## court clog

### 1nc --- court clog da

#### **Courts aren’t clogged now**

Bates 15(John, United States District Judge for the United States District Court for the District of Columbia, “Annual Report 2014,” *USCourts.gov*, <http://www.uscourts.gov/statistics-reports/annual-report-2014>

Judge John D. Bates. It was a great privilege to be only the second judge to serve as Director in the 75-year history of the Administrative Office of the U.S. Courts (AO). As of January 2015, I relinquished my duties as Director to take on additional judicial duties at my court, the District Court for the District of Columbia. I return better informed about judicial administration and with a renewed appreciation for the excellence that exists in both the AO and the courts. I am grateful to the Chief Justice for placing his confidence in me, and I greatly appreciate the tremendous support I received from judges, and from court and AO staff. It may seem trite to say that I am proud of our success in keeping courthouse doors open and cases moving. However, it took great coordination and planning to begin the recovery from the severe funding reductions we endured during sequestration. In many ways, this rebuilding process was our greatest accomplishment in 2014. We were exceedingly fortunate that, when a funding bill finally was enacted, Congressional appropriators treated the Third Branch as a priority in both Fiscal Years 2014 and 2015. I believe that our cost containment efforts continue to demonstrate that we are serious about using taxpayer money prudently. We also have in place numerous broad accountability controls, ranging from audits and program reviews to required stewardship training for senior AO and court managers. Our strong commitment to the highest fiscal and ethical standards helps assure that the limited resources available are carefully managed and properly spent. Much of our cost-saving focus has been on court space. We have scoured our rent bills; courts have developed space management and reduction plans; and our integrated workplace initiative will enable courts to use space in a flexible and efficient manner. We also are reexamining staffing formulas, using less costly and easier ways to reach prospective jurors, and replacing our aging legacy accounting system with a new, centralized financial management system. As Director, I’ve had the opportunity to participate in conferences, advisory councils, workshops and other meetings involving judges and court staff from across the country. While I delivered news from Washington and the Administrative Office, I also absorbed a tremendous amount by listening and observing our courts in action. I learned that we are uniquely skilled problem solvers on both a local and national level. As one example, the District of Nevada developed an automated system for processing and managing vouchers submitted by lawyers appointed to represent indigents under the Criminal Justice Act. Through a collaborative effort, the system, known as eVoucher, is being adopted for national use and shared with courts throughout the country. On a broader scale, the national roll out of the Next Generation of our Case Management/Electronic Case Files System has begun in the courts of appeals. It will increase chambers’ and clerks’ office efficiency and, when fully implemented, will provide for a single sign-on for public users. Testing in district and bankruptcy courts will begin in 2015. The strength of the federal Judiciary lies in our ability to work together to confront the challenges that come our way. While I will remain a committed member of that team, it was a unique honor to serve in a leadership position as Director. The AO plays a central role in helping courts function smoothly. I benefitted greatly from Judge Tom Hogan’s fine work before me. I am also proud of what we have accomplished and know that Director Jim Duff, with his accomplished leadership skills, will continue the tradition of excellent public service.

Gun Control would cause massive challenges that clog the courts —Gun lobbies sue to expand the second amendment. **LCPGV 12[[1]](#footnote--1)**

**The Supreme Court** may have **opened the floodgates to Second Amendment litigation with the** Heller **decision**, but the majority’s opinion also made clear that the Amendment protects only a limited right. **The Court** directly **stated** that the Second Amendment does not protect a “right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose,”[8](http://smartgunlaws.org/the-second-amendment-battleground-victories-in-the-courts/#footnote_7_19642) and listed several examples of presumptively constitutional regulations.[9](http://smartgunlaws.org/the-second-amendment-battleground-victories-in-the-courts/#footnote_8_19642) Given the Court’s **clear instruction that the right to possess a handgun in the home for self-defense is consistent with a variety of gun laws,** it’s not surprising that lower courts have almost uniformly rejected Second Amendment arguments in hundreds of decisions in federal and state courts nationwide over the past four years. What have been shocking are the extreme claims that gun lobby lawyers and criminal defendants are raising in their Second Amendment challenges. **Courts have been confronted with challenges** to a variety of critical public safety measures, **including** laws preventing dangerous persons from possessing guns, laws prohibiting military-style firearms, and laws limiting guns in public places. Despite the gun lobby’s rhetoric about “individual rights,” **the breadth and scale of Second Amendment lawsuits filed over the past four years** reveal **the lobby’s** true **intent: to overturn all** reasonable laws intended to prevent **gun** violence. So far, thankfully, most of the courts confronted with these important challenges since Heller have affirmed the continued vitality of smart gun **laws**. Still, **the courts remain an active battleground over the meaning of the Second Amendment and the future of sensible gun laws in America**.

