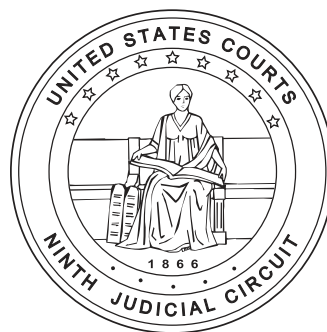




cited in U.S. v. Castro-Verdugo, No. 13-50386 archived on May 14, 2014

## United States Courts for the Ninth Circuit 2012 ANNUAL REPORT



*cited in U.S. v. Castro-Verdugo, No. 13-50386 archived on May 14, 2014*

The Office of the Circuit Executive would like to acknowledge the following for their contributions to the 2012 Ninth Circuit Annual Report:

Chief Judge Alex Kozinski  
Cathy A. Catterson, Circuit and Court of Appeals Executive, Ninth Circuit  
Molly C. Dwyer, Clerk of Court, Ninth Circuit Court of Appeals  
W. Samuel Hamrick, Jr., District Court Clerk, Southern District of California  
Susan M. Spraul, Clerk, Bankruptcy Appellate Panel, Ninth Circuit  
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John Baule, Director, Yakima Valley Museum, Yakima, Washington



## JUDICIAL COUNCIL of the NINTH CIRCUIT



### MISSION STATEMENT

The mission of the Judicial Council of the Ninth Circuit is to support the effective and expeditious administration of justice and the safeguarding of fairness in the administration of the courts within the circuit. To do so, it will promote the fair and prompt resolution of disputes, ensure the effective discharge of court business, prevent any form of invidious discrimination, and enhance public understanding of, and confidence in the judiciary.

2012-2013 Ninth Circuit Judicial Council: Chief Circuit Judge Alex Kozinski(1), Senior Circuit Judge J. Clifford Wallace(2), Circuit Judge Sidney R. Thomas(3), Senior Circuit Judge Raymond C. Fisher\*, Circuit Judge Richard C. Tallman(4), Circuit Judge Richard R. Clifton(5), Chief District Judge Ralph R. Beistline\*, Senior District Judge Anthony W. Ishii(6), Chief District Judge George H. King(7), Chief District Judge Claudia Wilken(8), Senior District Judge Stephen M. McNamee(9), Chief District Judge Frances Marie Tydingco-Gatewood\*, Circuit and Court of Appeals Executive Cathy A. Catterson(10)

Observers: Chief District Judge Ann L. Aiken\*, Chief District Judge B. Lynn Winmill\*, District Judge Robert S. Lasnik(11), Chief Bankruptcy Judge Frank L. Kurtz(12), Chief Magistrate Judge Candy W. Dale(13), District Court Clerk Richard W. Wieking(14), Bankruptcy Court Clerk George Prentice(15), Chief Probation Officer Connie M. Smith(16), Chief Pretrial Services Officer Brian C. Crist(17)

Not Pictured\*

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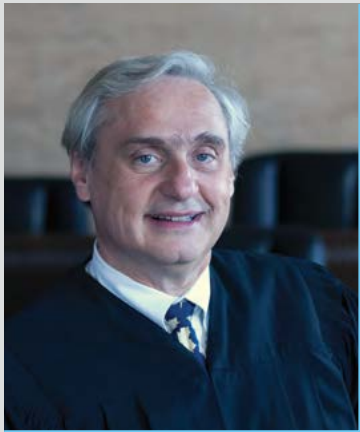
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## FOREWORD



*Chief Judge Alex Kozinski*

Federal courts of the Ninth Circuit are responsible for dispensing justice in nine western states and two Pacific island jurisdictions. Our courts are among the busiest in the nation, resolving thousands of legal matters each year. Justice is achieved through the hard work of our dedicated judges and court staff, who provide the highest level of service to litigants and the public. The 2012 Ninth Circuit Annual Report documents the work of the courts and highlights other aspects of the administration of the federal justice system in the West. I hope you find it useful and encourage you to provide feedback.

While there were fluctuations, the business of the courts in the Ninth Circuit generally held steady in fiscal year 2012. The Ninth Circuit Court of Appeals saw a moderate 4.5 percent increase in new filings but ended the fiscal year with its pending caseload virtually unchanged. Immigration cases and appeals brought by inmates in state or federal prisons within the circuit constituted two-thirds of the new filings.

District courts of the Ninth Circuit reported 2.8 percent fewer new case filings overall in fiscal year 2012. But our trial courts continued to have the highest combined criminal caseload, accounting for 25.4 percent of all criminal filings and 24 percent of all criminal defendants in the nation. Much of the circuit's criminal docket involves illegal immigration and drug smuggling over the U.S.-Mexico border. Our two border courts, the District of Arizona and the Southern District of California, ranked second and third in the nation, respectively, in the number of new felony filings per judgeship during the fiscal year.

Bankruptcy filings, down nationwide for the second consecutive year, fell by just over 20 percent in the Ninth Circuit. Thirteen out of fifteen districts in the circuit experienced a downturn, including the nation's busiest venue, the U.S. Bankruptcy Court for the Central District of California. Even our Bankruptcy Appellate Panel, which had reported double-digit increases in filings the past three years, saw its caseload level off, up just 0.4 percent.

New case representations by federal public defenders were down slightly overall in the circuit, although there were notable increases in some districts. Probation and Pretrial Services offices saw slight decreases in their workloads overall as well.

People without lawyers continue to make up a large portion of the litigants in federal courts. In fiscal year 2012, self-represented, or pro se, litigants brought more than half of the new appeals to the Ninth Circuit Court of Appeals. They were involved in more than a third of all new civil cases in the district courts

and accounted for almost one-fifth of the new filings received by the bankruptcy courts.

Pro se litigants are most frequently prison inmates bringing habeas and other petitions to the district courts. Pro se litigants are generally less knowledgeable of the law and require a greater amount of staff time, thus reducing services to other litigants. They also pose a challenge for court staff, which must provide procedural information without giving legal advice.

Ninth Circuit courts had been making use of specialized pro se law clerks to handle this caseload along with other resources. But repeated budget reductions have cut into court staffing, leaving fewer pro se law clerks with larger caseloads. The Ninth Circuit's standing Self-Represented Litigants Committee is providing training to help the remaining pro se clerks work more efficiently, but there is only so much that can be accomplished without additional staff.

The Ninth Circuit Alternative Dispute Resolution Committee is also involved in pro se matters and promotes the use of mediation programs to resolve prisoner petitions at the prison level. In addition, a pilot project is under way in Arizona that allows prisoners to electronically file documents, thereby reducing the need for scanning and other work by court staff.

The Eastern District of California continues to be our most overloaded court, due largely to the many civil matters raised by inmates in state and federal prisons within the district. While the court received slightly

fewer new filings than the prior fiscal year, the workload for judges actually increased slightly in fiscal year 2012. Weighted filings per judgeship, which takes into account the varying complexities of cases, rose to 1,132, ranking the court second in the nation. The average weighted filings per judgeship nationally was 520.

One bright spot was the seating of four new judges on the Ninth Circuit Court of Appeals in 2012, bringing the court to nearly full strength for the first time in many years.

Bills to authorize new judgeships for the Eastern District of California and the District of Arizona, among others, were introduced in both the Senate and House but did not come to a vote during the year. We remain hopeful that Congress will recognize the very pressing need for more judges for these hardworking courts and take appropriate action.

Judicial vacancies continue to be of concern to Ninth Circuit courts, which ended the year with 17 vacancies. Nine nominations awaiting Senate action at year's end were returned to the White House but renewed by the president in January 2013.

One bright spot was the seating of four new judges on the Ninth Circuit Court of Appeals in 2012, bringing the court to nearly full strength for the first time in many years.

Judges Andrew D. Hurwitz of Phoenix and Jacqueline H. Nguyen and Paul J. Watford, both of Pasadena, were confirmed in 2012. Judge Morgan Christen of Anchorage, Alaska, was confirmed in late 2011 and is only the third judge to represent Alaska on the court and the first woman to do so. Judge Nguyen, who served previously as a district judge, is the first judge of Vietnamese descent to serve on either a federal appellate or federal trial court.

During the year, eight new district court judges were confirmed by the Senate and seven received their judicial commissions. The Ninth Circuit Court of Appeals appointed five new bankruptcy judges, while nine new magistrate judges were appointed around the circuit by the district judges of their respective courts.

A number of judicial colleagues passed away in 2012, including Circuit Judges Robert R. Beezer, Betty Binns Fletcher, Otto R. Skopil, Jr., and Chief Judge Emeritus James R. Browning. Judge Browning served on our court for more than 50 years, including 12 years as our chief judge. Judge Browning's name was synonymous with that of the Ninth Circuit and he is rightfully the eponym for our historic headquarters building in San Francisco. Most would agree his death marked the end of an era for the Ninth Circuit.

Elsewhere in the circuit, courts mourned the passing of District Judges Rudi M. Brewster of San Diego, Robert E. Coyle of Fresno and Robert J. Kelleher of Los Angeles, and retired Magistrate Judge John C. Rayburn, Jr., of

Riverside. All of these judges had long and respected careers and will be missed. Ninth Circuit courts continue to be leaders in outreach to the bar, legal academia and the community in general. The Ninth Circuit Court of Appeals renewed its decades-old tradition of holding special sittings at law schools with nine visits in 2012. Law school deans were again invited to participate in the educational program at the circuit conference. Our Courts and Community Committee, meanwhile, focused its efforts on publicizing successful community outreach efforts and providing courts with the tools and information they need to continue that work.

Progress was made in meeting the circuit's many space needs. 2012 saw the completion of a courthouse annex in San Diego and new courthouses in Fresno, California, and Billings, Montana, and the commencement of design work on a long-awaited courthouse in Los Angeles. Prospects for future projects hung in the balance as the judiciary considered broad budget cuts due to the possibility of sequestration in early 2013.

We invite you to review this report further for more information about the work of the federal courts of the Ninth Circuit. ▲▲



## NINTH CIRCUIT OVERVIEW

The United States Courts for the Ninth Circuit consists of the U.S. Court of Appeals for the Ninth Circuit, the federal trial and bankruptcy courts in the 15 judicial districts within the circuit, and associated administrative units that provide various services to the courts.

Judicial districts within the Ninth Circuit include the districts of Alaska, Arizona, Central California, Eastern California, Northern California, Southern California, Hawaii, Idaho, Montana, Nevada, Oregon, Eastern Washington, Western Washington, the U.S. Territory of Guam and the Commonwealth of the Northern Mariana Islands. The establishment of the Ninth Circuit in 1866 began the development of the federal judicial system for the western United States. Today, it remains the largest and busiest of federal circuits.

Judges serving on the circuit and district courts are known as Article III judges, a reference to the article in the Constitution establishing the federal judiciary. Nominated by the president and confirmed by the Senate, Article III judges serve lifetime appointments upon good behavior. The U.S. Court of Appeals for the Ninth Circuit has been authorized 29 judgeships and ended 2012 with one vacant position. For most of the year, the district courts were authorized 112 judgeships, 16 of which were vacant at year's end.

Federal courts also rely on senior circuit and senior district judges to assist with their workload. These are Article III judges who are eligible for

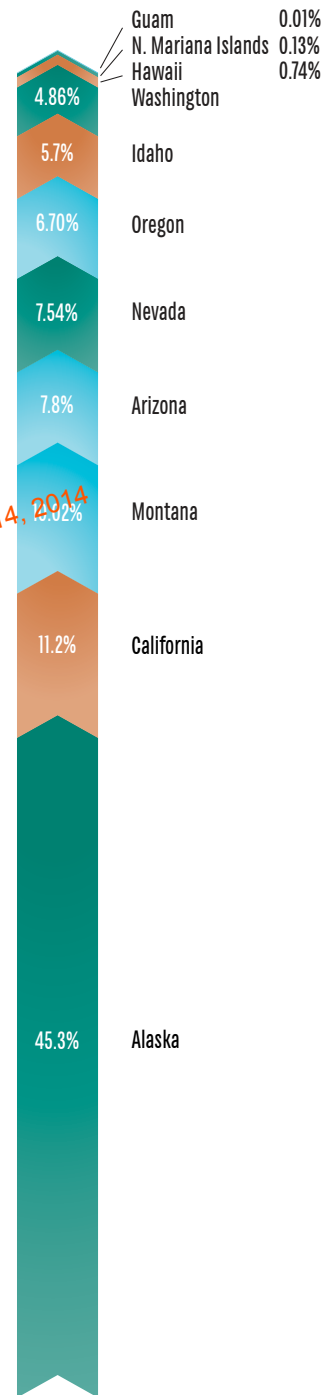
retirement but have chosen to continue working with reduced caseloads. In the Ninth Circuit, 18 senior circuit judges were at work for most of the year, sitting on appellate panels, serving on circuit and national judicial committees, and handling a variety of administrative matters. In the district courts within the circuit, 65 senior judges heard cases, presided over procedural matters, served on committees and conducted other business during 2012.

In addition to Article III judges, the federal bench includes Article I judges, who serve as magistrate judges in the district courts and bankruptcy judges in the bankruptcy courts. Bankruptcy judges are appointed by judges of the courts of appeals and serve terms of 14 years. Magistrate judges are appointed by the judges of each district court and hold their positions for eight years. Bankruptcy and magistrate judges may be reappointed.

In 2012, bankruptcy courts in the Ninth Circuit were authorized 68 permanent and five temporary judgeships that were extended under the Temporary Bankruptcy Judgeships Extension Act of 2012. The district courts were authorized 103 full-time and 11 part-time magistrate judges. Several courts also utilized recalled bankruptcy and recalled magistrate judges.

Overall, the Ninth Circuit courts experienced decreased caseloads in 2012. Unless otherwise noted, statistics in this report cover the 2012 fiscal year.

### Ninth Circuit by Geographic Regions

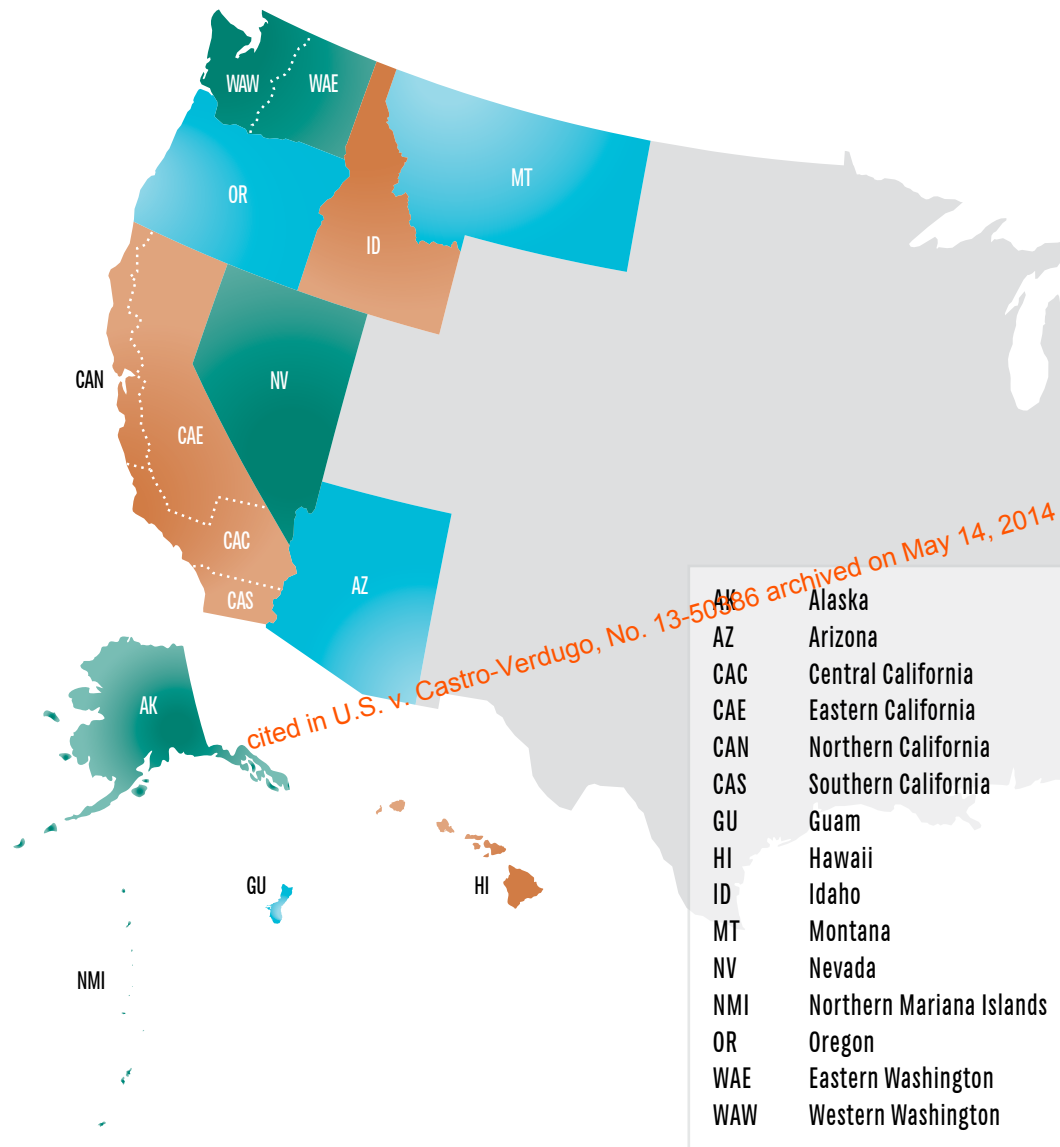


Total Area: 1,467,042 sq. mi.



