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Court Funding and Sustainability

By Lisa C. Goodheart



As I start my term as President of the Boston Bar Association, I feel honored by the opportunity to serve this great organization. I congratulate Don Frederico on his very successful presidency and thank him for focusing attention on the future of the profession. I am excited about the BBA's plans for the year ahead, yet also sobered by the difficulty of many of the issues on which we'll be working. One of those issues is state court funding.

Support for adequate court funding is a longstanding BBA policy priority, for reasons that hardly need explaining. It's essential that our courts function safely, soundly and with reasonable efficiency, and it costs money for them to do so. Lawyers have a special understanding of the role of the courts in our society and system of government. Because of this, we also appreciate the seriousness of the threat posed by sustained underfunding of our court system.

As the budgetary squeeze on our state courts has tightened in recent years, the BBA has responded. In 2009, BBA President Kathy Weinman convened a task force that reported on the likely adverse consequences of budget cuts on the administration of justice. The following year, the task force reconvened by BBA President Jack Regan produced a new report which warned that further court funding

cuts would lead to dire consequences. This past year, under Don Frederico's leadership, the BBA issued a report entitled "[Justice on the Road to Ruin](#)." The grim title says it all.

This year, the BBA will pursue a robust public policy agenda that includes court funding and a range of other issues. We will remain focused on the challenges faced by new lawyers entering the profession. We will continue to seek greater diversity and inclusion within our ranks. I'm also eager for the BBA to explore environmental sustainability in the practice of law, and to cultivate the "greening" of our profession as a hallmark of professional excellence and civic responsibility.

These initiatives have something important in common – they all reflect the BBA's investment in and commitment to a sustainable future. This investment stems from the understanding that building a sustainable future for our profession and our communities is a shared responsibility. At the BBA, we recognize the importance of preserving and enhancing the sustainability of the things we value.

It is particularly troubling to consider the escalating court funding crisis in terms of sustainability. In Massachusetts, we expect the reliable delivery of a high caliber of justice from our state courts. But our court system must consume substantial resources to remain healthy, and it's been put on a starvation diet. Certainly, some of the immediate adverse consequences are dramatic and painful to see. But perhaps even worse, though less readily apparent, is the damage to the strength and vitality of our courts that will reveal itself only over time.

We are already cutting into sinew and bone. The signs are increasingly visible that our state courts have reached the breaking point in terms of their ability to administer justice with the degree of efficiency that we expect. Many will be disappointed and frustrated by this, but none should be surprised. The significantly reduced FY 2012 judiciary budget has come in the wake of earlier budget reductions over a number of years, and the effects are cumulative.

It's not "just" the prospect that cases will take longer to grind through the system, and parties will wait longer for decisions and judgments. It's not "just" a matter of staff layoffs and courthouse closings, meaning the loss of valuable human capital and greater inconvenience for litigants. It's not "just" the increasingly difficult working conditions for judges and court staff, which interfere with the administration of justice in ways great and small. All of these consequences of underfunding are real and specific problems. But they also point to something more fundamental, which is that to underfund our courts is to systematically rip and tear at the fabric of justice. The results can be irreparable.

As lawyers, we need to press for court funding in light of our understanding that a well-functioning judicial branch is a constitutional imperative, not an optional luxury. We need to make the case for a sustainable system of justice, accessible to all. And at least some of the critical aspects of a sustainable system of justice are easy to identify. A sustainable system is one that's supported with sufficient resources to carry out its mission. It's one that isn't shackled by the imposition of unjustified constraints on the effective management of resources. It's one that isn't rocked by sequential funding cuts that undermine sound planning and preclude infrastructure investments.

Looking ahead, we'll need to be louder, clearer and more persuasive than ever in advocating for the state courts' funding needs. It's no exaggeration to say that what's at stake is the sustainable future of a Massachusetts court system that is capable of meeting our expectations of justice. ■