#### Perception of inaction against securities fraud undermines confidence --- crushes the global economy

Lerach 2 (William, fmr. partner, Milbreg Weiss Bershad Hynes & Lerach LLP, “ENRON: LESSONS AND IMPLICATIONS: Plundering America: How American Investors Got Taken for Trillions by Corporate Insiders--The Rise of the New Corporate Kleptocracy,” 8 Stan. J.L. Bus. & Fin. 69, LexisNexis

What happened was quite the opposite. Within a few years after corporate and Wall Street interests got Congress to pass the 1995 Act, "the chickens came home to roost." n28 As night follows day, after these powerful interests achieved their goal of [\*79] curtailing the ability of investors to hold them accountable for securities fraud, there has been a massive upsurge in securities fraud. The results are clear for all to see. Every metric to measure fraud in our markets soared. Financial scandal after financial scandal--accounting restatement after accounting restatement--surfaced. The huge market bubble burst, leaving investors holding a multi-trillion dollar bag, lay-offs sky-rocketed, the IPO window all but closed, and capital formation collapsed. Reality has overtaken deceit. While there have always been high-profile financial frauds--Equity Funding, U.S. Financial, National Student Marketing, Penn Square Bank and Miniscribe come to mind--these were isolated instances. Even the savings-and-loan scandals of the 1980s were confined to that industry. Historically, our public-company accounting has been of high quality and one of the major factors that has led to investor confidence in our markets, making them the envy of the world and helping to fuel the strong capital formation and economic growth we enjoyed for years. n29 Over the past several years, important changes in our financial markets occurred which, exacerbated by the negative consequences of the late 1990s legislative bonanza for corporate and financial interests, contributed to the massive increase in financial fraud we have witnessed. Over 9,000 new public companies were created by the IPO boom of the 1980s-1990s. Many of these new companies were smaller, high-tech or bio-tech companies where the pressure to show earnings growth was intense. Others were dot-com enterprises which had no earnings and were under pressure to show revenue increases--or create apparent profits by using so-called "pro forma" accounting to generate financial results which Generally Accepted Accounting Principles would never sanction. However dubious these enterprises may have been as public companies, bringing them public generated billions in fees for the investment bankers and gargantuan returns to venture capital investors--as well as making countless instant corporate insider multi-millionaires of people who had never even run a business before. But now each of these [\*80] companies was a public company, subject to all the pressures inherent on public companies to meet the revenue and earnings growth forecasts necessary to support a high stock price valuation. Executive compensation also changed. Executives now got cash bonuses only if earnings reached preset targets or the company's stock hit targeted prices. They received gigantic stock options, not to hold for the long term, but rather to exercise and sell each quarter, in a trading window that opened a day or two after the company reported its quarterly numbers. Also during the 1990s, the amounts paid to accounting firms by their corporate clients for consulting services skyrocketed, and the profitability of the huge accounting firms increasingly came to depend on their high-margin consulting fees from their audit clients, creating powerful incentives for these so-called "watchdogs" to accommodate their corporate clients. These were important structural changes that altered the type of public companies that dominated our financial markets, the relationship of the auditors to their corporate clients and the incentives that shape the behavior of corporate executives and their professional assistors. This explosion of new "high-growth" public companies, plus an executive-compensation system based on meeting predetermined earnings and stock-price appreciation targets, with stock options to be exercised and sold quarterly, created very powerful incentives to falsify results. This was exacerbated by executives' knowledge that markets, increasingly dominated by momentum investors, would instantly crush stocks for missing the "whisper" earnings numbers by just a penny or two. Add to this that it turned out that the supposedly "independent" accountants were routinely violating independence rules while pocketing lavish consulting payments that outweighed their audit fees many times over. While all of this was going on, Congress via the 1995 and 1998 Acts and several courts--via a series of anti-investor decisions implementing these Acts--were curtailing investor rights and remedies more severely than at any time since the enactment of the 1933 and 1934 Acts, n30 a toxic mixture in the making. [\*81] These factors created a "race to the bottom" in financial reporting that undermined the integrity of public-company financial reports which is essential to informed investor decisions, investor confidence in our markets, and the efficient allocation of capital to honest entrepreneurs whose efforts will create long-term economic job growth and positive investor returns. n31 Remember, Adam Smith's invisible hand guides us all. When there was so much to be gained by those who create the financial results of public companies by meeting expectations--and so much to be lost by missing them--we should not be surprised that corporate managers and their professional assistors yielded to temptation--especially when their legal responsibility and accountability had been drastically curtailed. Under these circumstances, it is not hard to see the temptation to manipulate reported results - especially when the efficient market (it's really a ruthless market) would savage a stock for the slightest earnings disappointment. It is not as if Congress was not warned. Consumer, labor, and investor groups testified that the drastic cutback on investor protections and remedies for securities fraud embodied in the 1995 Act, and reduction of corporate executives' and securities professionals' accountability for misconduct that would follow, would inevitably result in an increase in securities fraud and investor losses. They told Congress this would impair investor confidence, harm capital formation and our economy. The 1995 Act was opposed by major consumer, worker, and investor groups. The vast majority of America's newspapers also editorialized against the 1995 Act. They warned that it would grant those best positioned to profit from stock inflation a license to lie and would result in a massive upsurge of fraudulent conduct and investor losses. [\*82] A review of these editorials is telling. How accurate their warnings and predictions were. Two bills before Congress reveal how reckless the Republicans have become in their zeal to reduce regulation. The bills--which would "reform" laws governing securities firms and banks--go far beyond their stated purpose of ending frivolous litigation. What they would actually do is insulate corporate officials who commit fraud