# MAP of the NINTH CIRCUIT

## Districts Comprising the Ninth Circuit



## JUDICIAL COUNCIL & ADMINISTRATION

### Judicial Council, Advisory Groups and Administration

The Judicial Council of the Ninth Circuit is the governing body for federal district and bankruptcy courts in nine western states and two Pacific island jurisdictions. The judicial council's statutory mission is to support the effective and expeditious administration of justice and the safeguarding of fairness in the administration of the courts. It has statutory authority to "make all necessary and appropriate orders for the effective and expeditious administration of justice within its circuit," [28 U.S.C. § 332(d)(1)].

The judicial council also has been delegated responsibilities by the Judicial Conference of the United States, the national governing body for the federal courts. These responsibilities include authorizing senior judge staffing levels and pay and managing the judicial misconduct complaint process.

In governing the circuit, the judicial council relies on advisory groups and committees to accomplish its goals. Chairs of three advisory groups attend council meetings as observers and sometimes voting members. Committee chairs report to the council as needed.

Newly appointed to the Judicial Council of the Ninth Circuit in 2012 were Senior Circuit Judge J. Clifford Wallace of San Diego,

Circuit Judge Richard C. Tallman of Seattle, Senior District Judge Anthony W. Ishii of the Eastern District of California, Chief District Judge Claudia Wilken of the Northern District of California, and Chief District Judge George H. King of the Central District of California. Circuit Judge Raymond C. Fisher of Pasadena and Senior District Judge Stephen M. McNamee of the District of Arizona were appointed to serve on the Judicial Council Executive Committee. New Judicial Council observers include Chief District Judge Frances Marie Tydingco-Gatewood of the District of Guam, Chief Bankruptcy Judge Frank M. Kurtz of the Eastern District of Washington, Chief Magistrate Judge Candy W. Dale of the District of Idaho, District Court Clerk Richard W. Wieking of the Northern District of California, Bankruptcy Court Clerk George Prentice of the District of Arizona, Chief Probation Officer Connie M. Smith of the Western District of Washington, and Chief Pretrial Services Officer Brian C. Crist of the District of Oregon.

Under the Rules for Judicial-Conduct and Judicial-Disability Proceedings, the Judicial Council of the Ninth Circuit considers petitions for review of the chief judge's orders in judicial misconduct complaints. In 2012, 27 petitions for review were filed and all 27 were resolved by the judicial council.

### Conference of Chief District Judges

The Conference of Chief District Judges advises the Judicial Council of the Ninth Circuit about the administration of justice in the circuit's 15 district courts. The conference, which meets twice a year, is comprised of the chief district judge of each district. Chief District Judge Irma E. Gonzalez of the Southern District of California served as chair of the conference from October 2011 to August 2012. She was succeeded by Chief District Judge Tydingco-Gatewood of the District of Guam, who will chair the conference until February 2013.

Elevated to chief district judge during the year were Judges Morrison C. England of the Eastern District of California, George H. King of the Central District of California, Barry Ted Moskowitz of the Southern District of California, and Claudia Wilken of the Northern District of California.

### Conference of Chief Bankruptcy Judges

The Conference of Chief Bankruptcy Judges advises the Judicial Council of the Ninth Circuit on the administration of the bankruptcy courts within the circuit. The conference, which also meets twice per year, consists of chief bankruptcy judges from each district, the chief bankruptcy judge of the circuit's Bankruptcy Appellate

Panel, or BAP, and a recalled bankruptcy judge representative. Chief Bankruptcy Judge Peter W. Bowie of the Southern District of California chaired the conference from October 2011 to September 2012. He was succeeded by Chief Bankruptcy Judge Frank L. Kurtz of the Eastern District of Washington, who will chair the conference until September 2013.

Elevated to chief bankruptcy judge during the year were Bankruptcy Judges Gary Allan Spraker of the District of Alaska and Laura S. Taylor of the Southern District of California.

### Magistrate Judges Executive Board

The Magistrate Judges Executive Board communicates to the Judicial Council of the Ninth Circuit on behalf of the more than 129 full-time, part-time and recalled magistrate judges serving in the district courts. The 15-member board meets twice a year and holds a session with all magistrate judges at the annual circuit conference. Chief Magistrate Judge Candy W. Dale of the District of Idaho succeeded Magistrate Judge David K. Duncan of the District of Arizona. Her term began in July 2012 as chair of the board.

### Clerks of Court

Day-to-day management of the courts rests with the chief judges and clerks or district executives of the court of



management and pro se (self-represented) litigation units. The Office of the Appellate Commissioner, also in the Ninth Circuit Court of Appeals Clerk's Office, reviews Criminal Justice Act vouchers for cases that come before the court of appeals.

### Associated Court Units

Ninth Circuit courts also rely on several important court-related agencies to ensure the fair administration of justice. The district courts maintain oversight of U.S. Probation and Pretrial Services offices. Pretrial services officers are responsible for background investigations and reports on defendants awaiting trial, while probation officers supervise persons convicted of federal crimes after their release into the community. All but one judicial district in the circuit is served by either federal public defender or community defenders, who represent indigent defendants unable to afford private counsel. Indigent defendants in the District of Northern Mariana Islands are represented by private attorneys provided by the District of Guam and paid through the federal Criminal Justice Act.

### Circuit Libraries

The Ninth Circuit Library System assists judges, attorneys, court staff and the public through a network of 24 law libraries housed in courthouses

throughout the western states. The primary mission of court librarians is to provide research services to judges and their staff. Research librarians assist law clerks on case-related research by providing guidance and recommendations, offering training opportunities, and performing direct research on more complex topics. Librarians also conduct research to assist court executives and judges in the administration of local courts and on matters involving committees of the Judicial Council of the Ninth Circuit and the Judicial Conference of the U.S. Library resources are also made available to the bar and public with the level of access determined by local judges.


### Office of the Circuit Executive

The Office of the Circuit Executive provides staff support to the Judicial Council of the Ninth Circuit and implements the council's administrative decisions and policies. By statute, the circuit executive is the administrative assistant to the chief judge of the circuit and secretary to the council. The circuit executive and her staff assist in identifying circuit-wide needs, conducting studies, developing and implementing policies, and providing training, public information and human resources support. Circuit executive staff also coordinates building and automation projects, and advises the council

on procedural and ethical matters. The Office of the Circuit Executive provides management and technical assistance to courts within the circuit upon request. It also administers the Ninth Circuit Judicial Conference.

### Lawyer Representatives

In each of the 15 judicial districts of the Ninth Circuit Court of Appeals, judges select lawyers who apply to serve the circuit in a number of ways including as lawyer representatives to the Ninth Circuit Judicial Conference which convenes "for the purpose of considering the business of the courts and advising means of improving the administration of justice within the circuit," pursuant to 28 U.S.C. § 333.

In addition to helping plan the circuit-wide conference, lawyer representatives work closely with district, bankruptcy and magistrate judges in their home districts. They participate as members on various committees and help plan local district conferences, often serving as speakers or facilitators. Lawyer representatives serve as the liaison between the federal bench and bar, fostering open communications between judges and lawyers, and providing support and advice in the functioning of the courts within the circuit. 





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Judicial Transitions

## NEW JUDGES

### Circuit Judges



Judge Morgan Christen was confirmed as a judge of the United States Court of Appeals for the Ninth Circuit on December 15, 2011, and received her commission on January 11, 2012. Prior to coming onto the federal bench,

Judge Christen had served as a justice of the Alaska Supreme Court since 2009. She was just the second woman to serve on Alaska's highest state court. Prior to that, she served as an Alaska Superior Court judge from 2002 to 2009 and was presiding judge of the state's Third Judicial District from 2005 to 2009. Earlier in her career, Judge Christen was an associate then partner at the law firm of Preston Gates & Ellis LLP, now K&L Gates LLP, in Anchorage from 1987 to 2002. She received her B.A. from the University of Washington in 1983 and her J.D. from Golden Gate University, School of Law, in 1986. Judge Christen clerked for Alaska Superior Court Judge Brian Shortell from 1986 to 1987. She maintains chambers in Anchorage.



Judge Andrew D. Hurwitz was confirmed as a judge of the U.S. Court of Appeals for the Ninth Circuit on June 12, 2012, and received his commission on June 27, 2012. Prior to his appointment to the federal bench, Judge Hurwitz had sat on

the Arizona Supreme Court since 2003, serving as vice chief justice since 2009. Before joining the bench, Judge Hurwitz was a partner at the law firm of Osborn Maledon in Phoenix from 1995 to 2003. He was an associate from 1974 to 1980 then partner from 1983 to 1995 with the law firm of Martori Meyer Hendricks & Victor, which later became Osborn Maledon. Judge Hurwitz served as a judge pro tem on the Arizona Court of Appeals, Division I, in 1994, 1996 and 1998. He

has had a long association with Arizona State University, Sandra Day O'Connor College of Law, serving as an adjunct professor since 2004. He was previously affiliated with the law school as a distinguished visitor from practice in 2001; a visiting professor of law, from 1994 to 1995; and an adjunct professor of law in 2002, 1988, and from 1977 to 1980. Judge Hurwitz received his A.B. from Princeton University in 1968 and his J.D. from Yale Law School in 1972. Following law school, he clerked for Judge Jon O. Newman of the U.S. District Court for the District of Connecticut in 1972 and for Judge J. Joseph Smith of the U.S. Court of Appeals for the Second Circuit from 1972 to 1973. Judge Hurwitz served in the Connecticut Army National Guard and the U.S. Army Reserve from 1969 to 1975. He maintains chambers in Phoenix.



Judge Jacqueline H. Nguyen was confirmed as a judge of the U.S. Court of Appeals for the Ninth Circuit on May 7, 2012, and received her commission on May 14, 2012. She had previously served as a district judge of the U.S. District Court

for the Central District of California since 2009. Judge Nguyen is the first judge of Vietnamese descent to serve on either a federal appellate court or a federal trial court. Prior to coming onto the federal bench, Judge Nguyen had served as a California Superior Court judge in Los Angeles County from 2002 to 2009 and as a federal prosecutor in the Office of the U.S. Attorney for the Central District of California from 1995 to 2002. While an assistant U.S. attorney, she was promoted to the post of deputy chief of the General Crimes Section and won the director's award from the Department of Justice for superior performance. Judge Nguyen received her A.B. from Occidental College in 1987 and her J.D. from the University of California, Los Angeles, School of Law, in 1991.

## District Judges

She began her legal career at the Los Angeles law firm of Musick, Peeler & Garrett LLP, where she was a litigation associate from 1991 to 1994. She maintains chambers in Pasadena.



Judge Paul J. Watford was confirmed as a judge of the U.S. Court of Appeals for the Ninth Circuit on May 21, 2012, and received his commission on May 22, 2012. Prior to his appointment to the bench, Judge Watford had been a

litigation partner at the Los Angeles law firm of Munger, Tolles & Olson LLP since 2001. He joined the firm as an associate in 1996 then left in 1997 to serve as an assistant U.S. attorney in the Central District of California, where he worked in the Major Frauds Section, Criminal Division. He left government service in 2000, working as an associate at Sidley & Austin LLP in Los Angeles from 2000 to 2001. Judge Watford received his B.A. from the University of California, Berkeley, in 1989 and his J.D., Order of the Coif, in 1994 from the University of California, Los Angeles, School of Law, where he was editor of the UCLA Law Review. Following law school, he clerked for Judge Alex Kozinski of the U.S. Court of Appeals for the Ninth Circuit from 1994 to 1995 and for Justice Ruth Bader Ginsburg of the Supreme Court from 1995 to 1996. Judge Watford served as an appellate lawyer representative to the Ninth Circuit Judicial Conference from 2009 to 2011. He maintains chambers in Pasadena.



Judge Cathy Ann Bencivengo was confirmed as a U.S. district judge for the Southern District of California on February 9, 2012, and received her commission the following day. Prior to her appointment, Judge Bencivengo had served as a U.S. magistrate

judge for the Southern District of California since 2005. Before joining the bench, she engaged in private practice as an associate then partner at the San Diego law firm of DLA Piper Rudnick Gray Cary LLP, formerly Gray Cary Ware & Freidenrich, from 1998 to 2005. Judge Bencivengo received her B.A. and her M.A. from Rutgers University in 1980 and 1981, respectively, and her J.D. from the University of Michigan Law School in 1988. She maintains chambers in San Diego.



Judge Jesus G. Bernal was confirmed as a U.S. district judge for the Central District of California on December 11, 2012, and received his commission the next day. Before coming onto the federal bench, Judge Bernal had worked in the

Office of the Federal Public Defender for the Central District, serving as directing attorney of the Riverside division since 2006 and as an assistant in the Los Angeles division from 1996 to 2006. Prior to his public service, he worked from 1991 to 1996 as a litigation associate at the Los Angeles law firm of Heller, Ehrman, White & McAuliffe LLP, where he focused primarily on complex civil litigation. Judge Bernal received his B.A. in 1986 from Yale University, where he graduated cum laude, and his J.D. from Stanford Law School in 1989. He maintains chambers in Riverside.



## District Judges continued



Judge Gonzalo P. Curiel was confirmed as a U.S. district judge for the Southern District of California on September 22, 2012, and received his commission on October 1, 2012. Judge Curiel had served previously as a California

Superior Court judge in San Diego County since 2006. Before coming onto the bench, he served as an assistant U.S. attorney for the Central District of California, from 2002 to 2006, and for the Southern District of California, from 1989 to 2002, during which he was deputy chief then chief of the Narcotics Enforcement Section from 1999 to 2002. Earlier in his career, Judge Curiel engaged in private practice at Barbosa & Vera in Monterey, California, from 1986 to 1989, and at James, James and Manning in Dyer, Indiana, from 1979 to 1986. Judge Curiel received his B.A. from Indiana University in 1976 and his J.D. from Indiana University, School of Law, in 1979. He maintains chambers in San Diego.



