

**TESTIMONY AT A FIELD HEARING OF THE SENATE COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS HELD AT THE BALTIMORE
COURTHOUSE ON APRIL 28, 2011**

My name is Fred Motz. I have been a United States District Judge since 1985. I served as chief judge from 1994 to 2001. Because I have had more personal experience with the Baltimore courthouse than any other judge, Chief Judge Deborah Chasanow and my colleagues asked that I testify before you today.

As I will outline in a moment, the federal judges in Baltimore are grateful to GSA and the Space and Facilities Division of the Administrative Office of the Courts for helping us make substantial improvements to the Baltimore Courthouse. That said, I am well aware that GSA has shortcomings. Efficiency does not always seem to be its goal, and some GSA employees cannot be accurately characterized as effective. Further, government agencies are immune from the disciplining effect of market forces. For example, we have experienced a rash of floods caused by faulty plumbing in recent years. Were we a tenant in a privately owned office building, we could withhold our rent(or at least threaten to withhold our rent) until our space was made habitable. That option is not now open to us. It is therefore important that public hearings, such

as the one being held here today, be conducted to provide the accountability that the market would otherwise enforce.

My purpose today however, is not to vent frustration at the obstacles that sometimes have been placed in our way but to address an issue of vital public importance: assuring that this courthouse either be replaced or that capital improvements are made to it so that it remains economically viable at least for another 25 or 30 years. Senator Cardin, my colleagues are grateful for the efforts you have made to have a new federal courthouse constructed in the city.

However, I – like you – have serious doubts that this goal can be accomplished in the foreseeable future. Judicial Conference priorities aside, three conditions would have to be fulfilled for a new federal courthouse to be built in Baltimore. First, sound urban planning requires that a site for the new courthouse in the downtown area would have to be found to maintain the vitality of the city's important service district. Second, in order to prevent disruption of the administration of justice in the federal courts, the new courthouse would have to be completed before the present courthouse is vacated. Third, funding would have to be found to assure that the land on which the present courthouse sits is put to good use. It is highly questionable whether the first two of these conditions can be met.

Moreover, from an aesthetic standpoint, the present courthouse is entirely acceptable. Of course, when the courthouse was first built, it was not well received by my predecessors. The Sugarman sculpture, which particularly aggravated the judges, was located immediately in front of the office wing of the building. It made the courthouse look like a playground, and it became a metaphor for the judges' discontent. On the inside of the building, the courtrooms – which initially only were on the fifth and sixth floors – were objectionable. Their light wood, wavy ceilings, and ultra-modern furniture did not convey the sense of dignity that the public rightly expects the forum for judicial proceedings to have. This courtroom itself then had all of the dignity of a tennis barn.

When the court grew larger in the early 1980s, four new courtrooms and chambers were added on the third floor. Although the wood that was used was darker, the construction was quite cheap, as even an unskilled observer could see. Thus, the courthouse remained for a decade or so. In the 1990s, however, things dramatically changed. The exterior of the building was refinished, the landscaping near the entrance was added, the statue of Justice Thurgood Marshall on Pratt Street was remounted, numerous courtrooms (including this one) and chambers

were reconstructed in an appropriate style with advanced electronic technology, a conference room on the first floor was renovated, the space on the second floor was reconfigured and rebuilt, and a new conference room and attorney's lounge were constructed. The Sugarman sculpture itself was temporarily removed to be repainted, and when it was returned, it was placed not next to the courthouse, but at the corner of Lombard and Hanover Streets, where it is now located.

There, it adds much needed color to what has become a vehicular thoroughfare, and what I consider to be its essential message – the bringing of the chaos of life into the constraints of ordered liberty – is far better expressed when it stands near, but apart from, the courthouse.

Additional improvements have been made in recent years. Just last week a truly magnificent exhibit about admiralty law was installed in the public corridor on the third floor. I hope that after this hearing, some of you will have time to look at it. It is the first of what we anticipate will be a series of historical exhibits on various themes that are woven into the tapestry of federal law, including civil rights and civil disobedience, the Civil War, professional sports, and the Migratory Bird Treaty Act. The concept behind these exhibits is that legal history should not be confined to a dusty room or alcove but should surround the court, just as law derives its meaning from the society and culture of which it is a part.