from legal challenge by their victims. The [securities] bill would erect a nearly insurmountable barrier to suing officials who peddle recklessly false information. It would block suits against accountants, lawyers and other professionals who look the other way when the companies they serve mislead investors. The high-sounding Private Securities Litigation Reform Act of 1995 . . . might come to be remembered as legislation that steeply tilted the playing field against investors. n32 "The bill . . . would bar . . . charges of fraud against those who make false projections . . . . By granting "safe harbor" to all statements of a "forward-looking" nature, it essentially tells companies . . . . Go ahead, lie about the future . . . you can fleece investors in any way that your imagination allows." n33 Gone, if these bills ever become law, is the uniquely American system of open, accessible civil justice . . . Gone, too, would be vital rights of ordinary Americans to seek redress against fraudulent securities hucksters. . . . The "Securities Litigation Reform Act" [is] a gift to the boiler-room crowd in the securities profession. It would raise the standards of evidence required to bring fraud cases to court while lowering the standards of professional conduct considered legally fraudulent. n34 "Companies and their agents could make false "projections" and "estimates" of future performance, even if they were deliberate lies, without fear of lawsuits by those defrauded." n35 Talk about a twist of fate. Rep. Christopher Cox, a California Republican, wrote a tough, aggressive bill on securities-law reform, which passed the House of Representatives in March. If it becomes law, investors who think they've been defrauded will find it incredibly hard to bring a class-action lawsuit to recoup their loss. Just two months after his bill passed Cox found himself tagged by just such a suit, brought by some victims of the noxious [\*83] First Pension fraud. In a second suit last week, First Pension's court-appointed receiver charged Cox, among others, with contributing to the hoax. n36 How, in the light of overwhelming consumer, labor and investor group opposition and widespread editorial warnings, could this special-interest legislation have possibly been enacted? In truth, the fault lies not with the corporate and financial interests that used their financial and political power to get this legislation. After all, they were only exercising their First Amendment rights to advance their interests. Nor does it really lie with the likes of Senators Domenici, Gramm, Bennett, D'Amato n37 and their ilk, who were just doing the bidding of their corporate and financial supporters. The real responsibility lies with those in positions of public trust who defaulted, who gave in and even actively assisted these special interests to help get this legislation passed when they were in a position--and had a responsibility--to stop it. Notable among those who defaulted was then SEC Chairman Arthur Levitt, the quintessential man of Wall Street who became the first Chairman in history to support legislation curtailing investor protections against securities fraud. n38 Levitt [\*84] often bragged how he had dined every month with corporate executives to hear their views. n39 It is unfortunate he never dined with victims of securities fraud to listen to their plight. While the Levitt of late has become a prominent critic of financial abuse, in truth, he abandoned the investors he was supposed to protect when the corporate and financial interests besieged Congress in 1994-1995 and again in 1998. n40 As the new Republican Congress arrived in Washington, the SEC--the investor protection agency--was in the hands of only two Commissioners--with three seats vacant. Clinton, paralyzed by his recent election rebuke, failed to fill the empty seats. Thus, it remained for the Chairman, former Wall Street executive Levitt, and the only commissioner, Steve Wallman, an attorney who represented the Business Roundtable, to protect investors from the new, pro-corporate Congressional onslaught that was shaping up. Instead of fighting for investors, Levitt and Wallman actually helped the corporate community and its new Republican Congress pass the most damaging assault on investor protection since the federal securities laws came into being. Next comes Senator Chris Dodd (D-Conn.), a senior Democrat on the Banking Committee and the Chairman of the Democratic Party. n41 A purported progressive, n42 Dodd energetically championed the accounting firms and insurance and Wall Street interests, i.e., his contribution base, which all benefited so [\*85] handsomely from his efforts in making the attempt to gut the securities laws appear to be "bipartisan." n43 He actually led the veto override efforts to enact the 1995 Act--challenging his own party's President--blind to all the warnings of the frauds to come. This is a cautionary tale of how money and power and the promise of lucrative post-Beltway staff jobs can produce special interest legislation that harms America's workers and investors--and in the end all of us. F. The "Cop on the Beat" Sleeps Also in the mix here was the failure of the SEC--the supposed "cop on the beat"--to do its job. Despite some public "jawboning" and an aggressive public-relations program casting former SEC Chairman Levitt as an investor's champion, n44 after the SEC was turned over to that alumnus of Wall Street, the SEC was anything but aggressive in cracking down on financial manipulation and insider trading by corporate executives. n45 Until recently, the SEC was headed by a lawyer who, while in [\*86] private practice, championed passage of the 1995 Act and represented the big accounting firms, Wall Street banks, and some of the corporations which are among those whose credibility has been tarnished and are under regulatory scrutiny. n46 He even wrote an article telling them how to cover their tracks by destroying incriminating evidence before anyone has sued them. n47 According to Forbes, in October, 2000 video cameras recorded Pitt giving a seminar for in-house corporate counsel and saying that chief financial officers whose e-mails detail too-cozy conversations with analysts about earnings estimates should "destroy" the incriminating messages "because somebody is going to find this, and it will probably be the SEC when they investigate." n48 Incredibly, this new head of the SEC early on signaled he wanted a "gentler" relationship with the accounting profession and that his SEC might actually seek to further restrict corporate liability for false forecasts. n49 In a belated response to the upsurge in corporate fraud, Pitt put forth what are at best meek proposals. For instance, Pitt recently had the SEC require corporate CEOs and CFOs to "swear" that their corporate financial results are accurate. n50 But the securities laws have required CEOs and CFOs to prepare and file accurate financial reports for public companies for sixty-eight years! CEOs and CFOs have had to sign corporate 10-Ks and 10-Qs for years. Wilfully filing false financial statements has long been a felony, subject to a prison term, since 1934. n51 And do you doubt that Enron's, WorldCom's, Adelphia's, Dynegy's, Qwest's, RiteAid's, and Global Crossing's CEOs and CFOs would have