

## **Access to Justice threatened again by Federal Sequester (September 2014)**

In 2012 and 2013, this column covered the impact of Sequestration or “the Sequester” -- the mandatory across-the-board cuts in the federal budget -- on the practice of law and access to justice. It is necessary to provide a brief update on this issue because, unfortunately, reemergence of the Sequester is looming as a serious threat to the federal judiciary, practitioners and their clients.

### Background

The 2011 Budget Control Act (BCA) was enacted to reduce the federal government’s discretionary and mandatory spending by \$1.2 trillion between 2013 and 2021. The BCA established specific budget goals that must be met in order to avoid the Sequester. But Congress failed to pass a budget that met those goals. Despite calls from every corner of the economy for federal policy makers to prevent implementation of this extreme budget mechanism, the Sequester and its massive cuts took effect on March 1, 2013. As a result, the Judicial Conference of the United States reported that the federal judiciary’s budget was reduced by \$350 million. Separately, tens of millions of dollars were cut from Legal Services Corporation (LSC) programs.

The State Bar leadership has maintained that the Sequester’s cuts would have had devastating long-term impact on the federal court system and the LSC. In his September 2012 op-ed to the *New York Law Journal*, then-President Seymour W. James Jr. was among the first bar leaders to highlight that such cuts would undermine access to justice, public safety, and the confidence of individuals and businesses in our federal courts as a premier forum for resolution of commercial disputes. Further, the cuts would severely hamper the effectiveness of LSC-funded programs to provide assistance to military veterans, domestic violence victims, victims of natural disasters and many others in need of help via the justice system.

Mr. James stated that the impact of the cuts on our nation’s judiciary and legal-service providers could easily be overshadowed by “the cacophony of voices clamoring to preserve funding” for their own particular interest. Therefore, it was

a priority for the State Bar to ensure that the legal profession's message was not lost in the clamor.

Past President David M. Schraver and current President Glenn Lau-Kee continued to carry the State Bar's message on this issue to New York's Members of Congress.

In December 2013 a two-year budget deal was reached (PL 113-67), providing relief from the cuts for the 2014 and 2015 fiscal years and putting off further action on this issue until the 2016 fiscal year, which begins on October 1, 2015.

### Update

Although some Members of Congress have publicly discussed the need to reach more agreements to adjust the across-the-board cuts, Congress is reportedly "unlikely to tackle [further] Sequester relief until 2015."

Once again, although the 2016 fiscal year may seem far in the future, it is clear that many large, high-profile companies and interest groups are lining up and arguing for relief from the Sequester. National defense contractors, the healthcare industry, and transportation entities, to mention only a few, are starting to make their cases for exemption -- or as the budget wonks in Washington would say, "anomalies" -- from the Sequester.

People and groups throughout the justice system should be prepared for the potential that the Sequester and its cuts may again take effect. Without further action by Congress, the cuts will take effect on October 1, 2015. The State Bar will monitor developments on this important issue and again carry our message to federal policy makers.