

United States Senate
WASHINGTON, DC 20510

May 18, 2012

Via Electronic Transmission

The Honorable Alex Kozinski
Chief Judge
United States Court of Appeals for the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119-3939

Dear Chief Judge Kozinski:

As the Ranking Members on the United States Senate Budget and Judiciary Committees, we have an obligation to protect taxpayer dollars against waste, fraud, and abuse. To that end, we want to ensure that the courts are utilizing their current funding allocation effectively.

The Administrative Office of the Courts appears to recognize the financial constraints we currently face. Indeed, the 2011 Annual Report of the Director contains a section on "Cost-containment Measures," that acknowledges "the Judiciary and all federal agencies face an ever-tightening budget climate." The Annual Report also references a cost-containment summit held in Washington, D.C., in September 2011. The goal of that summit was to "reduce expenses and plan for a constrained budget climate if, as anticipated, court appropriations were severely reduced." We believe the Annual Report recognizes the nation's financial crisis, but we are concerned that the 2012 Ninth Circuit Judicial Conference planned for August 13-16, in Maui, Hawaii, is inconsistent with that recognition.

According to information found on the website of the Court of Appeals for the Ninth Circuit, the attendees for the conference will include the judges of the U.S. Court of Appeals for the Ninth Circuit and the federal district and bankruptcy courts in nine western states and two Pacific island territories, representatives of the federal bar practicing in these courts, and court staff. Attendees—at the expense of the taxpayers—will have the option of staying in one of the following rooms at the Hyatt Regency Maui Resort & Spa: "Run of the House," "Partial Ocean View," or "Deluxe Ocean View," at a cost of \$230, \$240 or \$250 per night, respectively. Assuming a 4-night stay, even at the "run of the house" rate, this would cost at least \$920 for each judge who attends. This does not include the daily resort fee, which is \$25 per day. At this rate, assuming that

attendance is consistent with the 2010 conference held in Maui, which drew almost 700 participants, accommodations for the conference alone would cost more than \$500,000.

Although the conference does not “officially” open until Monday, the registration desk is open on Saturday and Sunday, with sport fishing scheduled for Sunday morning and a golf tournament scheduled for Sunday afternoon. Throughout the conference schedule, there are other activities unrelated to the business of the court, including yoga, surfing lessons, stand-up paddle board lessons, Zumba (a Latin-inspired dance program), a tennis tournament, a day trip and tour of Upcountry Maui, a Gemini Catamaran snorkel trip, and an activity called “The Aloha Experience.” While the site makes clear that government funds are not to be used for any recreational or sporting activities and that court-related matters will be substantively considered, the programs reads more like a vacation than a business trip to discuss the means of improving the administration of justice.

We are concerned about the overall cost of this conference and do not believe that discussions about the administration of justice would be less successful were they held somewhere other than a spa and resort in Hawaii. For instance, a flight from Billings, Montana, to Hawaii would likely be in excess of \$700, assuming a coach fare. Assuming the 12 active district and bankruptcy judges attended and flew from Billings that would amount to almost \$9,000, assuming the \$700 average, which is low.

Indeed, according to documents received from the Administrative Office of the U.S. Courts, the Ninth Circuit spent over \$657,000 on travel-related costs for the 2010 Judicial Conference. The Court also spent a combined \$860,000 on travel costs for judges to attend conferences in 2009 and 2008, held in Monterey, Calif., and Sun Valley, Idaho, respectively. We are concerned that using the tax dollars of the American people to pay for conferences of this sort is not the most appropriate use of funds, but it is especially questionable in the economic environment that you’ve acknowledged in your annual report.

We therefore request, as Ranking Members of the Senate Budget and Judiciary Committees, before any additional funds are expended towards this conference, your responses to the questions submitted below, so that we might have a better understanding of why it is necessary to submit this conference bill to the taxpayers.

1. Please submit historic information for Ninth Circuit conferences for the years 2008, 2009, 2010, and 2011 in this manner:
 - a. The total number of court employees who attended each conference and the subtotals for each category of employees by title. Please also provide the titles and affiliations of all other attendees.