so sworn, if they had not been previously exposed. This would be humorous, if it weren't so sad. n52 [\*87] It now is clear that the worst stock market debacle in the history of postwar America did not just happen by chance or by the greed of the masses (although they were invaluable participants, as the sucker always is) but happened in large part because of conspiracy, greed in high places, incredible ignorance by those in high places, and a federal regulatory failure of unique proportions . . . . . . In the Internet/high-tech boom, completely worthless companies, with no prospect of earnings, were flogged insanely by the very people who should have been labeling them as unsound, the "analysts" and "market gurus" of the big investment banks. Companies that existed as no more than dreams and fantasies were touted as multi-billion dollar entities by people and investment houses whose job was to defend against exactly such viruses. What happened did not happen by accident, and a full accounting is owed to the people who were fleeced. n53 G. Pro-Corporate Courts Protect Fraudsters The courts are also responsible. For instance, the Ninth Circuit Court of Appeals, which covers the high-tech and venture-capital havens of California (the Silicon Valley) and Washington (the Silicon Forest), which pushed so hard for the 1995 Act, was once a progressive court with a reputation for protecting investors. n54 Yet since the 1995 Act it has thrown 18 consecutive securities fraud suits by investors out of court. Eighteen times in a row, using the 1995 Act, the Ninth Circuit has sided with corporate interests and closed the courthouse door to defrauded investors. Not one complaint out of 18 upheld or permitted to go forward! It all started with the Ninth Circuit's 2-1 In re Silicon Graphics decision in 1999, n55 one of the first to interpret the 1995 Act's elevated pleading standard which laid out a roadmap for judges who wanted to use that pleading standard to bar defrauded investors from pursuing any remedy and thus insulate corporate fraudsters from liability. n56 That precedent has resulted in an unbroken string of [\*88] follow-on affirmances of dismissals of securities class action suits by the Ninth Circuit n57 and the dismissal of scores of cases in the lower courts in the Ninth Circuit where judges are bound to follow Silicon Graphics. Given the current revelations of the gross frauds that have infested our securities markets in recent years, is it really reasonable to conclude that investors who sued in the Ninth Circuit have been unable to plead a securities fraud case in sufficient detail eighteen times in a row? The conduct of some judges in using the 1995 Act to block valid securities suits has contributed to the attitude of executive arrogance that led to the upsurge in corporate fraud. Can you imagine the stockholder fraud suits filed against WorldCom and Ebbers n58 in March 2000 and against Tyco and Kozlowski n59 in December 1999 alleging securities fraud were thrown out of court by federal judges? These were detailed complaints setting forth major frauds. Their allegations were true. Yet judges used the 1995 Act to throw these cases out of court, denying damaged investors any remedy and allowing these very serious frauds to continue--ultimately inflicting far greater harm on investors. A shareholder suit against Oracle and Larry Ellison, where Ellison sold off 900 million dollars of stock just a few weeks before Oracle revealed financial reversals and the stock collapsed, was also dismissed. n60 These are not isolated examples. Many other procorporate judges have repeatedly used the 1995 Act to protect dishonest corporate executives who falsify financial statements while insider trading and bar innocent investors from court. n61 [\*89] Forbes, one of the most probusiness and anti-lawyer publications in our Country, was scandalized by the dismissal of the WorldCom suit. It wrote: Over a year ago a raft of former [WorldCom] employees gave statements outlining a scandalous litany of misdeeds--deliberately understating costs, hiding bad debt, backdating contracts to book orders earlier than accounting rules allow. But it appears that WorldCom's directors never followed up to investigate the allegations . . . They should have. The alleged chicanery served to falsify hundreds of millions of dollars in profit and sales to give a veneer of stability and strength to WorldCom. The unheeded accusations first emerged in June 2001 n62 with the filing of a shareholder lawsuit against WorldCom in federal court on its home turf, Jackson, Miss. The complaint was backed by 100 interviews with former WorldCom employees and related parties. The allegations were startling in their breadth and detail. In smacking down the class action, the judge decreed: "The numbers are so large, the stakes were so high, and the fall of the dollar value of WorldCom stock so precipitous, that the reader reacts by thinking that there must have been some corporate misbehavior . . . However, after a thorough examination, it becomes apparent that the Complaint is a classic example of 'puzzle pleading,'" or using an onrush of "cross-references and repetition" in lieu of real substance. n63 Judge Barbour was an ideal adjudicator for the home team . . . Barbour and his family reside in a state where WorldCom was the biggest source of local pride and a major supplier of high-paying jobs. Mississippi is undergoing a highly charged tort reform battle, with Republicans squarely on the side of curtailing shareholder lawsuits. A Reagan appointee to the bench . . . Barbour is a first cousin and former law partner of Haley Barbour, former Republican National Committee chairman and now a high-powered Washington lobbyist mulling a run for Mississippi governor . . . . [\*90] More intriguing still, Judge Barbour's second cousin, Henry Barbour, is the campaign chairman for U.S. Representative Charles W. (Chip) Pickering. The Mississippi Republican was the largest congressional recipient of contributions from MCI, WorldCom and related individuals, receiving $ 83,750 from 1989 to 2002. n64 With judicial protection like this, it is no wonder corporate executives became emboldened and misbehaved--and investors ended up damaged and dismayed! Investors realize that purchasing securities entails risks, including the risk of loss. But if victims of securities fraud perceive that they have lost a fair chance to hold perpetrators legally responsible, that has to contribute to undermining investor confidence. n65 If corporate executives realize they can get away with it they will be all the more emboldened to try to do so. The truth is, in the last half of the 1990s, Congress, the SEC and several courts caved in to the corporate and financial interests and badly impaired the investor protections historically provided by our federal securities laws. n66 As a [\*91] result, the integrity of public--company financial reporting and disclosure practices became severely undermined at the very time the IPO boom and the greatest bull market in history roared on--attracting all-time record levels of pension funds' and individuals' investment of retirement savings monies. These investors got creamed. Over 14 trillion dollars was lost in just over two years--a lot of that due to fraud.