Judge Miranda M. Du was confirmed as a U.S. district judge for the District of Nevada on March 28, 2012, and received her commission on March 30, 2012. Prior to her appointment to the bench, Judge Du had been a partner since 2002 at the

Reno law firm of McDonald Carano Wilson LLP, where she specialized in employment law and complex civil litigation. She joined the firm in 1994 and served as chair of its Employment/Labor Law Group. Judge Du received her B.A. from the University of California, Davis, in 1991 and her J.D. from UC Berkeley School of Law in 1994. She maintains chambers in Reno.



Judge Michael W. Fitzgerald was confirmed as a U.S. district judge for the Central District of California on March 15, 2012, and received his commission on the same day. Prior to coming onto the bench, Judge

Fitzgerald had been a partner since 1998 at the Los Angeles law firm of Corbin Fitzgerald & Athey LLP, where he handled civil and criminal litigation in both federal and state courts and at both the trial and appellate levels. He worked in the Law Offices of Robert L. Corbin PC in Los Angeles from 1995 to 1998 and at the Los Angeles law firm of Heller, Ehrman, White & McAuliffe LLP from 1991 to 1995. Judge Fitzgerald served as an assistant U.S. attorney for the Central District of California from 1988 to 1991. He served as a lawyer representative to the Ninth Circuit Judicial Conference from 2006 to 2008 and on the Ninth Circuit Attorney Admission Fund Committee from 2001 to 2003. Judge Fitzgerald received his A.B., magna cum laude, from Harvard University in 1981 and his J.D., Order of the Coif, from UC Berkeley School of Law in 1985. He maintains chambers in Los Angeles.



Judge Sharon L. Gleason was confirmed as a U.S. district judge for the District of Alaska on November 15, 2011, and received her commission on January 4, 2012. Prior to her appointment to the federal bench, Judge Gleason had sat as an

Alaska Superior Court judge, Third Judicial District, since 2001, and had served as presiding judge since 2009. Before that, Judge Gleason engaged in private practice in Anchorage, Alaska. She was a sole practitioner from 1995 to 2001; a shareholder with the law firm of Rice, Volland and Gleason from 1989 to 1995; and as an associate with the law



## Bankruptcy Judges

firm of Reese, Rice and Volland from 1984 to 1989. Judge Gleason received her B.A. in 1979 from Washington University in St. Louis, Missouri, where she graduated magna cum laude. She received her J.D. from the University of California, Davis, School of Law, in 1983. Following law school, Judge Gleason clerked for Chief Justice Edmond Burke of the Alaska Supreme Court from 1983 to 1984. She maintains chambers in Anchorage.



Judge Thomas Owen Rice was confirmed as a U.S. district judge for the Eastern District of Washington on March 8, 2012, and received his commission on the same day. Prior to his appointment, Judge Rice had been a government lawyer. He

worked as an assistant U.S. attorney for the Eastern District of Washington since 1987, serving as first assistant since 2006; as chief of the Criminal Division from 2003 to 2006; and as deputy chief of the division from 2000 to 2003. Judge Rice began his career as a trial attorney in the Tax Division of the U.S. Department of Justice from 1986 to 1987. He received his B.B.A. from Gonzaga University in 1983 and his J.D. in 1986 from Gonzaga University, School of Law, where he graduated magna cum laude. He maintains chambers in Spokane.



Judge Fredrick E. Clement was appointed a bankruptcy judge for the Eastern District of California on March 16, 2012. Prior to his appointment to the bench, he had worked as a solo practitioner in Redding, California, since 1993. He was a judicial

arbitrator, hearing officer, and judge pro tempore in state and municipal proceedings. Judge Clement received his B.A. from Westmont College in 1982 and his J.D., cum laude, from the University of California, Hastings College of the Law, in 1987. He maintains chambers in Fresno.



Judge M. Elaine Hammond

was appointed a bankruptcy judge for the Northern District of California on February 2, 2012. Before coming onto the bench, she worked as an associate then partner at Friedman Dumas & Springwater LLP in San Francisco

from 2003 to 2011, and as an associate at Murphy, Sheneman, Julian & Rogers, now Winston & Strawn, in San Francisco from 2000 to 2003. Judge Hammond received her B.A. from Duke University in 1992 and her J.D. from the University of North Carolina, School of Law in 1998. Following law school, she clerked for Judge Edward D. Jellen of the U.S. Bankruptcy Court for the Northern District of California from 1998 to 2000. Judge Hammond served as a legal assistant for the North Carolina General Assembly from 1996 to 1998. She maintains chambers in Oakland.

## Bankruptcy Judges continued



Judge Mark D. Houle was appointed a bankruptcy judge for the Central District of California on February 17, 2012. Prior to his appointment to the bench, Judge Houle had been of counsel since 2000 with the law firm of Pillsbury Winthrop Shaw Pittman, LLP,

maintaining offices in Costa Mesa and Los Angeles, and was an associate with the law firm of Winthrop Couchot, PC, from 1998 to 2000. He served as a law clerk to judges in the Santa Ana division of the Central District bankruptcy court from 1996 to 1998, analyzing a wide variety of legal pleadings and preparing bench memoranda and memorandum decisions for hearings and trials in Chapter 7, 11 and 13 bankruptcy cases and adversary pleadings. Judge Houle received his B.S. in 1993 from Salem State College, graduating summa cum laude, and his J.D. in 1996 from Boston College Law School, where he was a member of the Jessup International Moot Court Team from 1995 to 1996. He maintains chambers in Riverside.



Judge Christopher B. Latham was appointed a bankruptcy judge for the Southern District of California on October 1, 2012. Prior to joining the bench, Judge Latham had been an assistant U.S. attorney for the Southern District of California since 2008. He served

on the U.S. Department of Justice's Evaluation and Review Staff, performing intensive on-site audits of U.S. attorneys' offices throughout the country. From 1993 to 2008, Judge Latham worked as a summer associate, associate, senior counsel and then counsel at the San Diego law firm of Pillsbury Winthrop Shaw Pittman LLP. He served as a part-time judge pro tem of the California Superior Court's Small Claims Division in San Diego from 1998 to 2008. While a lawyer representative to the Ninth Circuit Judicial Conference from 2003 to 2009, he served on the

Conference Executive Committee and Lawyer Representatives Coordinating Committee and was co-chair of the Southern District of California Lawyer Representatives from 2004 to 2006. Judge Latham received his B.A., Phi Beta Kappa, in 1986 from the University of California at Irvine, where he graduated magna cum laude. He earned a master's degree in philosophy from Yale University in 1989 and a J.D. from Yale Law School in 1992. He maintains chambers in San Diego.



Judge Gary Allan Spraker was appointed a bankruptcy judge for the District of Alaska on October 4, 2012, and became chief on October 10, 2012. Prior to his appointment to the bench, Judge Spraker had been a partner

since 2002 at Christianson & Spraker, formerly Christianson, Boutin & Spraker, where his practice focused on all phases of bankruptcy and commercial matters including litigation. Before that, he was an associate at the same law office from 1994 to 2002, when it was known as Bundy & Christianson. He began his legal career in 1988 as an associate working in the Denver office of the law firm of Morrison & Foerster. Judge Spraker received his B.A., Phi Beta Kappa, from Stetson University in 1985, and his J.D. in 1988 from the University of Denver, Sturm College of Law, where he graduated third in the class. He was awarded the Order of St. Ives for being in the top 10 percent of his law school class and received American Jurisprudence awards in contracts, constitutional law, Uniform Commercial Code (UCC) 1, UCC 2, trusts and estates, government contracts, and antitrust. Judge Spraker clerked for District Judge John W. Sedwick of the U.S. District Court for the District of Alaska from 1992 to 1994. He maintains chambers in Anchorage.

## Magistrate Judges



Judge Bridget S. Bade was appointed a magistrate judge for the District of Arizona on June 18, 2012. Prior to her appointment, Judge Bade had served as an assistant U.S. attorney for the District of Arizona from 2006 to 2012. Earlier in

her career, she was in private practice in Phoenix as special counsel at Steptoe & Johnson LLP from 2005 to 2006 and as a shareholder at Beshears Wallwork Bellamy from 1995 to 2005. She also worked in the U.S. Department of Justice, Attorney General's Honor Program, Civil Division, from 1991 to 1995. Judge Bade received her B.A. from Arizona State University in 1987 and her J.D. from ASU College of Law in 1990. Following law school, she clerked for Judge Edith H. Jones of the U.S. Court of Appeals for the Fifth Circuit from 1990 to 1991. She maintains chambers in Phoenix.



Judge David H. Bartick was appointed a magistrate judge for the Southern District of California on April 2, 2012. Prior to joining the bench, Judge Bartick had engaged in private practice since 1985. He served as a judge pro tem for the California

Superior Court in San Diego County from 1993 to 2011; as presiding arbitrator for the San Diego County Bar Association from 1993 to 2012; and as a certified specialist in criminal law for the California Board of Legal Specialization from 1998 to 2012. Judge Bartick received his B.A. from the University of California at Berkeley in 1980 and his J.D. from Western State University in 1985. He maintains chambers in San Diego.



Judge Stanley Boone was appointed a magistrate judge for the Eastern District of California on December 31, 2012. Prior to his appointment, Judge Boone worked in the Office of the U.S. Attorney for the Eastern District of California, Fresno Division, serving

as chief of the White Collar Crime Unit since 2010, and as an assistant U.S. attorney from 1996 to 2009. Judge Boone also served as a judge pro tem in Fresno County from 2008 to 2012. Prior to that, he worked as a white collar crime coordinator, Executive Office for U.S. Attorneys, in Washington, D.C., from 2009 to 2010. Judge Boone received his B.A. from the University of California, Berkeley, in 1988 and his J.D. from the University of the Pacific, McGeorge School of Law, in 1995. Following law school, he clerked for Magistrate Judge Peter A. Nowinski of the U.S. District Court for the Eastern District of California from 1995 to 1996. Judge Boone served as a senior paralegal specialist and certified student attorney for the U.S. Trustee Program in Sacramento. He maintains chambers in Fresno.

## Magistrate Judges continued



Judge Leslie Ann Bowman was appointed a magistrate judge for the District of Arizona on May 7, 2012. Prior to her appointment to the bench, Judge Bowman maintained her own private practice in Tucson from 1999 to 2012, and was a partner at

Bruner and Bowman, P.C., in Tucson from 1993 to 1999. She worked as a pre-school prevention teacher for CODAC Behavioral Health Services; as a special education teacher, Country Day School, in Escazu, Costa Rica; and as a juvenile probation officer for the Pima County Juvenile Court Center in Arizona. Judge Bowman received her B.A. from the University of Arizona in 1979 and her J.D. from UA James E. Rogers College of Law in 1982. She maintains chambers in Tucson.



Judge Karen S. Crawford was appointed a magistrate judge for the Southern District of California on March 5, 2012. Prior to her appointment, Judge Crawford worked as a partner at Duane Morris LLP since 2005 and as a senior attorney then partner

at Buchanan Ingersoll from 1991 to 2005. Earlier in her career, she worked in the Civil Division of the Office of the U.S. Attorney for the Southern District of California from 1984 to 1991 and as a trial attorney in the Civil Division, Torts Branch, of the U.S. Department of Justice from 1980 to 1983. Judge Crawford received her undergraduate degree from Boston University in 1977 and her J.D. from California Western School of Law in 1980. She maintains chambers in San Diego.



Judge Allison Claire was appointed a magistrate judge for the Eastern District of California on November 20, 2012. Prior to her appointment, Judge Claire had worked in the Office of the Federal Public Defender for the Eastern District of California

since 1995. She attended Wesleyan University from 1978 to 1981 and received her B.A. from the University of California at Santa Cruz in 1990, and her J.D. from UC Berkeley School of Law in 1993. Following law school, Judge Claire clerked for District Judge Lawrence K. Karlton of the U.S. District Court for the Eastern District of California. She maintains chambers in Sacramento.





Judge Steven P. Logan was appointed a magistrate judge for the District of Arizona on January 30, 2012. Prior to his appointment, Judge Logan had served as an immigration judge for the Board of Immigration Appeals since 2010 and as an

assistant U.S. attorney for the districts of Minnesota and Arizona from 1999 to 2010. He served as judge advocate for the Marine Corps and was on active duty from 1992 to 1999 and now on reserve duty. He was deployed to Iraq in 2004 and 2007 and deployed to Afghanistan in 2008. Judge Logan received his B.S. from the University of Louisville in 1988 and his J.D. from the University of Oklahoma, College of Law, in 1992. He maintains chambers in Phoenix.



Judge Bruce Gordon Macdonald was appointed a magistrate judge for the District of Arizona on May 7, 2012. Prior to his appointment to the bench, Judge Macdonald had engaged in private practice at

McNamara, Goldsmith & Macdonald in Tucson from 2003 to 2012. He also worked as a managing attorney for Farmers Insurance Exchange from 1998 to 2003 and at the law firms of Chandler, Tullar, Udall & Redhair from 1991 to 1998 and at Slutes, Sakrison, Even, Grant & Pelander from 1985 to 1989. He served as an assistant attorney general in the Liability Defense Division, Office of the Attorney General, State of Arizona, from 1989 to 1991. Judge Macdonald received his B.A. from the University of Arizona in 1981 and his J.D. from UA College of Law in 1985. He maintains chambers in Tucson.



Judge Kandis A. Westmore was appointed a magistrate judge for the Northern District of California on February 21, 2012. Judge Westmore began her legal career specializing in plaintiffs' civil rights litigation in Oakland. In 1999, she joined

the Oakland City Attorney's Office, where she served as deputy city attorney, and as a law and motion attorney handling a wide range of matters including civil rights, code enforcement, complex litigation, labor and employment, inverse condemnation, and personal injury at state and federal levels. Judge Westmore received her B.A. from the University of California, Berkeley, in 1989 and her J.D. from the University of San Francisco, School of Law, in 1997. In her last term as a law student, she served as a judicial extern to District Judge Sandra Brown Armstrong of the U.S. District Court for the Northern District of California. She maintains chambers in Oakland.

## SENIOR JUDGES



Judge Sandra Brown Armstrong was confirmed as a district judge for the Northern District of California on June 14, 1991, and received her commission on June 18, 1991. She assumed senior status on March 23, 2012. Prior to her

appointment to the federal bench, Judge Armstrong had served as a judge of the California Superior Court in Alameda County from 1989 to 1991. She worked as a commissioner for the U.S. Parole Commission from 1986 to 1989 and for the Consumer Product Safety Commission from 1983 to 1986. Earlier in her career, Judge Armstrong was a trial attorney in the Public Integrity Section of the U.S. Department of Justice from 1982 to 1983; a senior consultant for the California Assembly Committee on Criminal Justice from 1979 to 1980; and a deputy district attorney for Alameda County from 1980 to 1982 and from 1978 to 1979. She worked as a judicial extern for the California Court of Appeal in 1977 and as a police officer in Oakland, California, from 1970 to 1977. Judge Armstrong received her B.A. from California State University at Fresno in 1969, her J.D. from the University of San Francisco, School of Law, in 1977, and her M. Div. from Pacific School of Religion in 2012. She maintains chambers in Oakland.



Judge Garland E. Burrell, Jr., was confirmed as a district judge for the Eastern District of California on February 27, 1992, and received his commission on March 2, 1992. He served as chief judge of the district from 2007 to 2008 and assumed

senior status on July 4, 2012. Prior to his appointment, Judge Burrell had worked as an assistant U.S. attorney in the Office of the U.S.

