

United States Senate  
WASHINGTON, DC 20510

July 13, 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:

We write to follow-up on our letter dated May 18, 2012 and your response dated June 15, 2012, regarding the Ninth Circuit Judicial Conference planned for August 13-16 in Maui, Hawaii. We find your answer unsatisfactory. Your response, almost without reservation, states the Conference will go on. It does not present a compelling case for spending more than \$1 million in taxpayer funds for what you describe as "collegiality and consensus achieved through personal interaction." We invite and encourage you, once again, to take the necessary steps to cancel or at least scale back this Conference.

While there can be value in judicial conferences, that value is substantially eroded when judges and employees are distracted with extracurricular activities unrelated to the matters of the court. There is no indication that attendees are required to attend even one official event while on the Island. Indeed, your letter describes no particular role for employees attending the conferences and refuses to say whether judges are required to attend the business related events. Indeed, a member of your staff admitted in a phone conversation with one Senate staffer that judges and employees could fly to Maui at the expense of the taxpayer and not participate in any event related to the Conference. Certainly, if individuals are not attending the business-related events, these expenditures cannot be justified.

There are a number of other troubling aspects to your response. You seem to ignore our serious concerns about the size, scope, and price tag of your conference, which exceeds that of other circuit conferences. At a time when the American taxpayers have been required to tighten their belts, it would seem only appropriate that the

American Judiciary, while spending money provided by those taxpayers, would be required to do so as well.

The general session topics described in your letter do not seem focused on improving the administration of justice. The 27 business meetings you alluded to, we must assume, do not include the members of every division of the Circuit, and thus appear to be meetings that could be held locally. Additionally, we don't understand the necessity of gathering over 500 conferees in one location for the Circuit to announce a new initiative.

In our initial letter, we requested specific documents pertaining to the total cost of the Conference but were given vague excuses instead. The Court sidestepped every request for documentation of expenditures, responding instead that travel-related expenses are not easily accessible. The American people expect that when tax dollars are expended, someone will be held accountable for those expenditures. Perhaps not tracking spending is the reason you believe this and previous conferences have been managed in the "most efficient and least costly manner."

We requested "the total amount paid for the use of conference facilities, including room rental ... and all other expenses charged by the facility." This information should be easily located in the contract signed with the host facility. Responding that cold drinks are purchased with registration fees is inadequate. The Ninth Circuit Court is not unaccountable to Congress and the taxpayers for their actions. For this reason, we are requesting the following information for the 2008 through 2013 conferences:

1. Please provide all contracts and/or agreements executed by the Ninth Circuit Court related to each yearly conference, including those with the resorts, professional conference managers and services, convention bureaus, and airlines, used to organize judicial conferences. (We understand that information for 2013 might be limited, but that you've already signed a contract for next year. Submit that contract and all your receipts related to that conference). In addition, please submit the proposals from hotels/resorts provided an opportunity to host conferences over this period of time.
2. According to the National Travel Service website, "For certain travel every dollar spent with National Travel Service, Inc. earns one point" and "Group organizers can earn travel reward points if pre-qualified by Travel Rewards, Inc." Please provide documentation of all "points" earned by all employees and judges of the



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Ninth Circuit Court. Please also document the use of all points and specify whether any points were transferred to family members of Court employees and/or judges.

3. According to additional documentation provided by the Ninth Circuit Court, a significant portion of the lodging and meal expenses for speakers was paid for with hotel credit the Circuit had been given. Please explain in specific detail how these hotel credits are earned, how many credits were earned per conference, what they were applied toward at each conference, and how any remaining credits have been used.
4. Please specify the court employees, by title, who will be attending the 2012 conference in Maui. Please also specify the dates each employee will be in Hawaii and their specified duties. If there are no required duties, please explain the necessity for them to attend the conference.
5. We appreciated receiving the supplemental information regarding pre-conference travel and the reimbursement of speakers, but it is also insufficient. Instead of providing totals in aggregate, we are requesting the following:
  - Please provide the actual receipts submitted by the speakers over the last five years for reimbursement including but not limited to: airfare; meals and lodging; the type and total cost of ground transportation; and “other.”
  - All receipts submitted for pre-conference travel expenses including but not limited to: meals, lodging, and car rental. We need to understand what the \$26.70 per day reimbursed to each staff member and described as “other” on the travel voucher represents.

During this time of extraordinary debt, and given the history of opulence—including repeated trips to the Hawaiian Islands—we believe you should cancel the million-dollar conference. Failing that, ample opportunities to scale back costs at this event and at future conferences remain. For instance, a number of circuits hold conferences on a biennial basis and seek ways to keep costs low. We view this as a wise option. In addition, the per diem in some areas is substantially higher than it is in others. We suggest that conferences be held in the area where the daily per diem is lower.

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Finally, we note that your defense of the Maui Conference is grounded, in part, on the fact that Congress has authorized judicial conferences since 1944. But surely you recognize that the congressional authorization for the Circuit's judges to meet and discuss court business is not an invitation to gather annually at the most expensive and far-flung island paradise within the Circuit. If it is necessary to amend the statute to reflect that fact, we will work to do so.

Again, if you have any questions related to this matter, please do not hesitate to contact William Smith or Janet Drew on our staffs. Questions can be directed to Mr. Smith at (202) 224-6308 or [william.smith@budget.senate.gov](mailto:william.smith@budget.senate.gov) or Ms. Drew at (202) 224-5225 or [Janet\\_Drew@drugcaucus.senate.gov](mailto:Janet_Drew@drugcaucus.senate.gov).

Sincerely,



Senator Jeff Sessions  
Ranking Member  
Committee on the Budget



Senator Chuck Grassley  
Ranking Member  
Committee on the Judiciary

cc: The Honorable Thomas F. Hogan  
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