#### Economic decline causes nuclear war

Tønnesson 15 (Stein, Research Professor at the Peace Research Institute in Oslo, Leader of the East Asia Peace program at Uppsala university, “Deterrence, interdependence and Sino–US peace,” *International Area Studies Review*, Volume 18, Number 3, p. 297—311

Several recent works on China and Sino–US relations have made substantial contributions to the current understanding of how and under what circumstances a combination of nuclear deterrence and economic interdependence may reduce the risk of war between major powers. At least four conclusions can be drawn from the review above: first, those who say that interdependence may both inhibit and drive conflict are right. Interdependence raises the cost of conflict for all sides but asymmetrical or unbalanced dependencies and negative trade expectations may generate tensions leading to trade wars among inter-dependent states that in turn increase the risk of military conflict (Copeland, 2015: 1, 14, 437; Roach, 2014). The risk may increase if one of the interdependent countries is governed by an inward-looking socio-economic coalition (Solingen, 2015); second, the risk of war between China and the US should not just be analysed bilaterally but include their allies and partners. Third party countries could drag China or the US into confrontation; third, in this context it is of some comfort that the three main economic powers in Northeast Asia (China, Japan and South Korea) are all deeply integrated economically through production networks within a global system of trade and finance (Ravenhill, 2014; Yoshimatsu, 2014: 576); and fourth, decisions for war and peace are taken by very few people, who act on the basis of their future expectations. International relations theory must be supplemented by foreign policy analysis in order to assess the value attributed by national decision-makers to economic development and their assessments of risks and opportunities. If leaders on either side of the Atlantic begin to seriously fear or anticipate their own nation’s decline then they may blame this on external dependence, appeal to anti-foreign sentiments, contemplate the use of force to gain respect or credibility, adopt protectionist policies, and ultimately refuse to be deterred by either nuclear arms or prospects of socioeconomic calamities. Such a dangerous shift could happen abruptly, i.e. under the instigation of actions by a third party – or against a third party. Yet as long as there is both nuclear deterrence and interdependence, the tensions in East Asia are unlikely to escalate to war. As Chan (2013) says, all states in the region are aware that they cannot count on support from either China or the US if they make provocative moves. The greatest risk is not that a territorial dispute leads to war under present circumstances but that changes in the world economy alter those circumstances in ways that render inter-state peace more precarious. If China and the US fail to rebalance their financial and trading relations (Roach, 2014) then a trade war could result, interrupting transnational production networks, provoking social distress, and exacerbating nationalist emotions. This could have unforeseen consequences in the field of security, with nuclear deterrence remaining the only factor to protect the world from Armageddon, and unreliably so. Deterrence could lose its credibility: one of the two great powers might gamble that the other yield in a cyber-war or conventional limited war, or third party countries might engage in conflict with each other, with a view to obliging Washington or Beijing to intervene.

### 2nc --- ov

#### Decline outweighs ---

#### a) magnitude --- causes escalatory nuclear strikes and lashout --- results in catastrophic nuclear winter

#### b) timeframe --- resulting collapses in global trade reverse liberalism and cause cyber and resource wars --- immediate escalation

#### c) framing --- none of their defense applies --- cooperation and diplomacy solve every scenario for conflict besides collapse of trade relations --- that’s Tonnesson

### 2nc --- uq

#### **1. Courts aren’t clogged now**

Bates 15(John, United States District Judge for the United States District Court for the District of Columbia, “Annual Report 2014,” *USCourts.gov*, <http://www.uscourts.gov/statistics-reports/annual-report-2014>

Judge John D. Bates. It was a great privilege to be only the second judge to serve as Director in the 75-year history of the Administrative Office of the U.S. Courts (AO). As of January 2015, I relinquished my duties as Director to take on additional judicial duties at my court, the District Court for the District of Columbia. I return better informed about judicial administration and with a renewed appreciation for the excellence that exists in both the AO and the courts. I am grateful to the Chief Justice for placing his confidence in me, and I greatly appreciate the tremendous support I received from judges, and from court and AO staff. It may seem trite to say that I am proud of our success in keeping courthouse doors open and cases moving. However, it took great coordination and planning to begin the recovery from the severe funding reductions we endured during sequestration. In many ways, this rebuilding process was our greatest accomplishment in 2014. We were exceedingly fortunate that, when a funding bill finally was enacted, Congressional appropriators treated the Third Branch as a priority in both Fiscal Years 2014 and 2015. I believe that our cost containment efforts continue to demonstrate that we are serious about using taxpayer money prudently. We also have in place numerous broad accountability controls, ranging from audits and program reviews to required stewardship training for senior AO and court managers. Our strong commitment to the highest fiscal and ethical standards helps assure that the limited resources available are carefully managed and properly spent. Much of our cost-saving focus has been on court space. We have scoured our rent bills; courts have developed space management and reduction plans; and our integrated workplace initiative will enable courts to use space in a flexible and efficient manner. We also are reexamining staffing formulas, using less costly and easier ways to reach prospective jurors, and replacing our aging legacy accounting system with a new, centralized financial management system. As Director, I’ve had the opportunity to participate in conferences, advisory councils, workshops and other meetings involving judges and court staff from across the country. While I delivered news from Washington and the Administrative Office, I also absorbed a tremendous amount by listening and observing our courts in action. I learned that we are uniquely skilled problem solvers on both a local and national level. As one example, the District of Nevada developed an automated system for processing and managing vouchers submitted by lawyers appointed to represent indigents under the Criminal Justice Act. Through a collaborative effort, the system, known as eVoucher, is being adopted for national use and shared with courts throughout the country. On a broader scale, the national roll out of the Next Generation of our Case Management/Electronic Case Files System has begun in the courts of appeals. It will increase chambers’ and clerks’ office efficiency and, when fully implemented, will provide for a single sign-on for public users. Testing in district and bankruptcy courts will begin in 2015. The strength of the federal Judiciary lies in our ability to work together to confront the challenges that come our way. While I will remain a committed member of that team, it was a unique honor to serve in a leadership position as Director. The AO plays a central role in helping courts function smoothly. I benefitted greatly from Judge Tom Hogan’s fine work before me. I am also proud of what we have accomplished and know that Director Jim Duff, with his accomplished leadership skills, will continue the tradition of excellent public service.

