

TESTIMONY BEFORE THE
JOINT COMMITTEE ON WAYS & MEANS

March 15, 2019
Hanover Theater
Worcester, MA

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The Appeals Court
Commonwealth of Massachusetts

Senator Rodrigues, Representative Michlewitz, and members of the Joint Committee, I thank you for the opportunity to appear before you today on behalf of the Appeals Court. I would also like to thank your legislative colleagues for their assistance to the Appeals Court over the years. Your financial support has enabled the Appeals Court to lead the nation in end-to-end digital content management and to fulfill our obligations to the Commonwealth by working, as the saying goes, faster, better and cheaper.

In FY2019 the Appeals Court received an appropriation of \$13,627,421. The FY20 figure of \$13,615,014 requested and proposed in House 1 for the Appeals Court is actually 1% below the FY19 appropriation, despite COLA and step increases for many of our employees.

The facts behind our ability to request a lower appropriation are as follows:

- (1) Past budgets included buyouts for several long tenured employees who retired, and their replacements were hired at the entry level salary (and of course without accrued leave time) -- thereby creating instant savings;
- (2) Two high-salaried management positions were consolidated into one position; and
- (3) We have continued to search for and find ways to lower subsidiary spending by streamlining certain aspects of our operations.

The requested appropriation for this fiscal year does not contemplate any expansion of personnel or facilities. It does, however, presume that all judicial positions are filled along with sufficient law clerk positions to provide the requisite support. Respectfully, the requested appropriation merely provides base funding for court operations, COLA increases and maintains an already reduced staff at a manageable level. We hope to explore a few key initiatives in the near future, including technology enhancements, expanded outreach initiatives and the development of a robust staffing model with an accompanying strategic plan, and it is our hope

that when we are ready to move forward on such items the Committee will recognize our record of asking for no more than we need and be open to our future requests.

It is helpful to place our current operations in historical context. As you know, the Court expanded in 2001 from fourteen (14) to twenty-five (25) justices, in order to resolve a terrible backlog. With the expansion, we were able to clear the backlog and stabilize and meet our caseload. But the expansion of the court in 2001 did not include a corresponding increase to our support staff. In 2001, full time court support personnel (excluding judges and law clerks) numbered 70. Today that number is 58, consisting of staff attorneys, administrative assistants, security, management and Clerk's Office personnel. In sum, we have met many years of challenging budgets with the attrition from our support staff, despite nearly doubling in size. In addition, it is important to note that 93% of our annual budget is attributed to payroll alone. As a result, any opportunities to achieve savings or to respond to budget shortfalls are extremely limited.

It is also important to note that, like the Trial Court, the Appeals Court has no control over its incoming caseload. The appeals that we hear come from every department of the Trial Court, as well as state agencies such as the Appellate Tax Board, the Industrial Accident Review Board and the Employment Relations Board. In calendar year 2018, the Appeals Court received 1,741 panel cases which was an increase of over 100 cases from the previous year and our caseload. Based upon current year to date filings, it appears that filings in 2019 are likely to increase further. We believe that our somewhat lower caseloads in recent years were largely the result of unfilled judicial vacancies in the Trial Court; with fewer judges, fewer cases progressed to judgment and became eligible for appeal. Now that the Trial Court is almost fully staffed with judges, more cases will go to judgment and inevitably, more appeals will come to us -- and we

are beginning to see that. For approximately 95% of the cases we see, we are the court of last resort providing the final appellate decision for the parties. Consequently, the quality and speed of our decision-making are central to the entire judicial system and important to state government and the citizens of the Commonwealth as a whole.

As I mentioned, the Appeals Court leads the nation in end-to-end digital content management. By that I mean that we are largely a paperless Court. By rule, all non-impounded and non pro se briefs and other materials are filed electronically; as of today approximately 94% of all briefs are e-filed. That figure is up from 75% just last year at this time, before we moved from voluntary to mandatory e-filing. At our end, we are working with those materials largely without resort to hard copy. Judges prepare for and participate at oral argument utilizing iPads, and opinion drafts are circulated for review and edited electronically. The digital platform offers more convenient accessibility to the content, better utilizes staffing resources and has proven to be a cost effective initiative for our court.

We are committed to continuing to implement reforms, create efficiencies and allocate existing resources to improve the delivery of justice in a fiscally responsible manner. Our transition to a digital platform is but one example of this. We have also expanded public access to better serve the citizens of the Commonwealth. For example, in January, we began posting audio of oral arguments on our website; we regularly conduct panel hearings away from the John Adams Courthouse at various law schools and other venues across the Commonwealth; and we continue to work toward improving the frequency and content of our communication with the bar and public through a variety of outreach initiatives like Bench-Bar Conferences and quarterly publications.

I appreciate the enormous challenges that the Commonwealth will face during the next fiscal year. With that in mind, the Appeals Court is asking for no more than the amount the court requires to perform its critical responsibilities. And I want to close by emphasizing again how pleased we are, at least on this occasion, to submit a budget request that is lower than our current appropriation.

I would again like to thank the Joint Committee for its consideration of the Appeals Court's request and answer any questions that you may have.