Attorney for the Eastern District of California, serving as chief of the Civil Division from 1990 to 1992 and as deputy chief of the division from 1979 to 1985. Earlier in his career, Judge Burrell engaged in private practice as a business litigator for Stockman Law Corporation from 1985 to 1986. He also worked as a senior deputy city attorney for the City of Sacramento, California, from 1986 to 1990; as deputy city attorney from 1978 to 1979; and as deputy district attorney from 1976 to 1978. He received his B.A. from California State University at Los Angeles in 1972; his M.S.W. from Washington University in St. Louis, Missouri, in 1976; and his J.D. from California Western School of Law in 1976. Judge Burrell served in the Marine Corps from 1966 to 1968. He maintains chambers in Sacramento.



Judge David C. Bury was confirmed as a district judge for the District of Arizona on March 15, 2002, and received his commission on March 19, 2002. He assumed senior status on December 31, 2012. Prior to his appointment, Judge Bury

had engaged in private practice as a partner at Bury, Moeller, O'Meara and Gage in Tucson, Arizona, since 2001. He held several partnerships in Tucson including Bury, Moeller, Humphrey and O'Meara from 1988 to 2000; Bury, Moeller and Humphrey from 1987 to 1988; Bury and Moeller from 1983 to 1987; Everett, Bury and Moeller from 1973 to 1983; and Everett and Bury from 1971 to 1973. Prior to that, he worked as an associate at Robertson & Fickett, P.C., from 1967 to 1971. Judge Bury received his B.S. from Oklahoma State University in 1964 and his J.D. from the University of Arizona, College of Law, in 1967. He maintains chambers in Tucson.



Judge Kent J. Dawson was confirmed as a district judge for the District of Nevada on May 24, 2000, and received his commission on May 31, 2000. He assumed senior status on July 9, 2012. Prior to his appointment to the federal bench, Judge

Dawson served as justice of the peace, Henderson Justice Court, Clark County, Nevada, from 1995 to 2000; and as judge pro tem, Henderson Municipal Court, Nevada, from 1993 to 1995. He engaged in private practice at his own law firm, Kent J. Dawson Law Firm, in Las Vegas from 1979 to 1995. Judge Dawson also held several positions with the City of Henderson, serving as general counsel to the Henderson Public Improvement Trust, from 1973 to 1995; as city manager in 1977; and as city attorney and assistant city attorney from 1972 to 1979. Judge Dawson received his B.S. from Weber State College in 1969 and his J.D. from the University of Utah College of Law, in 1971. He maintains chambers in Las Vegas.



Judge David A. Ezra was confirmed as a district judge for the District of Hawaii on May 19, 1988, and received his commission on May 20, 1988. He served as chief judge of the district from 1999 to 2005 and assumed senior status on June 27,

2012. Prior to his appointment to the bench, Judge Ezra had engaged in private practice in Honolulu since 1972. He has been a lecturer in law at the University of Hawaii, Manoa, William S. Richardson School of Law, since 1978. Judge Ezra received his B.B.A. from St. Mary's University in 1969 and his J.D. from St. Mary's University, School of Law, in 1972. Following law school, he clerked for the Office of the Corporation Counsel, City and County of Honolulu, in 1972. Judge Ezra served in the Army Reserve from 1971 to 1977. He maintains chambers in Honolulu.



Judge Valerie Baker Fairbank was confirmed as a district judge for the Central District of California on February 1, 2007, and received her commission on February 16, 2007. She assumed senior

status on March 1, 2012, due to health problems. Prior to her appointment to the federal bench, Judge Fairbank served as a California Superior Court judge in Los Angeles County from 1987 to 2007 and as a California Municipal Court judge in Los Angeles from 1986 to 1987. Prior to that, she served as an assistant U.S. attorney in the Office of the U.S. Attorney for the Central District of California from 1977 to 1980. Judge Fairbank engaged in private practice in Los Angeles from 1980 to 1986 and from 1975 to 1977. She maintains chambers in Los Angeles.



Judge Sam E. Haddon was confirmed as a district judge for the District of Montana on July 20, 2001, and received his commission on July 25, 2001. He assumed senior status on December 31, 2012. Prior to his appointment, he had engaged in

private practice since 1966. He has been an adjunct professor of law for the University of Montana, School of Law, since 1971. Judge Haddon worked as an agent for the Federal Bureau of Narcotics from 1961 to 1962. He served as an immigration patrol inspector for the U.S. Border Patrol from 1959 to 1961. Judge Haddon received his B.S. from Rice University in 1959 and his J.D. from the University of Montana, School of Law, in 1965. He maintains chambers in Great Falls.

## SENIOR JUDGES continued



Judge Larry R. Hicks was confirmed as a district judge for the District of Nevada on November 5, 2001, and received his commission on November 7, 2001. He assumed senior status on December 13, 2012. Prior to his appointment to the bench,

Judge Hicks had engaged in private practice as a partner at the Reno law firm of McDonald Carano Wilson LLP since 1979, serving as chairman of the Litigation Section from 1986 to 2001. He held several positions in Washoe County, Nevada, from 1968 to 1978, including deputy district attorney, chief deputy district attorney, and district attorney. Judge Hicks received his B.S. from the University of Nevada at Reno in 1965 and his J.D. from the University of Colorado Law School in 1968. He maintains chambers in Reno.



Judge Anthony W. Ishii was confirmed as a district judge for the Eastern District of California on October 9, 1997, and received his commission on October 14, 1997. He served as chief judge from 2008 to 2012 and assumed senior status on

October 31, 2012. Prior to his appointment to the federal bench, Judge Ishii served as a California Municipal Court judge in Fresno County from 1994 to 1997 and as a justice court judge for the Parlier-Selma Judicial District in Fresno County from 1983 to 1993. Prior to that, he engaged in private practice in Fresno from 1979 to 1983; served as a deputy public defender, Public Defender's Office, County of Fresno, in 1979; and as a deputy city attorney for the City of Sacramento in 1975. Judge Ishii received his Ph.G. from the University of the Pacific, School of Pharmacy, in 1970, and his J.D. from the University of California, Berkeley, School of Law, in 1973. He maintains chambers in Fresno.



Judge Edward F. Shea was confirmed as a district judge for the Eastern District of Washington on March 27, 1998, and received his commission on April 8, 1998. He assumed senior status on June 7, 2012. Prior to his appointment to the bench, Judge Shea had

engaged in private practice as a partner at Shea, Kuffel, Klashke and Shea since 1997. He was a partner at several law firms including Shea, Kuffel and Klashke from 1994 to 1996; Shea and Kuffel from 1987 to 1994; Shea, Kuffel, Lindsay and Flynn from 1984 to 1987; Peterson and Shea from 1978 to 1980; and Peterson, Taylor, Day and Shea from 1974 to 1978. Judge Shea served as counsel for the Eastern Washington Chapter of the March of Dimes from 1993 to 1997 and as chair of the Washington Boundary Review Board in Franklin County from 1979 to 1980. He was a research assistant to the assistant dean at Georgetown University Law Center from 1969 to 1970 and served as a police officer for the U.S. Capitol Police Force from 1967 to 1970. Judge Shea received his B.S.Ed. from Boston State College in 1965 and his J.D. from Georgetown University Law Center in 1970. Following law school, he clerked for Judge Harold Petrie of Washington State Court of Appeals, Division II, from 1970 to 1971. He maintains chambers in Richland.



## IN MEMORIAM



Judge Robert R. Beezer, 83, of the U.S. Court of Appeals for the Ninth Circuit, died on March 30, 2012. Judge Beezer was appointed on March 28, 1984, and assumed senior status on July 31, 1996. Prior to his appointment, Judge Beezer

engaged in private practice as a partner at Schweppe, Krug, Tausend and Beezer in Seattle from 1956 to 1984. He served as a judge pro tem for Washington Municipal Court in Seattle from 1962 to 1976. Judge Beezer received his B.A. from the University of Virginia in 1951 and his LL.B. from the University of Virginia, School of Law, in 1956. He served in the Marine Corps Reserve in 1951 and was released as first lieutenant in 1953. Judge Beezer is survived by his wife of 54 years, Hazlehurst; a son, Robert, and his wife, Patricia; another son, John, and a daughter, Allison; and two grandchildren.



Judge Rudi M. Brewster, 80, of the U.S. District Court for the Southern District of California, died on September 7, 2012. Judge Brewster was appointed on June 15, 1984, and assumed senior status on July 1, 1998. Prior to his appointment

to the bench, he engaged in private practice as an associate then partner at Gray, Cary, Ames and Frye in San Diego from 1960 to 1984. Judge Brewster served in the U.S. Navy from 1954 to 1957 and in the Naval Reserve from 1957 until his retirement as a captain in 1980. He received his B.A. from Princeton University in 1954 and his J.D. from Stanford Law School in 1960. Judge Brewster is survived by his wife of 58 years, Gloria; his son, Scot; daughters Lauri and Julie; and eight grandchildren.



Chief Judge Emeritus James R. Browning, 93, of the U.S. Court of Appeals for the Ninth Circuit, died on May 6, 2012. Judge Browning was appointed on September 18, 1961, and served as an active judge for nearly 40 years, including 12

years as chief judge from 1976 to 1988. He assumed senior status on September 1, 2000. Prior to coming onto the bench, Judge Browning served as clerk of court for the U.S. Supreme Court from 1958 to 1961. He also served as an attorney in the U.S. Department of Justice, rising to the post of executive assistant to Attorney General James P. McGranery, and was a partner in a law firm formed by former Solicitor General Philip Perlman. Judge Browning received an LL.B. in 1941 from the University of Montana, School of Law, graduating first in his class. He served in the Army during World War II and earned a Bronze Star Medal. Judge Browning is survived by his wife of 70 years, Marie Rose; a daughter and son-in-law, Jeanne and Scott; and three grandchildren, Lauren, Greg and Mark.

cited in U.S. v. Castro, No. 13-50366 archived on May 4, 2014

## IN MEMORIAM continued



Judge Robert E. Coyle, 82, of the U.S. District Court for the Eastern District of California, died on May 7, 2012. Judge Coyle was appointed on April 1, 1982, and assumed senior status on May 13, 1996. He served as chief judge of the district from

1990 to 1996. Prior to his appointment, Judge Coyle engaged in private practice as a partner at McCormick, Barstow, Sheppard, Coyle and Wayte in Fresno, California, from 1961 to 1982, and as an associate at the law firm of Hansen, McCormick, Barstow and Sheppard from 1958 to 1961. He served as a deputy district attorney in Fresno County from 1956 to 1958. Judge Coyle received his A.B. from Fresno State College in 1953 and his J.D. from the University of California, Hastings College of the Law, in 1956. Judge Coyle is survived by his wife of 58 years, Faye; a son and daughter-in-law, Robert and Kim, and their children, Hunter and Sydney; and a daughter and son-in-law, Barbara and Michael, and their children, Morgan and Matthew. He was preceded in death by another son, Richard.



Judge Betty Binns Fletcher, 89, of the U.S. Court of Appeals for the Ninth Circuit, died on October 22, 2012. Judge Fletcher was appointed on September 26, 1979, and assumed senior status on November 1, 1998. Prior to her

appointment to the bench, Judge Fletcher had worked with the Seattle law firm of Preston, Thorgrimson & Horowitz. Hired in 1956, she worked at the firm for 23 years and became the first woman partner at a major Pacific Northwest law firm. Judge Fletcher earned her B.A. at Stanford University in 1943 and began law school at Stanford while an undergraduate. She completed approximately one year of law school when her husband, the late Robert L. Fletcher, was assigned

to a Navy anti-submarine station in New Jersey during World War II. Settling in the Pacific Northwest after the war, Judge Fletcher became a homemaker caring for the couple's four children. She returned to law school at the University of Washington, School of Law, in 1954 and received her LL.B. in 1956, finishing first in her class and graduating Phi Beta Kappa and Order of the Coif. Survivors include two sons, Ninth Circuit Judge William A. Fletcher of San Francisco and Paul; two daughters, Susan and Kathy; eight grandchildren; and three great-grandchildren.



Judge Robert J. Kelleher, 99, of the U.S. District Court for the Central District of California, died on June 20, 2012. He was the longest serving federal judge in the nation at the time of his death. Judge Kelleher was appointed on December 21, 1970, and

assumed senior status on March 5, 1983. Prior to his appointment, Judge Kelleher engaged in private practice in Beverly Hills, California, from 1951 to 1971, and in Santa Monica, California, from 1945 to 1948. He served as an assistant U.S. attorney for the Southern District of California from 1948 to 1951. Judge Kelleher received his A.B. from Williams College in 1935 and his J.D. from Harvard Law School in 1938. Following law school, he worked as a trial attorney for U.S. Trucking Company in New York City from 1939 to 1940 and as an associate attorney for the U.S. Department of the Army in Los Angeles, California, from 1941 to 1942. Judge Kelleher served in the U.S. Naval Reserve from 1943 to 1945. He is survived by his son, R. Jeffrey; daughter, Karen; and three grandchildren.



Judge John C. Rayburn, Jr., 52, a former magistrate judge of the U.S. District Court for the Central District of California, died on May 14, 2012. Judge Rayburn was appointed to the Central District bench on October 13, 2006, and sat in

the Court's Eastern Division in Riverside until his resignation in July 2008. Prior to coming onto the bench, he served as an assistant U.S. attorney in the Central District, from 1991 to 2006, working in Los Angeles, Santa Ana, and Riverside offices and served as the chief of the Riverside office. After leaving the bench, he returned to the Office of the U.S. Attorney and retired in 2009. Judge Rayburn received his B.S. from California Polytechnic State University, San Luis Obispo, in 1982; his M.B.A. from San Diego State University in 1987; and his J.D. from the University of California, Berkeley, School of Law, in 1990. Following law school, he clerked for District Judge Gary L. Taylor in the Central District's Santa Ana division. Judge Rayburn is survived by his wife, Linda; daughter, Jennifer; sons, John and Joseph; and a large extended family.



Judge Otto R. Skopil, Jr., 93, of the U.S. Court of Appeals for the Ninth Circuit, died on October 18, 2012. Judge Skopil was appointed on September 26, 1979, and assumed senior status on June 30, 1986. Prior to his appointment, Judge Skopil

served as a district judge of the U.S. District Court for the District of Oregon from 1972 to 1979, serving as chief judge from 1976 to 1979. Judge Skopil attended Willamette University on an athletic scholarship, earning his B.A. in 1941. He enrolled in the Willamette University College of Law but dropped out to join the Navy at the outset of World War II. He served as a Supply Corps officer in Guadalcanal and in Washington, D.C., before leaving the service in 1945. Returning to law school, Judge Skopil received his LL.B. in 1946 and began his legal career as a solo practitioner. He and a childhood friend later went into partnership together in Salem, Oregon, where he continued to practice law until his judicial appointment. Judge Skopil is survived by his wife of 56 years, Janet; four children, Otto "Rik" and his wife Pam, Casey and his wife Wendy, Shannon and her husband Barry, and Molly; five grandchildren; one great-grandchild; and sister-in-law Janet and her family. ▲▲

# End of an Era for the Ninth Circuit

The passing of Chief Judge Emeritus James R. Browning on May 6, 2012, marked the end of an era for the United States Court of Appeals for the Ninth Circuit. Judge Browning, who died at age 93, served on the court for more than 50 years, including 12 years as chief judge. His name became synonymous with that of the Ninth Circuit and he is the eponym for the circuit's historic headquarters building in San Francisco.

Judge Browning served as an active judge for nearly 40 years. He took senior status in 2000 but continued hearing cases for many more years. Highly productive, he sat on 7,987 panels, either three-judge or en banc, authored 388 majority opinions, 60 dissenting opinions, 34 concurring opinions, and thousands of unpublished opinions. Known for advocating that the court speak with one voice, panels on which he sat published 1,005 per curiam opinions.