#### 2. We’ll insert caseload statistics --- they are all in a downward trend

US Courts 15 (“Work of the Federal Judiciary,” *Statistical Tables for the Federal Judiciary - June 2015*, http://www.uscourts.gov/file/19000/download

Judicial Caseload Indicators 12-Month Periods Ending June 30, 2006, 2011, 2014, and 2015

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Judicial Caseload | 2006 | 2011 | 2014 | 2015 | Since 2006 | Percent Change Since 2011 | Since 2014 |
| U.S. Courts of Appeals 1 |
| Cases Filed | 68,313 | 55,353 | 55,260 | 53,032 | -22.4 | -4.2 | -4.0 |
| Cases Terminated | 67,772 | 58,146 | 55,803 | 53,934 | -20.4 | -7.2 | -3.3 |
| Cases Pending | 57,996 | 44,051 | 41,945 2 | 41,043 | -29.2 | -6.8 | -2.2 |
| U.S. District CourtsCivil |
| Cases Filed | 244,343 | 289,630 | 298,713 | 280,037 | 14.6 | -3.3 | -6.3 |
| Cases Terminated | 264,734 | 301,773 | 260,352 | 273,562 | 3.3 | -9.3 | 5.1 |
| Cases Pending | 245,667 | 275,068 | 334,261 2 | 340,736 | 38.7 | 23.9 | 1.9 |
| Criminal (Includes Transfers) |
| Defendants Filed | 89,956 | 102,605 | 84,017 | 79,154 | -12.0 | -22.9 | -5.8 |
| Defendant Terminations | 88,771 | 99,779 | 89,281 | 81,372 | -8.3 | -18.4 | -8.9 |
| Defendants Pending | 100,544 | 112,715 | 102,539 | 98,535 | -2.0 | -12.6 | -3.9 |
| U.S. Bankruptcy Courts |
| Cases Filed | 1,484,570 | 1,529,560 | 1,000,083 | 879,736 | -40.7 | -42.5 | -12.0 |
| Cases Terminated | 1,821,396 | 1,486,950 | 1,124,534 | 1,024,504 | -43.8 | -31.1 | -8.9 |
| Cases Pending | 1,423,342 | 1,704,548 | 1,461,132 2 | 1,316,342 | -7.5 | -22.8 | -9.9 |
| Post-Conviction Supervision |
| Persons Under Supervision | 113,697 | 129,319 | 132,597 | 133,428 | 17.4 | 3.2 | 0.6 |
| Pretrial Services |
| Total Cases Activated | 99,508 | 113,120 | 103,640 | 95,538 | -4.0 | -15.5 | -7.8 |
| Pretrial Services Cases Activated | 97,800 | 112,181 | 102,949 | 94,757 | -3.1 | -15.5 | -8.0 |
| Pretrial Diversion Cases Activated | 1,708 | 939 | 691 | 781 | -54.3 | -16.8 | 13.0 |
| Total Released on Supervision | 33,816 | 30,265 | 26,197 | 24,429 | -27.8 | -19.3 | -6.7 |
| Pretrial Supervision | 32,112 | 28,903 | 25,183 | 23,368 | -27.2 | -19.2 | -7.2 |
| Diversion Supervision | 1,704 | 1,362 | 1,014 | 1,061 | -37.7 | -22.1 | 4.6 |

### 2nc --- at: patent trolls

#### 1. Patent trolling declining now, trend will definitively continue

Pricewaterhouse Coopers 15 (Big Four auditor, “2015 Patent Litigation Study: A change in patentee fortunes,” May 2015, <https://www.pwc.com/us/en/forensic-services/publications/assets/2015-pwc-patent-litigation-study.pdf>

