, chairwoman of the budget committee of the Judicial Conference of the United States, said that the funding approved by Congress for FY 2014 allowed the federal courts to backfill many of the staff and public defender positions lost during last year's steep budget cuts. Judge Gibbons testified that, “We anticipate this will take at least two years to accomplish but we are committed to restoring the program to its former strength....”

Judge Gibbons testified that, “Our fears [regarding the nearly \$350 million in cuts to the courts as part of sequestration] were realized.” Sequestration caused delays in case processing and led to reduced services at courthouses and lower funding for court security, Gibbons said.

In New York, the 2013 disruption in the federal courts was -- and would again in 2016 be -- enormous. As it now stands, all four of New York's district courts are categorized as “congested courts”, meaning that they exceed the average caseload numbers for the entire federal system. Therefore the cuts cause disproportionately heavy impact -- direct and indirect -- on New York.

Clearly, New York individuals and businesses suffer as a result of cuts to the court system. But inadequate court funding also impairs New York's status as a top choice for businesses engaged in international transactions by diminishing the efficiency and predictability of our judiciary. Additional costs for litigants due to funding-related delays, along with the concerns that accompany the downward budget spiral, serve as significant disincentives for the international community to choose New York as the forum for dispute resolution. Loss of this status would result in loss of valuable commercial activity and tax revenue.

Our courts are one of the pillars of our society, serving all who need their assistance to resolve disputes, small and large, for individuals and businesses. The New York State Bar Association urges Congress to take steps to avoid another crisis-by-sequester in the federal court system.