



BEHIND THE BENCH

*A Publication of the Association of Bankruptcy Judicial Assistants
Volume 17 Issue 1, January 2010*



Upgrading the Position of Judicial Assistant, Time for Action is Long Overdue

By Randy D. Doub, Chief Judge, USBC-EDNC

Randy D. Doub, Chief Judge for the ED/NC, practiced law in private practice for almost 26 years. He attended East Carolina University and graduated Magna Cum Laude in 1977. He obtained his law degree from the University of North Carolina at Chapel Hill in 1980. While Judge Doub was in practice, he actively represented debtors, creditors and served as a Chapter 7 Trustee and Attorney for Trustee for 15 years. He was a member of the National Association of Bankruptcy Trustees (NABT) and the National Association of Consumer Bankruptcy Attorneys (NACBA). Judge Doub is a member of the Pitt County Bar Association, the North Carolina Bar Association and the North Carolina State Bar.

While in private practice, Judge Doub served on the Bankruptcy Council of the North Carolina Bar Association. Judge Doub is a Board Certified Specialist in Consumer Bankruptcy Law as certified by the North Carolina State Bar. He is a Board Certified Mediator as certified by the North Carolina Dispute Resolution Commission. In 1985, Mr. Doub was appointed by Governor James G. Martin to serve on the North Carolina Board of Transportation. He served until July, 1990. In July, 2006, Judge Doub was appointed by the Fourth Circuit Court of Appeals to serve as United States Bankruptcy Judge for the Eastern District of North Carolina. On July 28, 2007, Judge Doub became Chief Judge of the United States Bankruptcy Court for the Eastern District of North Carolina. In 2008, Judge Doub was appointed to the Space and Security Advisory Council by the Administrative Office of the U.S. Courts. Judge Doub is also a member of the National Conference of Bankruptcy Judges and serves on Bankruptcy Administrator liaison committee.

When I was appointed United States Bankruptcy Judge on July 28, 2006, I offered the position of Judicial Assistant to my long time executive assistant and certified paralegal. I was in private law practice for nearly 26 years representing both debtors and creditors, while also serving as a Chapter 7 trustee. My paralegal had served in my firm for 22 years preparing petitions, pleadings, motions, complaints, and monitoring cases for both debtors and creditors. She also served as clerk for 341 meetings and managed the administration of many large and complex Chapter 7 cases. In addition, my Judicial Assistant has a Bachelor of Science in Accounting degree from East Carolina University and is a North Carolina State Bar Certified Paralegal with over twenty-five years of legal experience. On top of all that, she had a number of management duties and performed some legal research. Unfortunately, I could only offer her the judicial assistant position at the JSP-11 level, which offers no future pay grade advancement, only step increases.¹

Upon further investigation, I was unable to locate an exact job description for the Judicial Assistant on the J-Net. However, in the description of job duties for chambers staff, the Judicial Assistant should have the following minimum responsibilities:

- Organizing and maintaining the Judge's office calendar;
- Making travel arrangements, preparing travel vouchers;
- Reporting of annual non-case related travel for the judge;
- Coordinating judicial committee activities;
- Maintains office records and files;
- Performs other numerous tasks to keep the chambers running smoothly;
- Handles correspondence and mail;
- Typing and dictation skills;
- Interacting effectively with the public

As you can see, the minimum skills are more akin to a secretarial position, rather than the many and various duties performed by the present day judicial assistant. My experience with my judicial assistant, and what I hear about the duties that other judicial assistants across the country perform, demonstrate to me that bankruptcy court judicial assistants do much more than those duties outlined above. For example, in addition to all of the above, my judicial assistant performs the following responsibilities

- Reviews all applications for attorney's fees and all Chapter 7 closing packets, applications for trustee commissions, and proposed distributions to creditors;
- Appears at all Preliminary Pretrial Conferences and pre-pares scheduling orders in all adversary proceedings;
- Prepares all orders referring cases to mediation;
- Proofreads all Judge's orders and opinions and verifies citations within orders and opinions;
- Uploads all chambers' orders and opinions for docketing on CM/ECF;

