

OPINION

Capitol Hill inaction burdens courts

Failure to agree on a federal budget will lead wheels of justice to grind to a halt

BY DAVID P. MIRANDA

Without action by Congress, many New Yorkers who turn to federal courts to resolve disputes can expect a disruption of operations when the new federal fiscal year begins Oct. 1.

What is the basis for that prediction?

History.

When Congress failed to enact a budget in 2013, the “sequester,” or an automatic cut in spending, went into effect. It slashed funding for federal agencies. For the judiciary, especially New York’s overburdened courts, the nearly \$350 million cut proved to be a disaster.

Because expenses like judicial salaries and rents cannot be cut, a 5 percent across-the-board budget cut emaciates the budget for “non-essentials,” such as court security and federal public defenders.

If Congress fails to agree on a budget, the prospects are not bright. In 2011, Congress passed a law to entice itself to act re-

sponsibly on the budget. If Congress failed to act, the law required cuts so severe that lawmakers presumably would never want them to take effect.

During the 2013 sequester, federal courts faced extensive delays and reduced security because of reductions in staff. Although the size of the sequestration cuts was based on a percentage of each court’s total budget, all the reductions had to come from day-to-day operations, multiplying their impact.

In 2013, the Federal Defenders Service program was downsized by 400 staff and implemented 165,000 furlough hours. That slowed the processing of criminal cases, which have a constitutional priority over civil cases, which in turn slowed down the civil cases.

For example, the office of the Federal Public Defender in New York City asked the District Court to postpone the trial of Sulaiman Abu Ghaith (Osama bin Laden’s son-in-law), and the Western District of New York stopped scheduling criminal matters on certain



Lack of a federal budget in 2013 prompted furloughs and downsizing at the Federal Defender Service program.

days because of staff shortages.

All four New York federal District Courts are categorized as “congested” by court administrators. That means that their caseloads exceed the average caseloads for the entire federal system. On average, it takes about two years to bring a civil case to trial around the country; because of congestion and judicial vacancies, some federal courts in New York require more than twice that time.

The cuts, therefore, have had a disproportionately heavy im-

act here.

Congress eventually recognized the burden imposed on the judiciary when it agreed on a budget in December 2013, ending sequestration. Congress not only restored the judiciary’s budget, but it added \$25 million in funding to assist the courts in recovering.

Yet, despite the costs of congressional failure in 2013, it seems likely — less than two weeks before this year’s budget deadline — that history will repeat itself.

Besides the impact on New Yorkers, inadequate court funding also impairs New York’s global status as a top choice for businesses engaged in international transactions. New York is often chosen as the jurisdiction for resolution of international commercial disputes because of the worldwide respect for its courts. We risk permanent damage to our reputation if the process of fair and expeditious resolution of disputes is paralyzed by another sequester.

Our courts are critically important to our society, our economy and our democracy. They serve individuals and businesses and resolve disputes small and large. All New Yorkers will suffer if our reputation as the gold standard for legal disputes is tarnished.

We witnessed the impact of serious underfunding in 2013. Congress must act to avoid another self-imposed and unnecessary crisis-by-sequester in our court system.



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