Judge Browning's contributions to Ninth Circuit jurisprudence include *Lessig v. Tidewater Oil Co.*, 327 F.2d 459 (1964), a watershed antitrust ruling, which was ultimately overruled by the Supreme Court but remains influential even today. He authored one of the first decisions to set aside a criminal conviction due to ineffectiveness of defense counsel in *Brubaker v. Dickson*, 310 F.2d 30 (1962), and elaborated a standard for ineffectiveness of counsel in



*Cooper v. Fitzharris*, 586 F.2d 1325 (1978). Those opinions presaged the standard later adopted by the Supreme Court in *Strickland v. Washington*, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed.2d 674 (1984).

As chief judge, Judge Browning was a renowned administrator. He demonstrated how a large appellate circuit could work effectively. He introduced the use of technology; created administrative units to help manage the circuit; championed the use of a limited en banc court; and played a leading role in the adoption of the 1980 Judicial Conduct and Disability Act. He involved all of the courts in governance of the circuit, staved off repeated efforts to split it into smaller units, and presided over the largest expansion of the Ninth Circuit bench in the history of the circuit.

Born in Great Falls, Montana, Judge Browning received his J.D.

from the University of Montana School of Law in 1941. His early career was spent at the U.S. Department of Justice, where he held positions of increasing authority and responsibility, ultimately serving as the executive assistant to Attorney General James P. McGranery. After leaving government service in 1953 to practice law with Philip Perlman, a former solicitor general, he was appointed by Chief Justice Earl Warren in 1958 to serve as clerk of the Supreme Court. As the clerk, he held the Bible when President John F. Kennedy was sworn into office on January 20, 1961. He was the last clerk to do so as that later became the task of the new president's spouse.

President Kennedy nominated Judge Browning to the Ninth Circuit Court of Appeals on September 6, 1961. He was confirmed by the Senate on September 14, 1961, and received his judicial commission on September 18, 1961. He remains the longest serving federal appellate judge in the nation's history.

U.S. Senator Max Baucus of Montana, who carried the legislation that named the San Francisco courthouse after Judge Browning in 2004, remarked upon the judge's passing:

"Judge Browning shaped the Ninth Circuit court and the law of the West. We know his legacy will live on for generations to come."





cited in U.S. v. Castro-Verdugo, No. 13-50386 archived on May 14, 2014

## Ninth Circuit Highlights



## Ninth Circuit ADR Awards Presented

The Honorable Susan Leeson, a retired Oregon Supreme Court justice now working as a federal court mediator, and the Willamette University College of Law were honored in 2012 for individual and institutional achievements in alternative dispute resolution.

Justice Leeson received the Robert F. Peckham Award for Excellence in ADR, while the law school received the Ninth Circuit ADR Education Award. The awards were presented during a meeting of the Ninth Circuit ADR Committee at the federal courthouse in Portland, Oregon, on October 22, 2012. Federal judges, members of the bar and Willamette law students attended the event.

Justice Leeson is credited with rejuvenating the Oregon federal court's mediation program. She led efforts to revise the court's ADR Local Rule; reorganized the court's Pro Bono Mediation Civil Panel; contributed to the development of ADR resources on the court's Internet website; set up systems to generate statistics on ADR use; and worked tirelessly to promote the program to the bar and public. Her innovations include establishing a pro bono foreclosure mediation panel.

The ADR Education Award was accepted by Richard Birke and Sukhsimranjit Singh, the director and associate



Justice Susan Leeson, center, with Chief District Judge Ann Aiken of Oregon, left, and Magistrate Judge Valerie Cooke of Nevada, chair of the Ninth Circuit ADR Committee.

director, respectively, of the Willamette University College of Law's Center for Dispute Resolution. Established in 1983, the center offers a broad ADR curriculum. Its faculty includes noted instructors, researchers and lecturers who have contributed significantly to advances in the ADR field nationally and internationally.

The Peckham and ADR Education awards were established in 2001

and 2005, respectively, by the Judicial Council of the Ninth Circuit, governing body of the federal courts in nine western states and two Pacific Island jurisdictions.

The Peckham Award is named for the Honorable Robert F. Peckham, former chief district judge of the Northern District of California, who helped pioneer use of legal means other than court trials to resolve disputes.



# Nevada Bar Honors Ninth Circuit Chief Judge Emeritus

Lawyers practicing in the federal courts of Nevada gathered in Reno in April to honor one of the state's leading jurists, the Honorable Procter R. Hug, Jr., chief judge emeritus of the United States Court of Appeals for the Ninth Circuit.

The tribute to Judge Hug, who has served on the federal bench for more than three decades, was the highlight of Nevada Federal Bar Association's annual dinner. Over 175 people attended the event, which featured remarks by Ninth Circuit Judge Mary M. Schroeder of Phoenix, a close friend and colleague who succeeded Judge Hug in 2000 as chief judge of the circuit.



Senior Circuit Judges Procter Hug, Jr., of Reno, and Mary M. Schroeder of Phoenix

A lifelong Reno resident, Judge Hug received his undergraduate degree from the University of Nevada in 1953 and his LL.B. from Stanford Law School in 1958. He was nominated to the Ninth Circuit Court of Appeals by President Carter and received his commission on September 15, 1977.

Judge Hug has sat on some 7,000 appellate panels and authored more than 600 opinions. In addition to his contributions to Ninth Circuit jurisprudence, Judge Hug served as chief judge of the circuit from 1996 to 2000. Under his leadership, the court fended off a serious effort to split up the circuit. He also promoted efforts to educate the public about the courts, advocated for greater use of cameras in the courtroom, and

encouraged judges to think about health and wellness issues.

In her remarks, Judge Schroeder, who was appointed to the court two years after Judge Hug, noted that neither of them would have become chief judge had not their colleague, Judge Anthony M. Kennedy, been elevated to the Supreme Court in 1988. The departure shuffled the order of succession, which is based on age and years of service, putting them in line to assume the leadership post.

"Proc's legacy, to the judiciary and to the country, is huge. I am proud to have him as my colleague and friend," Judge Schroeder remarked. Judge Hug took semi-retired senior

status in 2002 but continued to hear cases and be involved in circuit governance for many years. He has served as a senior circuit judge representative to the Judicial Council of the Ninth Circuit, the governing body for federal courts in the western states.

In addition to his judicial experience, Judge Hug has served as deputy attorney general for the state of Nevada, as general counsel to the University of Nevada system, and as a member and chair of the Board of Regents of the University of Nevada. ▲▲

## New Judges Orientation



The Ninth Circuit held its annual New Judges Orientation on May 17-18, 2012, at the James R. Browning U.S. Courthouse in San Francisco. The group included, seated from left, District Judge Yvonne Gonzalez Rogers of the Northern District of California, Magistrate Judges Cam Ferenbach of the District of Nevada and Jean P. Rosenbluth of the Central District of California, Ninth Circuit Chief Judge Alex Kozinski of Pasadena, District Judge Miranda M. Du and Magistrate Judge Carl "Bill" Hoffman, Jr., of the District of Nevada, and District Judge Sharon L. Gleason of the District of Alaska.

Standing middle row from left are Magistrate Judge Kandis A. Westmore of the Northern District of California, District Judge Michael W. Fitzgerald of the Central District of California, Bankruptcy Judge M. Elaine Hammond of the Northern District of California, Magistrate Judge James F. Metcalf of the

District of Arizona, Bankruptcy Judge Julia W. Brand of the Central District of California, Bankruptcy Judge Fredrick E. Clement of the Eastern District of California, Bankruptcy Judge Thomas M. Renn of the District of Oregon, and Magistrate Judge Nathanael Cousins of the Northern District of California.

Standing back row from left are Magistrate Judge William G. Cobb of the District of Nevada, Chief District Judge Ramona Villagomez Manglona of the District of Northern Mariana Islands, Magistrate Judge Mitchell D. Dembin of the Southern District of California, Magistrate Judge Carolyn K. Delaney of the Eastern District of California, District Judge Michael H. Simon of the District of Oregon, Magistrate Judge Jacqueline Scott Corley of the Northern District of California, and Bankruptcy Judge Mark D. Houle of the Central District of California. ▲▲



## All Women Bench Makes History in Northern District

The federal bench in Oakland, California, is made up entirely of women judges, a first for the United States District Court for the Northern District of California and possibly for the nation. Holding court in the Ronald V. Dellums Federal Building are, from left, Magistrate Judge Kandis A. Westmore, District Judge Yvonne Gonzalez Rogers, District Judge Phyllis J. Hamilton, Chief District Judge Claudia Wilken, Senior District Judge Sandra Brown Armstrong, and Magistrate Judge Donna M. Ryu. ▲▲▲



Photo courtesy of Hillary Jones-Mixon, The Recorder

## Chief Judge's Remarks Highlight FBA Luncheon



Chief Judge Alex Kozinski of the United States Court of Appeals for the Ninth Circuit mixed past and present in addressing several hundred lawyers and judges at the 34th annual Ninth Circuit Luncheon in San Francisco. The March event was sponsored by the Northern District of California Chapter of the Federal Bar Association.

Judge Kozinski paid tribute to Ninth Circuit judges who passed away in 2011, but also welcomed the court's newest member, Judge Morgan Christen of Alaska, who received her commission in January. She succeeds Judge Andrew J. Kleinfeld of Fairbanks, Alaska, who took senior status in 2010.

Of his departed colleagues, Judge Kozinski said, "We not only miss the considerable work they contributed, we miss them, terribly."

At the time of his remarks, the Ninth Circuit bench included 19 senior judges with an average age of 80 and 25 active judges with an average age of 63. ▲▲▲





## Court of Appeals Convenes in Special Session to Honor Oregon Jurist

Judges of the United States Court of Appeals for the Ninth Circuit convened a special session in May to recognize a respected colleague, Judge Diarmuid F. O'Scannlain. The proceeding at the historic Pioneer Courthouse in Portland, Oregon, commemorated the presentation of an official portrait of Judge O'Scannlain, who has served on the court for more than 25 years.

The work of Portland artist Wayne Chin, the painting was commissioned by the judge's former law clerks and donated to the Pioneer Courthouse Historical Society, which, in turn, conveyed ownership to the court.

Ninth Circuit Chief Judge Alex Kozinski presided over the



*Judge Diarmuid F. O'Scannlain with artist Wayne Chin*

session, joined on the bench by Judge O'Scannlain, Senior Circuit Judges Edward Leavy and A. Wallace Tashima and Circuit Judge Richard C. Tallman. In attendance were judges of the U.S. District Court for the District

of Oregon and justices of the Oregon Supreme Court. Special guests included Antoinette Hatfield, wife of the late Senator Mark Hatfield of Oregon, who supported Judge O'Scannlain's judicial nomination. ▲▲

## Northern Marianas Court Unveils Judicial Portraits

The United States District Court for the District of Northern Mariana Islands held a portrait unveiling ceremony to honor two respected jurists who both served as chief district judge, Judge Alfred Laureta and Judge Alex R. Munson. Judge Laureta served as the first chief judge of the Northern District of Mariana Islands from 1978 until 1988, when Judge Munson assumed the post and served in that capacity until 2010. The event was held October 31, 2012, at the U.S. District Court in Saipan. Pictured from left are Judge Laureta, Chief District Judge Ramona Villagomez Manglona of the District of NMI, and Judge Munson. ▲▲



# Special Sitzings Enrich Educational Experience for Law Students

The United States Court of Appeals for the Ninth Circuit has been holding special sittings at law schools in the western states for more than 20 years. The visits by three-judge appellate panels allow students, faculty and the local bar to see the court at work. The on-campus oral arguments typically attract large audiences. They are frequently videotaped for training purposes and often draw media attention.

In 2012, the court sat nine times at law schools around the circuit. They included the University of California, Irvine School of Law; the University of San Diego, School of Law; the University of Hawaii at Manoa, William S. Richardson School of Law; the University of California, Berkeley School of Law; the University of Nevada at Las Vegas, William S. Boyd School of Law; Arizona State University, Sandra Day O'Connor

College of Law; the University of Arizona, James E. Rogers College of Law; and Gonzaga University, School of Law.

Except for the venue, a special sitting at a law school is no different than a regular court proceeding. The cases to be heard have been randomly assigned to the panel using a computer program. If the session is scheduled in a city in which the court does not usually sit, an effort is made to select cases arising from that geographical area.

All sessions of the court are open to the public, although those being held at law schools generally do not draw many off-campus visitors. Staff from the Office of the Clerk are present along with court security officers or members of the U.S. Marshals Service.

The court also holds special sittings at federal district courts within the circuit. These proceedings often take place in distant locations, where the bar, media and public seldom have the opportunity to see the court at work. Special sessions may also coincide with some other significant event, such as the opening of a new courthouse. In 2012, the court held a special sitting in Boise, Idaho, to hear an appeal involving a high-profile case that originated in that city.

In recent years, the court also has begun using Internet technology to reach law schools. High-profile cases being argued in Ninth Circuit courthouses in Pasadena and San Francisco can be streamed to law schools and to federal district courts elsewhere in the circuit.

Law schools and the local bar have responded very positively to the court's outreach efforts. The court intends to continue its special sittings and make greater use of Internet streaming in the future. ▲▲



Photo courtesy of Alan Decker Photography

*Circuit Judge Milan D. Smith, Jr., Circuit Judge M. Margaret McKeown, and Senior District Judge Rudi M. Brewster sat at University of San Diego School of Law for a special court sitting in February 2012.*

# Technology Users Group Convenes

The Ninth Circuit's Technology Users Group Conference, held in June in Los Angeles, drew court managers and information technology staff from across the country, including representatives from four judicial circuits, the Administrative Office of the United States Courts, and other federal agencies.

The conference addressed various issues, including cyber attacks, use of new courtroom technology, mobile legal research tools, the next generation of case management and electronic case filing systems, use of social media,



*Chief Judge Alex Kozinski participates in discussion about the history and role of technology in the courts.*

and the judiciary's national IT initiatives. Participants included representatives from the Fifth, Eight, Ninth and Tenth circuits.

The conference opened with a "Conversation with the Circuits," which featured Ninth Circuit Chief Judge Alex Kozinski, Circuit Judge Sidney R. Thomas, Idaho Chief District Judge B. Lynn Winmill, and Circuit and Court of Appeals Executive Cathy A. Catterson. The panel discussed the history and role of technology in the courts.

District Judge James L. Robart of the Western District of Washington made a presentation on a locally developed Jury Electronic Evidence Presentation, or JEEP, system. JEEP aids jurors during deliberation by providing them electronic versions of exhibits, which are displayed on a large video monitor, rather than hard copy that can sometimes contain hundreds if not thousands of pages.

Dr. Bob Rucker, assistant circuit executive for policy and research, moderated a panel that discussed IT cost containment with emphasis on how courts can work together and share IT services and resources as the judiciary continues to tackle budget issues. Panel members included District Judge Robert S. Lasnik of the Western District of Washington, Bankruptcy Court Clerk Barry Lander of the Southern District of California, and Assistant Director Joseph R. Peters, Office of Information Technology, Administrative Office of the U.S. Courts. ▲▲



*Ninth Circuit IT Committee members, seated from left, are Magistrate Judge David K. Duncan of Phoenix; District Judge Timothy M. Burgess of Anchorage; Chief District Judge B. Lynn Winmill of Boise, chair; and District Judge Gloria M. Navarro of Las Vegas. Standing from left are District Judge Percy Anderson of Los Angeles, Chief Bankruptcy Judge Frank R. Alley, III, of Eugene; Chief Probation Officer Yador J. Harrell of San Francisco, Bankruptcy Judge Brian D. Lynch of Tacoma, Bankruptcy Court Clerk Barry K. Lander of San Diego, and Don Vincent, assistant circuit executive for IT, Office of the Circuit Executive.*



## IT Staff Assist Pacific Island Courts

With help from the Ninth Circuit, the Pacific Judicial Council held its first ever Technology Conference, providing hands-on training for staff from courts of several Pacific island nations.