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- Serves as substitute courtroom deputy and responds to procedural questions related to court practices and files court minutes on CM/ECF docket and v-Cal for court hearings;
- Serves on various committees as appointed by the Chief Judge;
- Reviews legal documents submitted to chambers for completeness and accuracy and responds to questions related to the status of scheduling cases;
- Conducts minor legal research;
- Composes and prepares routine correspondence, procedural orders, mediation orders, standing orders, travel authorizations, and documents that may require substantial research or analysis;
- Tracks and monitors calendars, filings, hearings and reviews weekly reports to identify new filings;
- Monitors deadlines for orders, prioritizes tasks within chambers among law clerks;
- Maintains statistical data for judge for public presentations

I understand, in addition to all of the above, other bankruptcy judicial assistants across the country, serve as the judge's courtroom deputy and regularly appear in court and calendar all courtroom proceedings. These bankruptcy judicial assistants perform the functions of the courtroom deputy, who normally is an employee of the Clerk. Other judicial assistants perform all final review of all orders and upon the judge's approval, affix the judge's signature and forwards the signed order to the appropriate case administrator for docketing. Another judicial assistant in our court oversees and supervises chambers law school externs and manages our court's Pro Bono Attorney Program. Clearly, nationwide, there are a wide range of important and diverse duties performed by judicial assistants who work for bankruptcy judges. I expect that judicial assistants employed by circuit judges, district judges, and magistrate judges, are required to perform duties and responsibilities above and beyond the basic secretarial and clerical duties described for chambers staff on the J-Net.

The efforts to upgrade the position of Judicial Assistant have been ongoing for many years. These efforts have occurred through the years as the position of judicial assistant has evolved from the position of a judge's secretary to today's judicial assistant with many more duties and responsibilities.¹ Much work remains to be done. The support of Judicial Assistants employed by circuit judges, district judges, and magistrate judges, in addition to those employed by bankruptcy judges would not only be helpful to accomplish an upgrade in the pay and position, but such united support would be critical.

How can we best address the unfairness in compensation and opportunities for advancement of the present judicial assistant position?² How do we compensate a judicial assistant who performs more duties and has more responsibility than the typical clerical and secretarial duties? And how do we encourage judges to hire and maintain high performing and valuable employees as a judicial assistant?

There are three possible solutions. First, create a Judicial Assistant I position which would require performance of mainly secretarial and clerical duties at the JSP-11 level and a Judicial Assistant II position at either the JSP-12/13 level, depending on the experience and qualifications of the judicial assistant and additional required duties and responsibilities above and beyond the secretarial and clerical tasks. Such classifications would be more commensurate with the job description and duties of many bankruptcy judicial assistants, and would be comparable to duties and pay of similar type employees of the Clerk.³ These Clerk employees have the opportunity to advance in pay grades and promotions through the CPS pay grades. Under our present system, the judicial assistant, if he or she stays with the judge, does not have the opportunity for any additional pay grade advancement beyond JSP-11, only raises through steps, through the years of service.⁴

Second, create a separate Bankruptcy Judicial Assistant position with an entry level at JSP-12, and allow promotion to JSP-13, based on qualifications and experience. This Bankruptcy Judicial Assistant would be designed solely for

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bankruptcy judges, with many of the duties above and beyond the secretarial and clerical duties heretofore described.

Third, give the bankruptcy judge the opportunity to design the positions for his or her chambers. A bankruptcy judge could choose to have any combination of a law clerk, either career or term; two law clerks, one career and one term; or some combination with a bankruptcy judicial assistant. The bankruptcy judge would assign the duties to each position and set the pay accordingly. Like today, a judge might choose to have one of the positions filled with part-time positions. Each chambers could be allocated a set amount of money for these two positions, which would give each bankruptcy judge the flexibility to design the positions that best serve him or her in chambers. The Clerk of the Bankruptcy Court already has the authority to design positions with varying duties and job descriptions. A bankruptcy judge ought to have the same flexibility for his or her chambers. Such flexibility might also enhance salary cost containment. The trend of many bankruptcy judges is to employ two law clerks rather than a law clerk and judicial assistant. If a bankruptcy judge employs a career law clerk(JSP-14), and a term law clerk(JSP-12 /13), the total salary cost per chambers will be higher when compared with a judge who employs either a term law clerk(JSP-12/13) or a career law clerk(JSP-13/14) and a Judicial Assistant who could be hired at the JSP-12 pay grade.

