



July 29, 2013

The Honorable Patrick J. Leahy
Chairman
Judiciary Committee
United States Senate
Washington D.C. 20510

Re: **Additional comments for hearing held on July 23, 2013
before the Senate Judiciary Subcommittee on Bankruptcy and the
Courts Regarding "Sequestering Justice: How the Budget Crisis is
Undermining Our Courts"**

Dear Chairman Leahy:

The Commercial Law League of America ("CLLA"), founded in 1895, is the nation's oldest organization of attorneys and other experts in credit and finance actively engaged in the field of commercial law, bankruptcy and reorganization. Its membership consists of nearly 1500 individuals. The Bankruptcy Section of the CLLA is made up of approximately 250 bankruptcy lawyers and bankruptcy judges from virtually every state in the United States. Its members include practitioners with both small and mid-size practices, who represent divergent interests in bankruptcy cases. The CLLA has long been associated with the representation of creditor interests, while at the same time seeking fair, equitable and efficient administration of state-law collection and bankruptcy cases for all parties-in-interest. Members of the CLLA have testified on numerous occasions before Congress as experts in bankruptcy and collections matters.

Specifically, the CLLA previously testified on September 8, 2011 before the Subcommittee on Courts, Commercial and Administrative Law of the Committee of the Judiciary, United States House of Representatives in support of H.R. 2533 in support of the Chapter 11 Bankruptcy Venue Reform Act of 2011. In addition, over the past two years since those hearings, the CLLA has helped to create, support and develop a growing network of bankruptcy practitioners from nearly every state who support the need for bankruptcy venue reform.

The CLLA submits this comment regarding the recent hearing held on July 23, 2013 before the Senate Judiciary Subcommittee on Bankruptcy and the Courts regarding "Sequestering Justice: How the Budget Crisis is Undermining Our Courts". We understand that during that hearing there was a discussion about a "full-blown crisis" that has developed in the bankruptcy courts in Delaware due to the large volume of bankruptcy cases filed in that district. In response, Delaware has been slated for a new and seventh judgeship. We believe that there is a far better and financial-neutral solution to addressing the stated problem – a reform of the bankruptcy venue laws that will provide a more fair and efficient distribution of Chapter 11 bankruptcy cases throughout the countries to existing bankruptcy judges and courts.

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Our group's research has determined that from December 1, 2003 through December 31, 2012, 559 companies commenced their Chapter 11 bankruptcy cases in Delaware instead of the bankruptcy courts where their principal operations were located. This situation has not only overwhelmed the courts in Delaware but is also creating serious consequences in the bankruptcy system and adversely affecting the administration of justice. For example, 1) creditors' participation in cases becomes limited when cases are filed in Delaware, sometimes thousand of miles from the debtor's principal place of business; 2) concentrating Chapter 11 cases in Delaware (and the Southern District of New York) severely restricts the development of bankruptcy case law and practices; and 3) as most practitioners experience, the reorganization process works best in the communities with a personal stake in the outcome, working hand in hand with local judges and local professionals. Reforming the law as to where a Chapter 11 case can be filed would result in more evenly distributed cases throughout the country and begin to address the concerns raised before the Subcommittee.

In conclusion, the CLLA suggests that a simple change in the bankruptcy venue laws to eliminate the option to commence a bankruptcy case in the debtor's state of incorporation would bring much needed relief to Delaware's bankruptcy bench without having to create additional judgeships, and coincidentally, would also help restore better balance to the national bankruptcy system and advance the interests of justice. The CLLA appreciates this opportunity to submit this comment, and would be happy to discuss this comment further with you.

Respectfully submitted,

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