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Oregon House Ways and Means Committee

Re: March 21, 2019 hearing concerning funding of Oregon's system of justice.

My name is Paul S. Bovarnick. I am a lawyer living and working in Portland, and I am a member of the Board of the Multnomah Bar Association. I have served on and chaired numerous committees of the MBA, OSB and OTLA during my career. I have been an Oregon lawyer since 1979, and I have litigated cases throughout Oregon, as well as in Washington, Idaho, Montana, Colorado and Wyoming.

Early in my career I represented farmworkers and others living in poverty in civil cases and I represented indigent defendants in criminal cases. For most of the last 30 or so years I have represented individuals in tort, employment and workers compensation cases, primarily involving large multi-state and multi-national corporations.

In my experience, access to justice is never a problem for the wealthy corporations who have injured my clients. In fact, delay is the friend of those defendants. Most of my clients aren't rich, so losing their health or their job, and often both, is devastating. Timely resolution of their cases, by trial or settlement, is the difference between homelessness and having a place to live, between going hungry or being able to feed their children, between health and only being able to get health care only when they are sick enough to go to an emergency room. Sometimes it is literally the difference between life and death. Court delays only serve to deprive citizens of the fair resolution of the wrongs that bring them to court in the first place.

For indigent defendants, having a lawyer with a case load that permits the lawyer to marshal the same defense as, for example, someone like Harvey Weinstein or Paul Manafort, may literally be the difference between prison and freedom.

In our country, we are taught to venerate and honor the rule of law. Indeed, the only private citizens who are required to swear an oath to support and protect the laws and Constitutions of the US and the State of Oregon are lawyers. Inadequate funding of the courts is making it increasingly difficult for our courts to provide for the resolution of cases in a reasonable time. Those delays are often devastating for ordinary citizens. The delays caused by inadequate funding are contributing to the creation of a system in which the benefits of the rule of law are available only to a wealthy few. And that undermines the rule

of law for all of us.


Here are two examples of why equal access to justice is so important. We recently settled a case for a client, who I will call Karen, just two weeks before trial. Because of the negligence of two corporations, Karen had suffered catastrophic injuries which resulted in hundreds of thousands of dollars in medical bills and which will prevent her from ever again working. The corporate defendants would not have settled the case had they not been faced with the imminent prospect of defending their misdeeds in front of a jury. But with the proceeds of her settlement, Karen now has the resources to secure the continuing medical care she needs and to help support her three young children. Inadequate funding of the courts threatens the ability of victims like Karen to obtain justice. In another case my mentally ill client, Dan, a pseudonym, was arrested and jailed for a minor offense. Dan remained in jail illegally for 4 months without ever seeing a judge. We ultimately secured a judgment against the government that helped provide for Dan's basic needs and which also made it clear that a defendant cannot be detained indefinitely just because he or she is too poor to have a lawyer.

A judicial system which cannot provide timely justice to citizens who have been deprived of their health, their income or their civil rights is no justice system at all. A justice system which does not give criminal defendants a fair shake is a system that our citizens cannot have faith in. And children who are ultimately failed first by the adults in their lives, and then by our justice system have no future.

Fundamental fairness is an idea that transcends politics or technology or age. Without an adequately funded system of justice for our children, our criminal defendants and all of our citizens, our State will send a message to our citizens that our justice system is not fundamentally fair. That is not the Oregon way. I urge this committee to make a commitment to Oregon's citizens that our government will do everything it can to assure access to justice for all Oregonians, not just the wealthy few.

Please feel free to contact me if you have further questions.

Very truly yours,


Paul S. Bovarnick