As a bankruptcy judge, I have focused on the duties and responsibilities of the judicial assistant in the Bankruptcy Judges Chambers. However, many of the same concerns may well be applicable to the judicial assistant employed by a Magistrate Judge, District Judge and Circuit Judge. A combined effort to promote an upgrade in duties, responsibilities, and pay grade on the part of all judicial assistants in the judiciary would be desirable to increase the odds of success.

There may very well be other good proposals or solutions besides the three heretofore mentioned. Under the present system, there is little monetary reward or financial incentive for a judicial assistant to make the judicial assistant position a long term career choice. In spite of the fact that judicial assistants do not have the opportunity for promotion to a higher pay grade, I suspect that many judicial assistants stay in the position out of love for the work and loyalty to the judge, which are all rewarding intangible benefits to the position. But as the duties and responsibilities of the judicial assistant have grown and expanded over the years, it is time to consider whether these positions should be rewarded with higher pay grades which are commensurate with the increased duties and responsibilities.

Any of the above changes would have to be approved by the Committee on Judicial Resources of the Judicial Conference of the United States, and ultimately by the Judicial Conference of the United States. I am told that until there is positive movement on the issue of pay restoration for judges, that pay grade reclassification or creation of new positions has little chance of approval. At a minimum, I hope this article will spur discussion among the members and leadership of the Association of Bankruptcy Judicial Assistants in order to build momentum for positive changes in the job description and pay structure for judicial assistants. The outstanding service and dedication of my judicial assistant and others across the judiciary that serve as a judicial assistant convinces me that those who serve in the Judicial Assistant position for bankruptcy judges, are not being adequately rewarded for the many duties they perform. Let's work for some positive change.

¹ JSP-11 offers step increases during the first three years, but then provides a step increase every two years for three steps and then every three years for the next three steps. Contrast the steps for the CPS positions in the full performance range which are up to 4 steps during each of the first three years, up to two steps over the next nine years and then one step increase over the next six years. See the following table. http://inet.ao.dcn/Human_Resources/Pay_Tables/2009_Pay_Tables/Judiciary_Salary_Plan_Pay_Tables/Judicial_Salary_Plan_Locality_Rate_Pay_Tables_2009_Table_01.html. CPS step increases are scheduled to be reduced beginning October 1, 2010.

² In a position paper prepared in 2001 on behalf of the ABA Legislative Committee entitled "Judicial Secretarial/Assistant Grade Increase," **Ms. Patsy Burkhalter**, Judicial Assistant in the Southern District of Georgia provides a chronology of grade increase requests since 1958 and concludes as follows: [Secretaries possibly hold the only position in the judiciary which presented grade increase proposals, justified them, garnered support for them, and have come away unanswered for over 20 years now. Judicial secretaries have had only ONE grade increase in 43 years. The morale of judicial secretaries is at an all-time low. More and more court career secretaries are retiring at JSP-11/10, (frozen there for many years) having kept the optimism for 10-plus years that eventually the position would be upgraded. Many secretaries came from the clerks' office staffs years ago when secretaries were on an "even par" with management personnel. At that time they were glad to take the job of judicial secretary because of the advancement potential of eventually becoming a JSP-11/10. However, positions in clerks' offices have been elevated and new/additional positions have been created at salaries higher than the JSP-11 equivalent. Secretaries were consistently told that these clerks' office positions are "manager" or "supervisor" positions and that the higher level of pay is reserved for those within the judiciary who "manage" or "supervise" other employees. Secretaries have been told that they are not managers and supervisors and do not qualify for a higher target grade. However, the personnel specialist, financial specialist, and budget analyst positions are all rated at CPS CL-28 with a salary high of \$67,510. In some instances these same positions can qualify for a CPS CL-29 with a salary high of \$80,279.00. According to the job descriptions, these positions generally "manage" and "supervise" only themselves and their work. Specific words used in their job descriptions are "review, research, develop, recommend, administer, advise, process, maintain, analyze, track, present, monitor, and assist. They do not "manage" or "supervise" other employees yet they have been afforded the rate of pay that secretaries have previously been told was reserved for "management."]