Held February 20-23, 2012, at the New Horizons training facility in Dededo, Guam, the conference introduced new computer technologies and provided technical training and disaster recovery guidance. Attending were more than 40 information technology specialists and other court staff from the U.S. territories of Guam and American Samoa, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands and the republics of Palau and the Marshall Islands.

Chief Justice F. Phillip Carbullido of the Supreme Court of Guam welcomed the group, and Associate Justice Robert J. Torres, Jr., discussed latest technologies that help judges to be more productive while traveling.

Sally Pym, an education specialist with the Ninth Circuit Office of the Circuit Executive, made a presentation on court management and the importance of information technology to court operations. The conference also included training sessions on Windows 7, Windows Server 2008 R2, WebEx, Skype, COOP, WSUS and computer back-ups.

Other presenters included Assistant Circuit Executive Don Vincent and IT specialists Stephen Sue and Hank Herbert from the Ninth Circuit Office of the Circuit Executive, along with Chief Deputy Clerk Charles White and IT staffers Vergel DeVera and Gabriel Pereda of the U.S. District Court for the District of Guam. ▲▲



*Sally Pym, education specialist, top, works with court staff from Kosrae, Federated States of Micronesia. IT staff and conference attendees at the 2012 Pacific Judicial Council IT Conference in Guam.*



# Continuity of Operations Planners Return to Basics

Federal court staff joined with local, state and national government officials and private industry representatives to plan how to continue providing critical services after a major earthquake.

The program held March 14, 2012, in San Francisco focused on continuity of operations, or COOP. Participating were the San Francisco Federal Executive Board, the United



COOP coordinator Laudan Batino, above, served as emcee, and Keith Knudsen of the U.S. Geological Survey, below, discussed earthquake causes.

States Department of Homeland Security's Federal Emergency Management Agency, or FEMA, and the San Francisco Bay Area COOP Working Group. The Federal Executive Board, or FEB, is a regional organization responsible for integrating the responses of various agencies at different stages of an emergency. FEBs communicate and coordinate with FEMA, the Department of Energy and the Department of Defense in the event of a major catastrophe. Federal courts in the Ninth Circuit have FEB representatives in Seattle, San Francisco, Los Angeles and Honolulu, Hawaii.

Some 160 individuals from over 60 various civilian government agencies and military organizations joined in the tabletop exercise. Participants included 35 judiciary staff representing the U.S. Court of Appeals for the Ninth Circuit and federal district and bankruptcy courts in the districts of Alaska,

Arizona, Central California, Northern California, Southern California, Nevada, Western Washington, Southern Indiana, Middle District of Florida and the Federal Judicial Center in Washington, D.C. Laudan Batino, COOP coordinator from the Ninth Circuit Office of the Circuit Executive, moderated the six-hour event.

Keith Knudsen, deputy director of the Earthquake Science Center for the U.S. Geological Survey, and Dr. Richard Allen, director of the Berkeley Seismological Laboratory and an associate professor the Department of Earth and Planetary Science at the University of California, Berkeley, made keynote presentations. Mr. Knudsen discussed the geological causes of earthquakes, while Dr. Allen focused on efforts to develop an advanced earthquake early warning system now being tested in California.

Participants returned to the plenary session to share their insights following a discussion of a scenario involving a magnitude 6.9 earthquake occurring along the Hayward fault, similar to the 1989 Loma Prieta earthquake, which also registered a magnitude of 6.9. Following the exercise, judiciary court staff met with Jim Buchanan of the FJC to discuss emergency planning and future emergency preparedness workshop.





## Ninth Circuit Judicial Conference Looks at Sentencing, Big Data

The 2012 Ninth Circuit Judicial Conference was held August 13-16 in Maui, Hawaii. The conference is held pursuant to Section 333 of Title 28 of the United States Code "for the purpose of considering the business of the courts and advising means of improving the administration of justice within the circuit."



*Kathleen M. Sullivan, Esq., top, leading the audience through a year of notable Supreme Court rulings. Chief Judge Alex Kozinski speaks at the opening session.*

Conferees included judges of the United States Court of Appeals for the Ninth Circuit and the U.S. district courts and U.S. bankruptcy courts in nine western states and two Pacific island territories. Also in attendance were lawyers practicing in these courts; court staff; and guests.

The theme of this year's conference was "Improving the Administration of Justice." The program featured presentations on preserving privacy in the age of online data mining by business and government; racial disparities in criminal sentencing; ethical issues facing judges and lawyers; an update on significant cases decided in the most recent Supreme Court term; an in depth look at the high court ruling on health care reform; and habeas review under the Antiterrorism and Effective Death Penalty Act.

U.S. Supreme Court Justice Anthony M. Kennedy was the

keynote speaker at the opening session, and also participated in a question-and-answer session that closed the conference. In his opening remarks, Justice Kennedy stressed the importance of the conference in providing continuing legal education to the bench and bar. He described the gathering as "a prudent and a proper exercise of the judicial function."

Justice Kennedy suggested courts need to consider new ways to handle growing caseloads, warned of the impacts of arbitration on court trials, and questioned whether law school curriculums meet student needs. He concluded with criticism of the partisan battles over judicial nominees.

"In the current climate, highly qualified practitioners of the law simply do not want to subject themselves to that process," he said.

Kathleen M. Sullivan, former dean of the Stanford Law School, conducted the review of Supreme Court cases, including the challenge to the Patient Protection and Affordable Care Act of 2010; the Arizona immigration law; and the Stolen Valor Act.

A panel of privacy experts warned that neither Congress nor the federal courts may be able to control commercial use of the wealth of personal data now found on the Internet. Paul Ohm, an associate professor of law and telecommunications at the University of Colorado Law School, described an "arms race between those who would invade (your privacy) and those who would defend it."

He was joined on the panel by Professor Edward W. Felten, director of the Center for Information Technology Policy at Princeton University and Nicole Wong, former vice president and deputy general counsel for Google. Joel R. Reidenberg,

founding director of the Fordham Center on Law and Information Technology, moderated the 90-minute presentation.

Law enforcement surveillance practices, including Internet monitoring and gathering of location information and other data from smart phones and other electronic devices, also were discussed. Participating were Marcia Hoffman, senior staff attorney for the Electronic Frontier Foundation; Professor Orin S. Kerr and Professor Jeffrey Rosen of George Washington University School of Law. Professor Mariano-Florentino Cuellar of Stanford Law School.

A panel of current and former judges and academics addressed the significant influence of race in determining criminal punishments, presenting dramatic evidence that African Americans and Hispanics are much more likely to be incarcerated and for substantially longer times than whites and others.



U.S. Supreme Court Justice Anthony M. Kennedy was the keynote speaker for the opening session, above. Justice Kennedy also participated in the closing session, engaging in an informal conversation, below, with Circuit Judge Marsha S. Berzon, left, and Bankruptcy Judge Laura S. Taylor, conference chair. District Judge S. James Otero and lawyer representative Andrew M. Jacobs also participated in the conversation.





Participating in the discussion were U.S. District Judge Ruben Castillo of Chicago, who served on the U.S. Sentencing Commission for 11 years; Bryan Stevenson, founder and executive director of the Equal Justice Initiative in Montgomery, Alabama; Sonya Starr, an associate professor at the University of Michigan Law School; and the Honorable Nancy Gertner, a retired federal judge from Boston who now teaches sentencing law at Harvard Law School.



[Click here to view 2012 Judicial Conference program videos.](#)

In the conference's traditional bench-bar segment, judges and lawyers took up legal ethics issues, including how clients' perceptions are often shaped by how the bench and bar are portrayed in movies or on television. The session, moderated by Nancy Rapoport, interim dean of the William S. Boyd School of Law at the University of Nevada at Las Vegas, included use of video clips from the television series, "The Good Wife."

Ninth Circuit Chief Judge Alex Kozinski, who opened and closed the gathering, called the Conference "our most successful," combining an outstanding educational program with important business meetings and providing numerous opportunities for informal interaction among the judges, and between judges and members of the bar.

"The Conference is important in cementing the bonds that unite us as a profession and that are vital in improving the administration of justice in our geographically diverse circuit," Judge Kozinski said.

The Ninth Circuit has held a conference annually since 1944, although the 2013 gathering has been rescheduled to 2014 in Monterey, California.



U.S. District Judge Ruben Castillo of Chicago, above, speaking during the panel entitled "What Color is Justice: Racial Disparities in the Criminal Process." Nancy Rapoport, below, interim dean of the William S. Boyd School of Law at the University of Nevada at Las Vegas, listening in on group discussions during the legal ethics program.





## 2012 Ninth Circuit Judicial Conference Awards

Associate Justice Judith L. Haller of the California Fourth District Court of Appeal received the prestigious 2012 Ninth Circuit Professionalism Award from the American Inns of Court, which seeks to improve the practice of law by promoting mentorship and collegiality among the bar.

The award is given to a senior practicing judge or lawyer "whose life and practice display sterling character and unquestioned integrity, coupled with ongoing dedication to the highest standards of the legal profession."

Justice Haller came onto the California bench in 1989, when she was appointed to the San Diego County Superior Court. She was elevated to the Fourth District Court of Appeal in 1994. Prior to coming onto the bench, she had been in private practice in San Diego.

Born in Los Angeles, Justice Haller graduated summa cum laude and Phi Beta Kappa from the University of California at Los Angeles and received her J.D. from California Western School of Law. She also has a master's degree in history from San Diego State University.

### John P. Frank Award

Renowned appellate lawyer Sanford "Sandy" Svetcov received the John P. Frank Award, established by the Judicial Council of the Ninth Circuit to recognize "a lawyer



Associate Justice Judith L. Haller, right, receives the American Inns of Court Award from Senior Circuit Judge Mary M. Schroeder.

or judge whose life and practice display sterling character and unquestioned integrity, coupled with ongoing dedication to the highest standards of the legal profession and the rule of law."

Mr. Svetcov, a partner in the San Francisco office of Robbins Geller Rudman & Dowd LLP, has practiced law for 47 years and is considered to be the dean of appellate lawyers appearing before the Ninth Circuit Court of Appeals.

Mr. Svetcov is well known for volunteer work, including recruiting lawyers from the Northern District of California to participate in the Ninth Circuit Pro Bono Program.

Mr. Svetcov has been in private practice since 1989. Prior to that, he was as an assistant U.S. attorney for the Northern District of California, from 1979 to 1989, in



Sanford "Sandy" Svetcov, Esq.

charge of the office's Organized Crime Strike Force and as chief of the appellate section.

Raised in Brooklyn, New York, Mr. Svetcov earned his B.A. in 1961 from Brooklyn College, where he graduated cum laude, and his J.D. from UC Berkeley, School of Law, in 1964. ▲▲

# Judges Receiving Awards in 2012

## Ninth Circuit Court of Appeals

Senior Judge Arthur L. Alarcón, Hispanic of the Year, National Latino Peace Officers Association; Judge Carlos T. Bea, Graciela Olivarez Award, University of Notre Dame, The Law School; Senior Judge Alfred T. Goodwin, honored by the Oregon Supreme Court on which he served for nearly a decade; Senior Judge Procter Hug, Jr., honored for his 35 years of service on the bench, Nevada Chapter of the Federal Bar Association; Judge Mary H. Murguia, Mark Santana Law-Related Education Award, the Arizona Foundation for Legal Services, and the Lider Award from the greater Phoenix area group, 40 Hispanic Leaders Under 40; and Judge N. Randy Smith, inducted to Idaho Hall of Fame for advancing the common good of those residing in the "Gem State."

## Central District of California

Bankruptcy Judge Sheri Bluebond, Fellow, American College of Bankruptcy; Chief District Judge Audrey B. Collins, Outstanding Jurist Award, Los Angeles County Bar Association, and the Joan Dempsey Klein Distinguished Jurist Award, California Women Lawyers; District Judge Andrew J. Guilford, "True Founder of the School of Law," University of California, Irvine, School of Law; Senior District Judge

Ronald S. W. Lew, recognized for his 30 years of judicial service, Southern California Chinese Lawyers Association, and the Justice Armand Arabian Leaders in Public Service Award, Encino Chamber of Commerce; Legacy Builder Award, Chinatown Service Center; Judges' Tribute, Southwestern Law School, Centennial Celebration; District Judge Virginia A. Phillips, Public Service Award, Asian Pacific American Bar Association, Los Angeles County, and the Alicemarie H. Stotler Award, Federal Bar Association, Orange County; Senior District Judge Otis D. Wright, II, Judges' Tribute, Southwestern Law School, Centennial Celebration.

## Northern District of California

Magistrate Judge Laurel Beeler, Women Leaders in Law Honoree, The Recorder; Magistrate Judge Paul S. Grewal, Federal Judge of the Year, Santa Clara County Trial Lawyers Association; Senior District Judge Thelton E. Henderson, Glenn T. Seaborg Award, University of California, Berkeley, Athletics, and the American Lawyer Lifetime Achiever Award, The American Lawyer.

## District of Guam

Chief District Judge Frances Marie Tydingco-Gatewood, Guam's Girl Scout Great, Guam Girl Scouts; Alumni Achievement Award, University of Missouri, Kansas, School of Law.

## District of Idaho

Magistrate Judge Mikel H. Williams, Professionalism Award, Idaho State Bar, Fourth Judicial District.

## District of Montana

Senior District Judge Donald W. Molloy, Judicial Recognition Award, Montana Criminal Defense Trial Lawyers; Distinguished Alumni Award, University of Montana Alumni Association.

## Eastern District of Washington

Magistrate Judge James P. Hutton, James Oldham Award, Eastern District of Washington STEP Program; Senior District Judge Edward F. Shea, Trial Judge of the Year Award, American Board of Trial Advocates, Washington Chapter.

## Western District of Washington

Bankruptcy Judge Karen A. Overstreet, Making a Difference through Community Service Award, American Bar Association, Small Firm and General Practice Division.



# Circuit Law Libraries Keep Pace with Technology

The Ninth Circuit Library is a network of 24 law libraries housed in federal courthouses throughout the West. A knowledgeable and experienced library staff conducts research and disseminates information to judges, attorneys, court staff and the public.

The library system traces its roots back nearly 120 years to a single library established in San Francisco to serve the needs of the United States Court of Appeals for the Ninth Circuit. At that time, the responsibility for maintaining a collection of law books was assigned to the clerk of court. While the library remains an organ of the court of appeals statutorily, it now also serves the district courts and bankruptcy courts of the circuit. All told, more than 400 judges and their chambers staff make use of library services.

The libraries also provide professional research assistance using a variety of resources. This assistance is provided by 36 professional librarians, a third of whom have a J.D. in addition to graduate librarianship degrees.

Reduced operating budgets have forced the Judiciary to examine the costs and usefulness of its library programs nationwide. Studies undertaken in 2010 and



*Ninth Circuit library staff in San Francisco include, seated from left, Benh Loc, Julie Horst, Nancy Tsang, Emily Newman, Filiberto Govea, and Sally Bingham. Standing from left are James Goodlett, Rollins Emerson, Konrad Steiner, Patricia Villalta, Lisa Larribeau, Trish McCurdy, Edward Hosey, and Eric Wade.*

2012 considered the scope of the library program along with usage and costs. The studies found that judges and chambers value library services and often call upon the library for assistance.

According to library sampling data, circuit libraries serve nearly 70,000 users annually and respond to over 40,000 requests for information and other research assistance. While judges, chambers staff and other court employees made most of the requests, nearly one fifth of the questions came from lawyers, litigants and the general public.

Ninth Circuit librarians provide assistance in using tablet

computers and other mobile devices to access Lexis, Westlaw and other legal resources. Library staff also tracks news and court activities and regularly pushes information out to judges and court staff via the web, email and other means.

Working with judges, the library has sought to contain costs by reducing subscriptions more than half in the last 10 years. Several libraries have been reduced in size and others may be consolidated or closed in the future.