Leading Observations Patent litigation: first decline in five years • Number of patent lawsuits filed in 2014 dropped by 13%; dramatic shift from recent years • Driven by Alice Corp. v. CLS Bank, which raised the bar for patentability and enforcement of software patents • What will be the impact on future patent enforcement? Will existing patent cases before the US Supreme Court similarly impact litigation trends? Median damages award continues downward trend • 2014 annual median damages award at second-lowest point in 20 years • No “mega” verdicts in 2014 • Gulf between practicing and nonpracticing entities (NPEs) grows • Will NPEs continue to succeed with high-dollar litigation? How will this impact your company’s response to NPE lawsuits? Jury decisions continue to climb • Jury decisions account for 67% of identified cases in last five years (excluding ANDA cases) • Median jury award is 31x greater than median bench award in last 5 years • If damages are motivating your litigation, would you consider a bench trial given the much lower median damages? Industry segmentation: large differences in median damages but similar success rates • Consumer products leads in number of cases • Biotech/pharma has highest median damages award, followed by telecommunications and medical devices • Will these trends continue? ime-to-trial slows down • Median time-to-trial is about 2.4 years • As the number of patent lawsuits escalated dramatically over the last decade, the time-totrial increased • How is your company preparing for the long haul? Should you reconsider your litigation strategy given a longer period to resolution? District rankings: the more things change, the more they stay the same • Top five districts in terms of patent-holder favorability remain the same (Virginia Eastern; Delaware; Texas Eastern; Wisconsin Western; Florida Middle) • Forum shopping really matters when it comes to success rates and damages • Has your company ranked its most important litigation goals when choosing a venue? Is a speedy outcome worth lower damages or lower chances of prevailing? NPEs still carry a big stick, but face increased challenges • Damages awards for NPEs are 4.5x greater than those for practicing entities over the last five years • NPE cases concentrated in certain district courts: 5 district courts (of 94) account for 42% of all identified NPE decisions • NPEs are 10% less successful overall • Patent-eligible subject matter constrained following Alice Corp. v. CLS Bank decision • Higher likelihood of the losing plaintiff having to reimburse defendant’s costs, following two 2014 Supreme Court decisions • Will NPEs continue to litigate at similar rates as seen in the last decade? How will potential Congressional reform or court action impact NPE activity? Trends in appeals • 52% of appealed cases are modified in some regard • When the Federal Circuit addresses damages issues in an appellate opinion, 80% of those decisions are modified in some regard • How will Federal Circuit decisions continue to shape patent damages law? Will the Federal Circuit continue to police the district courts regarding damages awards?

#### 2. Emprirical analysis proves IP litigation steadily increases, doesn’t rise rapidly

Sag 15 (Matthew, Professor of Law at Loyola University Chicago, “IP LITIGATION IN UNITED STATES DISTRICT COURTS: 1994 TO 2014,” *Iowa Law Review*, Forthcoming, SSRN

This article makes a number of significant contributions to our understanding of IP litigation. It analyzes time trends in copyright, patent and trademark litigation filings at the national level, but it does much more than simply count the number of cases; it explores the meaning behind those numbers and shows how in some cases the observable headline data can be positively misleading. Exploring the changes in the distribution of IP litigation over time and their regional distribution leads to a number of significant insights, these are summarized below. Just as importantly, one of the key contributions of this article is that it frames the context for more fine-grained empirical studies in the future. Many of the results and conclusions herein demonstrate the dangers of basing empirical conclusions on narrow slices of data from selected regions or selected time periods. Some of the key findings of this study are as follows. First, the rise of Internet filesharing has transformed copyright litigation in the United States. More specifically, to the extent that the rate of copyright litigation has increased over the last two decades, that increase appears to be almost entirely attributable to lawsuits against anonymous Internet file sharers. These lawsuits largely took place in two distinct phases: the first phase largely consisted of lawsuits seeking to discourage illegal downloading; the second phase largely consists lawsuits seeking to monetize online infringement. Second, in relation to patent litigation, the apparent patent litigation explosion between 2010 and 2012 is something of a mirage; however there has been a sustained patent litigation inflation over the last two decades the extent of which has not been fully recognized until now. The reason why this steady inflation was mistaken for a sudden explosion was that the true extent of patent litigation was disguised by permissive joinder, a practice that was suddenly curtailed by patent reform legislation passed in 2011.

### 2nc --- link

#### 1. Since the Supreme Court's ruling in DC vs Heller there have been a slew of 2nd Amendment challenges nationwide. Gun lobbyists are unsatisfied with the decision because IT ONLY allows for possession of handguns- the AFF actually bans guns which allows for far more substantial grounds to challenge which the courts can’t keep up with.

#### 2. Court clog collapses the federal judiciary --- overburdens dockets, expansion can’t keep pace

Oakley 96 (John, Distinguished Professor of Law Emeritus at the University of California Davis, “The Myth of Cost-Free Jurisdictional Reallocation,” *The Annals of the American Academy of Political and Social Science*, Volume 543, p. 52—63, http://www.jstor.org/stable/1048447

Personal effects: The hidden costs of greater workloads. The hallmark of federal justice traditionally has been the searching analysis and thoughtful opinion of a highly competent judge, endowed with the time as well as the intelligence to grasp and resolve the most nuanced issues of fact and law. Swollen dockets create assembly-line conditions, which threaten the ability of the modern federal judge to meet this high standard of quality in federal adjudication. No one expects a federal judge to function without an adequate level of available tangible resources: sufficient courtroom and chambers space, competent administrative and research staff, a good library, and a comfortable salary that relieves the judge from personal financial pressure. Although salary levels have lagged—encouraging judges to engage in the limited teaching and publication activities that are their sole means of meeting such newly pressing financial obligations as the historically high mortgage expenses and college tuitions of the present decade—in the main, federal judges have received a generous allocation of tangible resources. It is unlikely that there is any further significant gain to be realized in the productivity of individual federal judges through increased levels of tangible resources,13 other than by redressing the pressure to earn supplemental income.14 On a personal level, the most important resource available to the federal judge is time.15 Caseload pressures secondary to the indiscriminate federalization of state law are stealing time from federal judges, shrinking the increments available for each case. Federal judges have been forced to compensate by operating more like executives and less like judges. They cannot read their briefs as carefully as they would like, and they are driven to rely unduly on law clerks for research and writing that they would prefer to do themselves.16 If federal judges need more time to hear and decide each case, an obvious and easy solution is to spread the work by the appointment of more and more federal judges. Congress has been generous in the recent creation of new judgeships,17 and enlargement of the federal judiciary is likely to continue to be the default response, albeit a more grudging one, to judicial concern over the caseload consequences of jurisdictional reallocation. Systemic effects: The hidden costs of adding more judges. Increasing the size of the federal judiciary creates institutional strains that reduce and must ultimately rule out its continued acceptability as a countermeasure to caseload growth. While the dilution of workload through the addition of judges is always incrementally attractive, in the long run it will cause the present system to collapse. I am not persuaded by arguments that the problem lies in the declining quality of the pool of lawyers willing to assume the federal bench18 or in the greater risk that, as the ranks of federal judges expand, there will be more frequent lapses of judgment by the president and the Senate in seating the mediocre on the federal bench.19 In my view, the diminished desirability of federal judicial office is more than offset by the rampant dissatisfaction of modern lawyers with the excessive commercialization of the practice of law. There is no shortage of sound judicial prospects willing and able to serve, and no sign that the selection process—never the perfect meritocracy—is becoming less effective in screening out the unfit or undistinguished. Far more serious are other institutional effects of continuously compounding the number of federal judges. Collegiality among judges, consistency of decision, and coherence of doctrine across courts are all imperiled by the growth of federal courts to cattle-car proportions. Yet the ability of the system to tolerate proliferation of courts proportional to the proliferation of judges is limited, and while collapse is not imminent, it cannot be postponed indefinitely. Congress could restructure the federal trial and appellate courts without imperiling the core functions, but the limiting factor is the capacity of the Supreme Court to maintain overall uniformity in the administration and application of federal law. That Court is not only the crown but the crowning jewel of a 200-year-old system of the rule of law within a constitutional democracy, and any tinkering with its size or jurisdiction would raise the most serious questions of the future course of the nation.