This brings me my main point. All of the fine aesthetic improvements that have been made in recent years will have been for naught unless substantial capital improvements are made to the courthouse. The courthouse is over 30 years old. Even if it had been well constructed, its infrastructure would now have to be replaced. But, as engineering studies commissioned by GSA attest, it was not well constructed. There are serious security concerns presented by the design of the building, and it would be totally irresponsible not to take the steps required to address these concerns immediately. Further, the floods that we have experienced in recent years - that have caused severe disruption to the court's work and significant expense to repair - demonstrate beyond dispute that piping and plumbing fixtures must be replaced. The building's heating and air conditioning units now operate by ingenious jury rigging that cannot provide a long-term solution. Likewise, the ductwork that was originally installed was inadequate in many respects. Indeed, there are places where, because of construction shortcuts or design failures, ducts come to an abrupt end instead of continuing on into places where they should be providing heat or cold air.

On top of all of this, in the near future we will need numerous tenant improvements because we will outgrow our space. By 2015 four district judges in Baltimore will become

eligible for senior status. I anticipate that while one of these judges may retire, three will take senior status when they become eligible and continue (as I have) to carry a heavy docket. This means that new chambers will have to be built out for them or their successors. There also may be a need to build out space for Fourth Circuit judges because two of the Fourth Circuit judges in Baltimore are now, or soon will be, also eligible for senior status. Further, we have need for an additional magistrate judge courtroom on the second floor, the construction of which has been delayed for several years.

My plea today is that GSA and the Administrative Office find, or that Congress specifically authorize, sufficient funding in the 2012 budget year to undertake the very important, but very costly, projects that need to be undertaken to maintain the Baltimore courthouse. These projects include a complete revamping of the plumbing and HVAC systems, curing any security issues that may exist, and providing full funding for the construction of additional chambers and one new magistrate judge courtroom. If the cost is not prohibitive, the “greening” of the courthouse by adding gardens - and perhaps an area for receptions - on the roof would likewise be desirable.

As a citizen of Baltimore, I also hope that funding can be found for what has become known as the “First Impressions” project. This project would make the entrance to the courthouse face on Pratt rather than Lombard Street. The reason this is important to the City of Baltimore is that while, as I indicated before, Lombard Street has become a vehicular thoroughfare, Pratt Street has become a busy pedestrian walkway. City residents and tourists routinely amble between the stadiums and the Inner Harbor before and after Orioles and Ravens games, and other events. From an urban planning perspective, it would be far more friendly and inviting for pedestrians to pass by a building whose entrance faces them instead of being confronted with what obviously is the building’s back. I might note that an incidental, but important, benefit of the First Impressions project would be that Justice Marshall would be standing in the front, not the rear, of the courthouse. While symbolic, that change would be of monumental significance.

I have heard suggestions that the various needed improvements I have described be achieved piecemeal, over time, because they cannot all be afforded at once. I respectfully suggest that to follow that suggestion would be “penny wise and pound foolish.” The capital

improvements and the additional tenant improvements are needed now, and it would substantially add to the cost of the projects to do them seriatim. Can you imagine a responsible private property owner tearing out walls and flooring in one year to replace pipes, knowing that the following year all the money spent on the tearing-out process needs to be spent again to replace air-conditioning and heating ductwork? Could your imagination even begin to extend to having all the tearing-out and installation work be nullified by the construction of new offices as soon as the work has been done? And what about the tenant's operations? How can a court function if every year a substantial number of courtrooms and chambers cannot be used because construction work, that should have been done at the same time, needs to be replicated?

The perspective I bring today is that of the persons most affected by whatever decisions are made. We ask you to make all the necessary improvements now, and to make them at the same time. If criteria that have been established by GSA, the Administrative Office of the Courts, and the Judicial Conference need to be reworked to accomplish this goal, please rework the criteria. Perhaps it sounds political to even say the words "spending" and "investments" in the present political environment. But any sound economist or responsible business person

knows that there is a difference between the two, and that capital improvements to the Baltimore courthouse constitute an investment. That investment is absolutely necessary, and in the long run it will generate untold dividends.

Thank you, Senator Cardin, for listening to me, and particularly for your commitment to assuring that Baltimore has the federal courthouse it deserves.

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