

Statement of Nan Aron, President, Alliance for Justice

**THE IMPACT OF SEQUESTRATION AND GOVERNMENT
SHUTDOWN ON THE PROVISION OF JUSTICE**

October 8, 2013

Mr. Conyers, distinguished members of the Judiciary Committee, thank you for inviting me to join you for this important conversation about the sequester, the shutdown, and access to justice.

As President of Alliance for Justice, I am proud to speak on behalf of our more than 100 member organizations, all of which are committed to a justice system that truly serves all Americans. Yet today, we see the evenhanded administration of justice being threatened at every turn.

Even before the shutdown, even before the sequester, our justice system was in crisis. The reason will be familiar to everyone in this room—politically-motivated obstruction. Today's budget crisis is appalling, but it's important to understand that it is just one more manifestation of the relentless attacks on the courts and their ability to effectively and efficiently dispense justice that have characterized the last five years.

As of today, more than 90 federal court judgeships sit vacant—that’s more than one in 10 federal judgeships across the country. The Administrative Office of the U.S. Courts has deemed 39 of those vacancies “judicial emergencies,” meaning there are simply not enough judges to handle the caseload in those courts.

When there are too few judges, the wait for justice can be unbearable. Individuals and businesses often have to wait months and even years to stand up for their rights in court. Memories may fade, witnesses may die, financial and personal calamities may be compounded.

For example, in the Eastern District of California, which was home to two judicial emergencies until one was finally filled in March, it took nearly four years for a civil case to get to trial. With waits like those, victims too often give up on ever seeing justice served.

Republican obstruction at every step of the judicial selection process is to blame. This obstruction takes many forms: Republican senators refuse to work with the President to recommend nominees for vacancies in their states. Some refuse to return “blue slips” for nominees they previously supported—as we’ve recently seen in Florida. Votes are delayed for months, even on noncontroversial nominees, while a huge number of nominees are filibustered.

The games being played with the budget will do enormous damage to our system of justice, but those problems are being piled on top of a mountain of dysfunction that already exists.

In Texas, for example, there are currently nine federal judicial vacancies without nominees, six of which are judicial emergencies. One of those judicial emergencies is Judge Furgeson's seat, which he vacated nearly five years ago. If you add up the time those nine seats have been vacant, it amounts to more than 15 years. Each day, each month, each year without a judge means justice is being denied to the people of Texas.

Yet the Texas senators—one of whom, Ted Cruz, will be familiar to anyone following the government shutdown—are all too happy to let these benches sit empty. The judicial selection commission they set up to recommend nominees for the vacant district court seats has not even started interviewing candidates.

And now we've added the sequester and the shutdown to this already untenable situation. Court personnel, Department of Justice lawyers, and federal defenders have been furloughed and downsized. Despite growing caseloads, court staffing levels are at their lowest since 1999. Many civil cases are on hold.

This will only get worse as the shutdown persists. More court staff could face furloughs, and judges will be forced to devote scarce resources to their criminal dockets, slamming the brakes on the civil justice system.

The upshot is that plaintiffs seeking to vindicate civil rights, collect disability benefits, resolve business disputes, recover lost wages, or prevent some imminent environmental harm will be stuck in a holding pattern.

The impact on indigent criminal defendants—some of the most vulnerable members of our society—has been particularly dire. About 90 percent of federal criminal defendants require court-appointed counsel to satisfy their constitutional right to adequate representation. But the sequester has forced Federal Public Defender offices, which were already stretched tight, to cut and furlough their ranks, and the shutdown promises more of the same.

In August, former Ohio Federal Public Defender Steven Nolder wrote on AFJ's Justice Watch blog about why he fired himself rather than having to sacrifice his staff attorneys to the sequester. As Nolder wrote, "If the intention is to dismantle the 'gold standard' of our nation's public defense systems, our lawmakers are succeeding."

In fact, the status of our entire justice system as the world's "gold standard" is at risk.

When the courts and the entire judicial system are starved for funds, justice is weakened. But when that harsh reality is combined with a court system already reeling from the effects of political gamesmanship and endless obstruction, we jeopardize not just the ability of courts to resolve disputes and dispense justice, but faith in our democratic system itself.

If we are to be a beacon for people all over the world who long for justice, the obstruction must end.

Thank you, and I am happy to answer questions at the appropriate time.