### 2nc --- internal link

#### 1. The plan collapses the economy --- the thousands of cases generated by the plan trade off with effective prosecution of securities fraud --- 1nc Lerach says even the perception that the Court is lax in enforcing securities fraud law causes shockwaves to business confidence, undermining the global economy

#### 2. Fraud has a devastating ripple effect

Bhasin 13 (M.L., Bang College of Business at KIMEP University, “Corporate Accounting Fraud: A Case Study of Satyam Computers Limited,” *Open Journal of Accounting*, Volume 2, p. 26—38

Fraudulent financial reporting can have significant consequences for the organization and its stakeholders, as well as for public confidence in the capital markets. Periodic high-profile cases of fraudulent financial reporting also raise concerns about the credibility of the US financial reporting process and call into question the roles of management, auditors, regulators, and analysts, among others. Moreover, corporate fraud impacts organizations in several areas: financial, operational and psychological [10]. While the monetary loss owing to fraud is significant, the full impact of fraud on an organization can be staggering. In fact, the losses to reputation, goodwill, and customer relations can be devastating. When fraudulent financial reporting occurs, serious consequences ensue. The damage that result is also widespread, with a sometimes devastating “ripple” effect [6]. Those affected may range from the “immediate” victims (the company’s stockholders and creditors) to the more “remote” (those harmed when investor confidence in the stock market is shaken). Between these two extremes, many others may be affected: “employees” who suffer job loss or diminished pension fund value; “depositors” in financial institutions; the company’s “underwriters, auditors, attorneys, and insurers”; and even honest “competitors” whose reputations suffer by association.

#### 3. Trust is the vital internal link to the economy --- lack of legal enforcement decimates that

Blommestein 6 (Hans J., Senior Financial Economist and Head of Bond Market and Public debt Management Programmes at the OECD in Paris, Ph.D. in Economics from the Free University of Amsterdam, “How to Restore Trust in Financial Markets?” in *Enron and World Finance: A Case Study in Ethics*, p. 180—181

Without trust, financial markets cannot function efficiently. Trust and integrity depend to an important degree on the reputation of financial markets to generate reliable valuations of companies and business ventures. This perspective makes clear why the integrity of the gatekeepers of the public trust to vouch for accurate and reliable information about public companies is at the heart of the proper functioning of financial markets. And since the ‘garbage in, garbage out’ principle also prevails in financial markets, public trust in the functioning of financial markets has declined as a result of major financial reporting scandals involving Enron, Tyco, WorldCom, Parmalat and others. Also, massive overvaluations of equity that occurred in the second half of the 1990s and in the early 2000s have been singled out as being caused by misinformation and manipulation of financial results ( Jensen, 2002). More generally, when information about the operation of public companies is false, misleading or opaque, trust in financial markets is likely to be affected adversely. This gives financial market participants a stake in the disclosure of timely and meaningful information, including by assuring that the quality of financial reporting by public companies is as high as possible. And this in turn puts the spotlight on the role of the gatekeepers of the public trust, in particular accounting firms, banks, rating agencies, supervisors and regulators. This contribution addresses the key questions of why public trust is in decline, why agency relations have broken down within companies and within gatekeepers, and how trust in financial markets can best be restored. It will be argued that, in answering these questions, it will be necessary to go beyond recent corporate scandals. Gatekeepers of the public trust play a central role in modern, complex markets. However, we shall show that they are facing extraordinary new challenges that have not only reduced their effectiveness in safeguarding public trust but also in a number of cases have resulted in spectacular governance failures. Against this backdrop, we shall also argue that, for financial markets to continue to function effectively and efficiently, gatekeepers of the public trust will need to tackle a number of key structural obstacles associated with the new business landscape, and in particular the (consequences of the) downward shift in ethical standards.

1. Law Center to Prevent Gun Violence. July 31, 2012. The second amendment battleground: Victories in the courts and why they matter. http://smartgunlaws.org/the-second-amendment-battleground-victories-in-the-courts/ [↑](#footnote-ref--1)