The need for person-to-person contact will continue. Studies have shown that personal interaction between library staff and court clients is at its most effective in the courthouses. ▲▲

## Jury Orientation Video Completed

Federal trial courts in the Ninth Circuit have begun using a new jury orientation video completed in 2012. The 18-minute video is intended to convey to prospective jurors the importance of serving on a jury and explains the juror selection process from summons through voir dire.

The video addresses the most current issues in jury service, including juror misuse of smartphones and other electronic devices to improperly gather information about a case from the Internet, instead of relying only on the testimony and evidence presented in the courtroom. Such activities have led to mistrials in both federal and state courts.

The new video features remarks by retired U.S. Supreme Court Justice Sandra Day O'Connor. Also appearing are Judge Richard A. Paez of the U.S. Court of Appeals for the Ninth Circuit, Judge Susan Y. Illston of the U.S. District Court for the Northern District of California, and a number of former jurors, who recount their experiences during a trial and after a verdict is delivered.

The video has been distributed to jury administrators in the 15 U.S. district courts in the

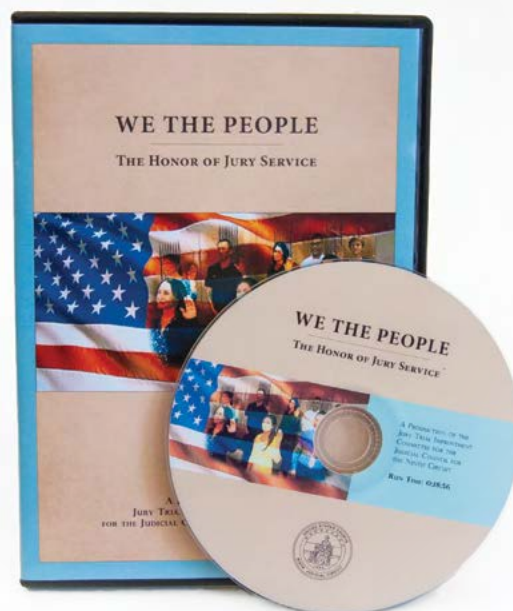


Ninth Circuit, which takes in the states of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon and Washington, along with the U.S. Territory of Guam and the Commonwealth of the Northern Mariana Islands.

District Judge Susan Y. Illston of the Northern District of California speaking with the jury during the taping of the jury video.

The project was undertaken by the Ninth Circuit's Jury Trial Improvement Committee, working through the Office of the Circuit Executive and using funding provided by the circuit and several district courts.

The video is available for viewing online at: <http://tinyurl.com/federaljuryvideo2013>





# Nation's Busiest Bankruptcy Court Sees Explosion of Self-Filers

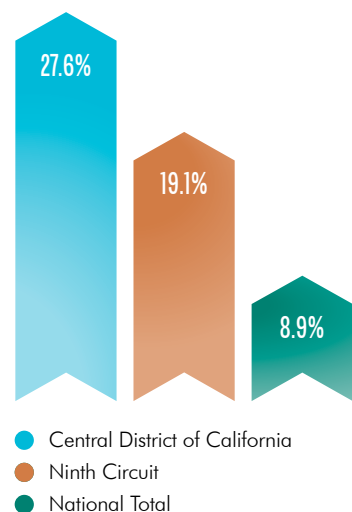
The United States Bankruptcy Court for the Central District of California serves more than 18 million people living in seven Southern California counties. Its divisions in Los Angeles, Riverside, Santa Ana, Santa Barbara, and Woodland Hills received 111,909 bankruptcy filings in fiscal year 2012, the most in the country.

More than 30,000 cases were filed by self-represented debtors. About 60 percent of self-filers successfully completed the bankruptcy process while the other 40 percent had their cases dismissed for various reasons. All of them required a greater amount of court services than a lawyer would typically need, further stretching already thin court resources.

The court is trying to make the bankruptcy process more

## 2012 Pro Se Bankruptcy Case Filings

% of Total Bankruptcy Filings, Fiscal Year



understandable to self-represented debtors through self-help centers, Internet websites, community meetings and other resources. The local bar and various community groups also are being encouraged to lend a hand by providing free legal representation.

A 2012 report by the court found that a self-represented debtor is almost eight times more likely to have a Chapter 7 case dismissed than a debtor represented by counsel. The odds are even worse in Chapter 13 cases, which are often filed by homeowners seeking to avoid foreclosure. A self-represented debtor has less than a 3 percent chance of successfully completing a Chapter 13 bankruptcy.

The report found that many self-represented debtors in the Central District are low-income and non-English speaking. Although usually eligible for free legal assistance, many rely, instead, on a bankruptcy petition preparer, or BPP, who charges between \$200 and \$1,200 to prepare forms to be submitted to the court. The use of a BPP is often not revealed in the filing, but the practice is thought to be widespread, particularly among Hispanics and Filipinos who turn to their neighborhood "notario" for help.

While some BPPs operate legitimately, anecdotal evidence suggests that many failed to fulfill their duties in a timely fashion. They usually have no legal

training and gave questionable legal advice. Unscrupulous BPPs also are thought to be behind the filing of cases without the knowledge of the debtor named in the case, and the practice of "hijacking" cases to forestall foreclosure by falsely transferring trust deeds into the name of another debtor in hopes of gaining an automatic stay.

The growing problem of non-attorneys filing cases for debtors led the court to implement a Debtor ID Program. Anyone filing any document without an attorney of record is now required to show photo ID. Should questions later arise about the filing, the third-party filer can be ordered into court. The system has enabled the court to identify dozens of BPPs who submitted shoddy work and have been ordered to return their fees.

The court also is making it easier for self-represented debtors to file and keep track of their cases. The Central District is one of three bankruptcy courts participating in the Pathfinder Electronic Filing Project, a national program that will allow self-represented debtors to electronically prepare and submit Chapters 7 and 13 bankruptcy petitions. The test courts were to begin offering electronic filing to self-represented debtors in late 2012.

## Committee Turns to Internet, Newsletter to Promote Community Outreach

The Ninth Circuit's Courts and Community Committee is the only circuit-level committee dedicated solely to the task of improving public understanding of the federal judiciary. The committee focuses its efforts on community outreach and media relations. Committee members include federal judges, court staff, attorneys and journalists.

In 2012, the committee began publishing a quarterly newsletter for judges and court staff, and unveiled a revamped Internet website – <http://community.ce9.uscourts.gov> – accessible to the general public. Both the newsletter and website are used to publicize successful community outreach programs being undertaken by various courts in the circuit. In addition, the website provides judges and court staff with information about how to organize their own programs. The website also makes use of social media, offering a blog and Twitter feed to those interested in community outreach.

All of the federal courts in the Ninth Circuit are involved in community outreach to some degree. Events and activities organized in 2012 included:

- A Law Day naturalization ceremony conducted by the U.S. District Court for the Eastern District of Washington. The Citizenship & Immigration Services and several
- A High School Teachers' Judicial Academy held in June and an iCivics Middle and Junior High School Teachers' Institute held in July, both at the federal courthouse in Seattle.
- Some 60 teachers from the western half of the state participated in the programs. The judicial academy helped teachers to better understand the U.S. Constitution, federal and state judiciaries, and federal issues including immigration, criminal law and civil rights. The middle and junior high school teachers' program focused on how to make use of retired Justice Sandra Day O'Connor's iCivics program available online at [www.iCivics.org](http://www.iCivics.org).
- The Court Connection teacher institute held in September in the Southern District of California. More than 20 San Diego area educators were invited to



Magistrate Judge Cynthia Imbrogno presents certificate to a new citizen during a naturalization ceremony held at the U.S. district court in Spokane, Washington.

the Edward J. Schwartz Federal Building and U.S. Courthouse for a day-long workshop focusing on understanding the judicial branch and the work of the courts. The visiting teachers observed actual sentencing hearings and participated in a mock trial.

- A Law Day event held in April at the U.S. District Court for the Central District of California. Local high school students throughout Los Angeles County participated in the 3-day event. The program included mock trials and presentations by judges, court staff, attorneys, pretrial services officers, probation officers, and the U.S. Marshals Service. Volunteers from Justice Corps and Trinity Law School worked with court staff to ensure the success of the program.
- The 11th annual Teachers' Institute held in October at the U.S. District Court in Los Angeles. The event included participation in a video conference hosted by the U.S. District Court for the District of Columbia. The bicoastal event involved 30 teachers at the Spring Street courthouse in L.A., and 20 teachers at the federal courthouse in Washington, D.C. District Judge Richard J. Leon of the D.C. District provided an overview of the judiciary and fielded questions from the teachers. Constitutional scholar Robert S. Peck of the



Center for the Constitution at James Madison's Montpelier demonstrated use of the Socratic method to teach Supreme Court precedents and apply them to contemporary issues.

*Bankruptcy Judge Sandra R. Klein, above, served as emcee during "Power Lunch" held at the U.S. bankruptcy court in Los Angeles. Students, below, participate in mock trials during Law Day event held at the U.S. district court in Los Angeles.*

- A Federal Court Power Lunch held in October at the U.S. Bankruptcy Court for the Central District of California. Several Los Angeles Police cadets learned about judges and attorneys, trials, the Bill of Rights and the three branches of the U.S. government. The cadets also participated in a Jeopardy-style game at the end of the presentations. Speakers included judges, attorneys, court staff, and a deputy U.S. marshal.
- A November visit by high school students to the Richard H. Chambers U.S. Courthouse in Pasadena. Some 40 La Canada High School students observed proceedings before the Ninth Circuit Court of Appeals.



Students watched oral arguments in an Arizona death penalty case, which they had discussed a week earlier with Deputy Federal Public Defender Guy Iversen of the Office of the Federal Public Defender in Los Angeles. Following the proceeding, the group met with the judges who had heard the appeal.





for the districts of Guam and the Northern Mariana Islands led the Pledge of Allegiance.

Since being established in 2001 by the Judicial Council of the Ninth Circuit, the committee has conducted periodic surveys to determine what kinds of community outreach are occurring. The results were shared with interested judges and court staff, often leading to new outreach efforts, which the committee sought to promote and assist. On the media side, the committee sponsored or helped organize more than a dozen well-received programs to educate journalists about legal processes and court operations.



The committee is considering greater use of the Internet to conduct educational outreach and will encourage broader collaboration among all of the courts in the circuit in undertaking community outreach. ▲▲▲

*Teachers participate, top, in Court Connection program held at the U.S. district court in San Diego. Circuit Judge Mary H. Murguia pictured above with students who participated in the eighth annual CourtWorks program at the U.S. district court in Phoenix, Arizona.*

- The eighth annual CourtWorks program sponsored by the U.S. District Court for the District of Arizona and ASU College of Law. Some 250 eighth-graders from Phoenix participated in mock trials held in October at the Sandra Day O'Connor U.S. Courthouse. Representatives from the offices of the federal public defender and U.S. attorney, along with pretrial and probation officers and deputy U.S. marshals made presentations.
- A Constitution Day celebration in September by the U.S. District Court for the District of Guam. The observance included a naturalization ceremony in which Chief District Judge Frances Marie Tydingco-Gatewood administered the citizenship oath to more than 50 new citizens. Alicia A.G. Limtiaco, the U.S. attorney

## Court of Appeals Welcomes New Law Clerks



The United States Court of Appeals for the Ninth Circuit welcomed some 150 law clerks for an orientation program held September 19-20, 2012, at the James R. Browning U.S. Courthouse in San Francisco. Ninth Circuit Chief Judge Alex Kozinski welcomed the law clerks. Several circuit, district and magistrate judges

participated in the training session. Also participating were Circuit and Court of Appeals Executive Cathy A. Catterson, Clerk of Court Molly C. Dwyer, Chief Circuit Mediator Claudia L. Bernard, Circuit Librarian Eric D. Wade, Information Technology Director Ryan L. Means, and other court staff. ▲▲



## Administrative Changes Around the Circuit



William Bezzant is the acting clerk of court of the United States District Court for the District of Northern Mariana Islands. He was appointed in November 2012 to serve until recruitment of clerk of court/part-time magistrate judge for the court is completed.

Mr. Bezzant has served 20 years as the court's systems manager then as chief deputy clerk. He earned his B.A. degrees in accounting and economics from California State University, Hayward. Mr. Bezzant worked as an auditor in San Francisco before venturing to Micronesia 32 years ago.



Chad Boardman is the chief probation officer for the District of Nevada. He was appointed on March 20, 2012. Mr. Boardman began his career as a deputy probation officer in Mono County, California, in 1995. In 1997, he moved to

Las Vegas to accept a position as a U.S. pretrial services officer for the District of Nevada. Mr. Boardman became a U.S. probation officer for the District of Nevada in 2000 and served as a supervisor, assistant deputy chief, and deputy chief before his appointment as chief.



Gina L. Faubion was appointed the chief pretrial services officer for the Eastern District of California on January 3, 2012. Ms. Faubion had served previously as a supervisory pretrial services officer in the district's Sacramento division

since 2008. She began working as a pretrial services officer in the district in 2003. Prior to her federal experience, Ms. Faubion was an adult probation officer in San Antonio, Texas, from 1995 to 2003. She received her bachelor's degree in criminal justice from the University of Texas, San Antonio.



Andrea George is the executive director of the Federal Defenders of the Eastern District of Washington and Idaho. From 1989 to 2011, she served as an assistant federal defender for the District of Minnesota and held the position of senior litigator from

2005 to 2011. Ms. George received her B.A. from the University of Wisconsin, Madison, in 1984 and her J.D. in 1989 from Hamline University School of Law in St. Paul, Minnesota. She serves on the faculty of the National Criminal Defense College in Macon, Georgia; the Wisconsin Trial Academy; and the Trial Academy sponsored by the Office of the Alternate Defense Counsel in Denver, Colorado.



Tyler P. Gilman was appointed the clerk of court of the U.S. District Court for the District of Montana on October 9, 2012. Prior to his appointment, Mr. Gilman had served as a law clerk to District Judges Donald W. Molloy, Charles C. Lovell,

and Dana L. Christensen in the District of Montana since 2003. He earned a bachelor's degree in political science from the University of Montana, Missoula, in 2000 and a JD from the University of Texas, School of Law, in 2003.



Steven G. Kalar was appointed the federal public defender for the Northern District of California on October 9, 2012. Mr. Kalar has worked in the Office of the Federal Public Defender for the Northern District of California since 1998

and was promoted to senior litigator in 2003. Prior to that, he worked briefly as an associate in the San Francisco law firm of Morrison & Foerster, LLP. Mr. Kalar received his A.B. in 1988 from Harvard University, where he graduated cum laude, and his



J.D. in 1996 from the University of California, Hastings College of the Law, where he served as a board member and associate notes editor of the Hastings International and Comparative Law Review. Following law school, he clerked for Judge Harry Pregerson of the U.S. Court of Appeals for the Ninth Circuit.



Brian D. Karth was appointed as the district court executive and clerk of court of the U.S. District Court for the District of Arizona in January 2012. Mr. Karth previously served as the bankruptcy court clerk for the District of Arizona for nearly four

years. He graduated from the University of Southern California and Arizona State University. He held various management positions in Arizona (Maricopa County) Superior Court, City of Phoenix Municipal Court, and the U.S. Department of Justice, Executive Office for Immigration Review. Mr. Karth has taught and served in the field of judicial administration at the federal, state and local levels for over 26 years.



Sean McAvoy was appointed the district court clerk of the U.S. District Court for the Eastern District of Washington on December 17, 2012. Prior to his appointment, Mr. McAvoy had served as the bankruptcy court clerk for the Northern

District of Iowa since 2000. In his time as bankruptcy court clerk, Mr. McAvoy excelled in local court governance, administration and stewardship, and has been active in numerous national initiatives. He also received the Director's Award for Outstanding Leadership in 2008. Before joining the federal judiciary, Mr. McAvoy spent six years working within the Arizona State Court System in positions ranging from child support case administrator to the director of Arizona's third largest superior court.