- b. A list of the expenses, in Excel spreadsheet form, incurred by each attendee that were paid for or reimbursed with federal taxpayer dollars, including but not limited to: hotel room, transportation (including mode of transportation), meals, and incidentals.
 - c. A complete list, in Excel spreadsheet form, of all outside speakers who attended the conferences, the expenses incurred by each speaker, and an explanation of how each speaker fit into the purpose of the conferences.
 - d. Did any members of the Ninth Circuit, the Judicial Conference Executive Committee and/or Office of the Circuit Executive incur pre-conference travel expenses directly related to the planning of the conferences? If so, please provide a list of all expenses incurred that were reimbursed with federal taxpayer dollars, including but not limited to: hotel room, transportation, meals, and incidentals.
 - e. Was the Ninth Circuit required to comply with Federal Acquisition Regulations (FAR) for these conferences? Please provide copies of all quotes or bids provided by potential vendors for each conference, including travel agencies.
 - f. Please provide the total amount paid for the use of conference facilities, including room rental, food, drink, hospitality room expenses, and all other expenses charged by the facility.
 - g. Conference attendees are often given gifts and other items for attending, commonly referred to as "swag." Please provide a detailed list of all swag, gifts, and other attendance items given to all attendees, as well as an itemized list of the cost for each item.
 - h. Each conference includes one evening of district dinners. Please provide the list of all attendees, guests, and speakers to these dinners. Please also provide the list of expenses for these dinners paid for with federal tax dollars including: use of the facility, food, drink, gratuities, speaker fees, and transportation.
2. With respect to the Ninth Circuit Judicial Conference planned for August 13-16, 2012 in Maui, Hawaii, please respond to the following:
- a. Are the expenditures required for this conference consistent with the goals established in the cost-containment summit held in Washington, D.C., in September 2011?

- b. Why was the Hyatt Regency Maui Resort & Spa selected as the venue for the conference? Please explain the selection process, including other venues considered and why they were not selected.
- c. According to the conference website, the government per diem for Maui is \$289 per day. The 150% per diem is \$433, and the alternative daily maximum per diem for judges is \$397 per day. Please explain what this per diem covers and whether flight expenses are calculated separately.
- d. Please identify the origin of flights for all anticipated participants, the roundtrip costs for each flight (including transportation to and from the airport), rental car expenses, and any parking expenses to be paid through government funds.
- e. Please identify the number of judiciary employees expected to attend the conference, the costs associated with their attendance, and the roles they will play during the conference.
- f. Please explain whether judges and other participants will be allowed to participate in the extracurricular activities while the official business of the court is being discussed or other educational legal programs are being conducted. Are there any mandatory programs that judges must attend?
- g. The conference opens some events to family and spouses. What are the costs related to the attendance of family members and spouses covered by government funds? For instance, does the resort charge additional fees based on single or double occupancy for hotel rooms?
- h. Please submit detailed information about costs already incurred, including invoices and receipts, as well as all projected costs for the duration of the conference.
- i. Please explain how this venue, rather than a teleconference or some other avenue for the Court to conduct its business, will lead to improving the administration of justice.
- j. It is our understanding that a number of circuits have canceled annual conferences because of cost constraints. For those that have not canceled conferences for 2012, please list the conference locations and the projected costs related to those conferences. If the conferences have already occurred, please submit a detailed report of all costs related to those conferences.

We appreciate your prompt attention to this matter. As you know, there are a number of courthouses awaiting funding for renovation and we assume that the administration of justice could be more effectively carried out through funding those projects rather than a conference such as the one described in this letter.

Please provide this information both in hard copy and in an electronic and searchable format no later than June 15, 2012, to William Smith on the Senate Budget Committee and Janet Drew on the Senate Judiciary Committee. Questions can be directed to Mr. Smith at (202) 224-6308 or william_smith@budget.senate.gov, or Ms. Drew at (202) 224-5225 or janet_drew@drugcaucus.senate.gov.

Sincerely,



Senator Jeff Sessions
Ranking Member
Senate Budget Committee



Senator Chuck Grassley
Ranking Member
Senate Judiciary Committee

cc: The Honorable Thomas F. Hogan
Director
Administrative Office of the United States Courts
Room 7-100
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Washington, D.C. 20544