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SUMMARY OF LETTERS TO CONGRESS RE: ADMINISTRATIVE DISPUTE RESOLUTION ACT OF 1996 (S. 1224 and H.R. 2977)

The Section is urging prompt passage of the Administrative Dispute Resolution Act of 1996 (ADRA) which would reinstate Section 583 of 5 U.S.C. §583, allowing federal agencies to accept "voluntary and uncompensated services" without regard to the Anti-Deficiency Act (31 U.S.C. §1342) (which imposes penalties on federal employees that accept voluntary services unless authorized by law). Section 583 is a non-controversial provision that was deemed to be a highly successful statute until it lapsed last year.

Passage of ADRA would enable the Equal Employment Opportunity Commission to begin using volunteer mediators to resolve its enormous backlog of pending charges. The Labor Relations Section has been working closely with EEOC to assist in development of its voluntary mediation program, and many Section members have volunteered to serve in this capacity once ADRA becomes law. EEOC does not have the budget or resources to implement a mediation program that could resolve the nearly 100,000 charges in its inventory. Use of volunteer mediators would assist the agency in fulfilling its key civil rights enforcement function, and would allow parties to save money, receive a fair adjudication of their claims and preserve good working relationships.

The letter takes no position on the minor differences in the two bills which must be resolved by Conference Committee, but urges prompt passage of the legislation in the interests of parties with matters pending before the EEOC and members of the public.

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Robert N. Weiner
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George W. Gekas
Chairman
Subcommittee on Commercial and
Administrative Law
B353 Rayburn House Office Building
Washington, D.C. 20515

Re: Administrative Dispute Resolution Act of 1996
(S. 1224; H.R. 2977)

Dear Senator Stevens:

We are writing on behalf of the Labor Relations Section of the D.C. Bar to encourage the Congress to reenact as soon as possible pending legislation permanently reinstating the Administrative Dispute Resolution Act (ADRA).[1]

Passage of this legislation would reinstate Section 583 of ADRA (5 U.S.C. § 583) that allows federal agencies to "accept voluntary and uncompensated services" without regard to the provisions of the Anti-Deficiency Act (31 U.S.C. § 1342) which imposes penalties on federal employees that accept voluntary services unless authorized by law. Section 583 is a noncontroversial provision that has been an important factor in making the ADRA a successful statute.

Enactment of the ADRA of 1996 would permit the Equal Employment Opportunity Commission (EEOC) to begin using volunteer mediators to help resolve its immense inventory of pending charges. The Labor Relations Section is composed of nearly 1500 attorneys representing employees, management, labor organizations and government agencies. Our Section has many members who want to assist EEOC by volunteering their services as mediators.

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The lapse of ADRA is preventing the Equal Employment Opportunity Commission (EEOC) from using volunteer mediators to resolve employment discrimination charges. Because the EEOC lacks resources to implement a mediation program out of its existing budget, use of volunteer outside mediators will be essential to its attempts to deal more effectively with its inventory of almost 100,000 charges. The Labor Relations Section has been working with EEOC to assist in developing its mediation program. However, unless the ADRA of 1996 is passed, this important program cannot go forward.

There is widespread, across-the-board support for the efforts of the EEOC and other agencies to resolve disputes through mediation. As the Senate Report on S. 1227 states:

> Agencies' use of ADR in resolving discrimination claims and labor-management disputes has grown rapidly in recent years. The Department of the Interior attempts to mediate equal employment opportunity cases at an early stage and the Secretary credits this policy for a 43 percent reduction in formal case filings between fiscal years 1992 and 1993. **The Equal Employment Opportunity Commission intends to use mediation to relieve its backlog of discrimination complaints.**

S. Rep. No. 245, 104th Cong., 2d Sess. 2 (1996) (emphasis added).

All parties benefit from voluntary, fair ADR processes such as mediation which can be significantly less costly than litigation and can preserve good working relationships. And, EEOC can more effectively fulfill its crucial civil rights enforcement mission by enabling the parties to resolve their disputes fairly and efficiently.

We understand that minor differences exist between S. 1224 and H.R. 2977, which may have to be resolved by a Conference Committee. We express no position on these differences, but urge that they be resolved as expeditiously as possible.

We hope you will take our views into consideration so that this legislation can be enacted without further delay. Please let us know if we can provide any additional information.

Very truly yours,

Mary K. O'Melveny

Mary K. O'Melveny
Co-chair

Mary Ellen Signorille

Mary Ellen Signorille
Co-Chair

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Katherine A. Mazzaferri
D.C. Bar Executive Director

Senator Charles E. Grassley
Chairman
Subcommittee on Administrative
Oversight and the Court
SH-235 Hart Senate Office Building
Washington, D.C. 20510

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Representative Henry J. Hyde
Chairman
Committee on the Judiciary
2138 Rayburn House Office Building
Washington, D.C. 20515

Re: Administrative Dispute Resolution Act of 1996 (S. 1224; H.R. 2977)

Dear Representative Hyde:

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Senator Ted Stevens
Chairman
Committee on Governmental Affairs
SD-340 Dirksen Senate Office Building
Washington, D.C. 20510-6250

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Senator William S. Cohen
Chairman
Subcommittee on Oversight on Government
Management and the District of Columbia
SH-432 Hart Senate Office Building
Washington, D.C. 20510

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