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President's Message

By Cathy Farrell,, DE



Happy New Year! I am honored to have the opportunity to serve as your President of the Association of Bankruptcy Judicial Assistants. First I would like to thank everyone who attended our conference in Baltimore for your encouragement, patience, and support during my presidential "baptism by fire". When I ran for this office I was told I wouldn't be doing it alone and that certainly has proven to be true. I am surrounded by intelligent, dedicated, caring individuals to help me.

I am Judicial Assistant to the Honorable Mary F. Walrath, District of Delaware. I became her JA in September of 2003, but we have known each other for over 25 years since working together in a Philadelphia law firm back in the 80's. Apparently big hair bands weren't the only ones who made an impression that decade!

My introduction to the Association of Bankruptcy Judicial Assistants was in May, 2004, when the ABA sponsored a two-day Certified Bankruptcy Assistant (CBA) seminar and exam in Atlantic City. I took and passed the exam and made plans to attend the ABA's Annual Educational Conference the following October in Las Vegas. Looking back, I still can't believe I actually got on that plane by myself to attend a conference where I knew no one. I never regretted that decision, and I have only missed one conference since then!

To me, the highlight of the year is the Annual Educational Conference and I strongly encourage you to attend. It presents a forum for Judicial Assistants from all over the country to connect and share ideas and information with others who also work for bankruptcy judges or in the bankruptcy community. We provide specialized training and educational seminars led by distinguished speakers on topics relevant to our jobs. The Conference, CBA and CLE Committees have already been hard at work preparing another successful program. As we did in Orlando in 2007, we will share the city of New Orleans this October with the Judges who are attending the NCBJ Conference at the same time.

There is strength in numbers and by being a part of the ABA, you will be involved in issues that affect you personally and professionally. It is important that our membership is representative of the majority of Judicial Assistants so if you are not yet a member, I invite you to join. If you are already a member, get involved and make your voice heard. If you have never attended one of our conferences - make this the year! One of America's favorite cities, New Orleans is rich in culture, world famous cuisine, live music and unique entertainment.

Once again, thank you for electing me as your President, and know that my door is always open. I look forward to joining all the very dedicated and talented members who work tirelessly behind the scenes to ensure the ABA's continued growth and success. Here's to a year filled with good health, family and friends (both old and new), and to a fantastic conference in New Orleans!

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4 The JSP-11 position provides ten step increases over a period of 18 years. After the last step increase, there is no further increase except for cost of living allowances. Therefore, a judicial assistant who serves for thirty years, gets no pay grade increase or step increase for the last 12 years of service.

5 JSP-11 is comparable to CPS CL-27; JSP-12 is comparable to CPS CL-28, JSP-13 is comparable to CPS CL-29. Furthermore, my judicial assistant is now at JSP-11, Step 4, but with her experience, duties, responsibilities, and qualifications, she should at least be a JSP-12, Step 4. For comparison purpose, review examples of positions from the benchmarks in the Human Resource Guide, Section 2.6.3. Such CPS CL-27/JSP-11 positions include Procurement Specialist II, Administrative Specialist, Human Resources Specialist, Training Specialist, Financial Specialist II, and Courtroom Deputy II. CPS CL-27 positions have more step increases as described in Note 1 above. Plus, CPS CL-27 positions in the Clerk's office have opportunities for advancement to CPS CL-28/29 positions. Judicial Assistants at JSP-11 have no opportunity for promotion, unless a JSP-12 Judicial Assistant position were created. CPS CL-28 positions include Management Analyst and Programmer Analyst.

6 Compare the step advances described in Note 3 above with the 2009 Pay Rates of the Court Personnel System showing CPS grades and step advances: http://jnet.ao.dcn/Human_Resources/Pay_Tables/2009_Pay_Tables/Court_Personnel_System_Pay_Tables/NonLaw_Enforcement_Officer_Rates/Table_01.html with Table of 2009 Pay Rates of the Judiciary Salary Plan showing JSP grades and step advances (http://jnet.ao.dcn/Human_Resources/Pay_Tables/2009_Pay_Tables/Judiciary_Salary_Plan_Pay_Tables/Judicial_Salary_Plan_Locality_Rate_Pay_Tables_2009/Table_01.html)