Prior to his career in court administration, he was a decorated Russian linguist in the U.S. Army. Mr. McAvoy received a B.A. from the University of Arizona and a master's degree from the University of Phoenix. He is a fellow of the Institute for Court Management's Court Executive Development Program.



George Prentice was appointed as the clerk of the U.S. Bankruptcy Court for the District of Arizona in January 2012. Prior to that, he served as clerk of the U.S. Bankruptcy Court for the Western District of Texas, clerk of the U.S. Bankruptcy

Court for the Northern District of Iowa, and as trial court administrator for the 20th Judicial District of Nashville, Tennessee, and management analyst with the U.S. District Court for the District of Columbia. Mr. Prentice has a master's of justice degree from The American University in Washington, D.C., and a bachelor's degree, cum laude, in political science from the University of New Orleans. He is a fellow of the Institute for Court Management's Court Executive Development Program. ▲▲



cited in U.S. v. Castro-Verdugo, No. 13-50386 archived on May 14, 2014

Space & Security



# Long Wait for More Space Ends in San Diego

The United States District Court for the Southern District of California is one of the nation's busiest federal trial courts. Headquartered in San Diego, the court has the third heaviest criminal caseload in the country generated by illegal immigration and drug smuggling along the California portion of the U.S.-Mexico border. The workload, which has risen steadily over the years, is projected to further increase in the future, likely requiring additional judges and courtrooms.

While the district received five new judgeships in 2002, it took another 10 years to provide a partial answer to the court's space needs. The new Courthouse Annex, which was completed in November 2012, adjoins the Edward J. Schwartz Federal Building and U.S. Courthouse, which currently houses the court. The new structure provides an additional six courtrooms and 12 judicial chambers with room for more in the future. It also will house the offices of the Clerk of Court and Pretrial Services. Additional tenants include the U.S. Marshals Service, the Internal Revenue Service and the General Services Administration.

The new annex was built on a 2.5-acre site, formerly occupied by an historic but decaying hotel. It was designed by Richard Meier & Partners Architects LLP, an internationally renowned designer of public structures. Hensel Phelps Construction Co. carried out the construction, which began in December 2009.





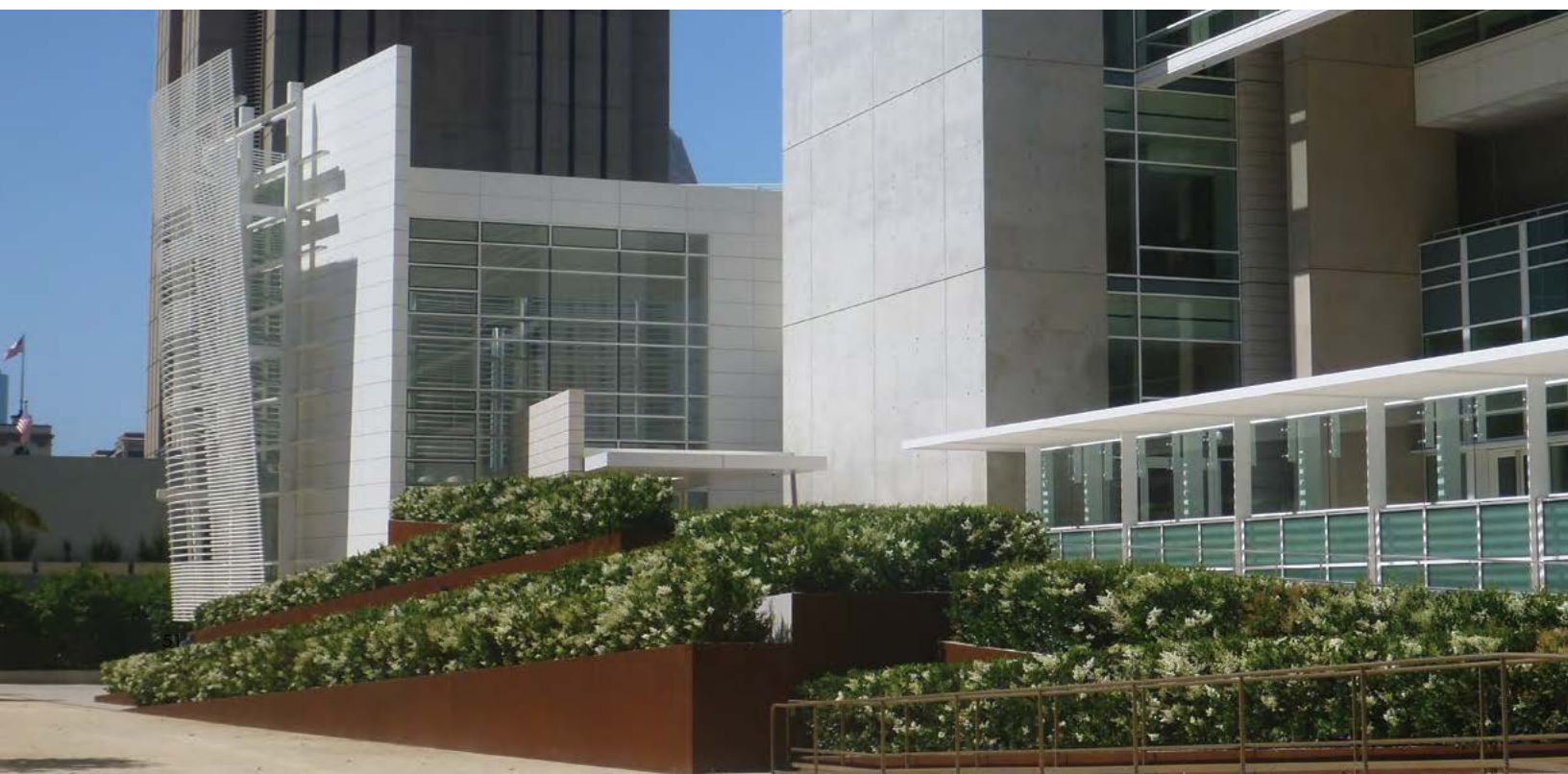


The new building features two spacious jury assembly rooms, above. A hedge-lined maze, below, is one of two art installations by artist Robert Irwin. The other installation is a 32-foot-tall acrylic prism in the building's rotunda (see photo, inside front cover).



The shining white Courthouse Annex rises 16 stories and boasts 467,000 square feet of space, about a third of which will be used by the court. Extensive use of glass in the design provides natural lighting through much of the building during the daytime, and some floors make use of natural ventilation, taking advantage of San Diego's temperate climate. The building employs energy efficient technology throughout and has been proposed for LEED Gold Status by the U.S. Green Building Council.

New technology also is present in the courtrooms, which feature video monitors in the jury boxes and a white-noise generator to ensure that sidebar discussions between judge and attorneys



cannot be heard. The building provides two jury assembly rooms and a staff training center.

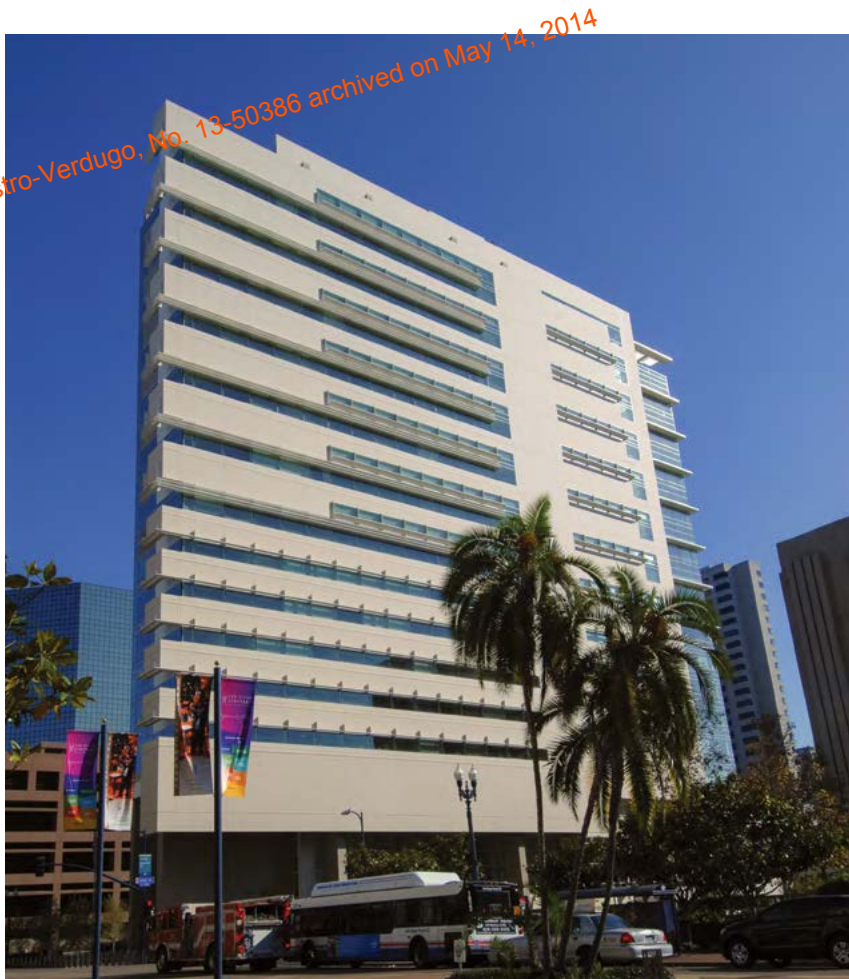
Visitors enter the Courthouse Annex through a circular glass-clad rotunda. The rotunda features a 32-foot tall acrylic prism, one of two installations by San Diego-based artist Robert Irwin. The other installation is a zigzag ramp bordered by rows of hedges alongside the new building.

The General Services Administration oversaw the \$380-million project with extensive input from the court through the combined oversight of three chief district judges. Current Chief Judge Barry Ted Moskowitz will preside at a ribbon-cutting ceremony when the building is dedicated in April 2013. His predecessor as chief, Senior District Judge Irma E. Gonzalez, was present at the groundbreaking, while District Judge Marilyn L. Huff was chief during the initial project scoping and lobbying efforts. Clerk of Court W. Samuel Hamrick, Jr., has led the staff support effort throughout the process.

"The court wanted a design that would be inviting and convey the concept of transparency in the judicial process. It has turned out well, we think," Hamrick said.



*Clerk of Court W. Samuel Hamrick, Jr., speaking with staff in newly constructed office space. Pictured below is the west-facing exterior of the courthouse.*





# Stately Weinberger Courthouse Nears a Milestone

Judges and staff of the United States Bankruptcy Court for the Southern District of California are preparing to mark the centennial of the Jacob Weinberger U.S. Courthouse, the first permanent federal facility to be built in San Diego.

Opened in 1913, the U.S. Post Office and Customs House also served as a federal courthouse and provided space for several agencies. It served as a face of the federal government during the Panama-California Exposition held in San Diego in 1915.

The building housed the busy U.S. District Court for the Southern District of California for more than half a century. A growing docket led to construction of additional courtrooms in the 1950s and 60s. The court soon outgrew the building and, in 1976, moved into a new federal office complex built on an adjacent site.

Empty for several years, the building was being readied for Immigration and Naturalization Service use when two federal judges intervened in 1985. The late Chief Judge Emeritus Richard H. Chambers of the U.S. Court of Appeals for the Ninth Circuit and the late U.S. District Judge John S. Rhoades proposed restoring and modernizing the courthouse for use by the bankruptcy court.

The two judges successfully rallied political and community support for the project. In 1988, Congress allocated funds for the restoration



and also authorized designating the building as the Jacob Weinberger U.S. Courthouse in honor of the first federal judge to sit in courthouse. Work commenced in 1990 and was completed four years later at a cost of \$12.9 million. The courthouse was officially rededicated on April 22, 1994.

The three-story structure makes use of two architectural styles, Classical Revival and Spanish Colonial Revival. The striking combination includes a 70-foot-long colonnade, a two-story portico supported by 10 massive concrete columns, and five-story, Mission-style towers at each end of the structure.

The first-floor lobby features tall, arched windows lining the front façade, mahogany entry doors, double-globe sconces, a terrazzo floor and vaulted ceilings. A



modernized open-cage elevator carries visitors to the courtrooms on the second floor. The original courtroom used by Judge Weinberger, boasts a 20-foot coffered ceiling. Artwork in the courthouse includes paintings created in the 1930s by Work Projects Administration artists.

The Jacob Weinberger U.S. Courthouse is currently used by four bankruptcy judges and Clerk of Court staff. ▲▲



# Yakima Courthouse Centennial

Judges, court staff and special guests gathered June 21, 2012, for a centennial celebration of the William O. Douglas United States Courthouse and Federal Building in Yakima, Washington.

The program was hosted by the U.S. District Court for the Eastern District of Washington. Speakers included Chief District Judge Rosanna Malouf Peterson, District Judge Lonny R. Suko, Senior District Judge Justin L. Quackenbush, and representatives of U.S. Senators Maria Cantwell and Patty Murray of Washington, and U.S. Rep. Doc Hastings.

Also making remarks was Cathleen Douglas Stone, widow of the late U.S. Supreme Court Justice William O. Douglas, for whom the courthouse is named. Justice Douglas served from 1939 to 1975, the longest tenure of any associate justice in history.

The program concluded with a lecture entitled "Near Wilderness: Yakima and William O. Douglas," given by historian Michael Sullivan, who was introduced by John Baule, director of the Yakima Valley Museum. ▲▲



*Eastern District of Washington judges participating in the Yakima Courthouse Centennial included, from left: Magistrate Judge James P. Hutton, Senior District Judge Justin L. Quackenbush, Judge Lonny R. Suko, and Chief District Judge Rosanna Malouf Peterson.*

# Federal Courthouses in San Francisco, Los Angeles Designated National Landmarks

The James R. Browning United States Courthouse in San Francisco and the Spring Street U.S. Courthouse in Los Angeles were designated national landmarks by the U.S. Department of the Interior on October 17, 2012.

The Browning courthouse, which opened in 1905 as both a courthouse and post office, now serves as the administrative headquarters for the U.S. Court of Appeals for the Ninth Circuit. Designed by James Knox Taylor, the supervising architect of the U.S. Treasury, the courthouse is considered one of the nation's most beautiful public buildings. It was added to the National Register of Historic Places in 1971. In 2004, Congress authorized the naming of the building for the Ninth Circuit's late chief judge emeritus, the Honorable James R. Browning.

A San Francisco landmark, the Browning courthouse sustained fire damage in the 1906 earthquake but was closed by the 1989 Loma Prieta earthquake, which caused extensive structural damage. Judges of the court and elected leaders rallied support for its repair and restoration, resulting in a \$91 million project that included seismic improvements to protect against future earthquakes. The building reopened in 1996, seven years to the day after the Loma Prieta earthquake.



Above: James R. Browning United States Courthouse in San Francisco. Left: United States Courthouse located on Spring Street in downtown Los Angeles.

Central District of California. Built between 1937 and 1940, it was the third federal building to be constructed in Los Angeles and also once housed a post office. It was added to the National Register of Historical Places in 2006.

Over its 107-year history, the Browning courthouse has been the venue for many important legal rulings, including most recently a decision striking down a California constitutional amendment prohibiting same-sex marriage.

The Spring Street courthouse is the downtown division of the U.S. District Court for the

The Spring Street courthouse also has a colorful history. It was the venue for the first ruling that public school segregation was unconstitutional, the 1946 Mendez v. Westminster School District lawsuit, and the 1973 federal government case against Daniel Ellsberg for leaking the "Pentagon Papers," according to the U.S. General Services Administration. ▲▲





## New Bakersfield Courthouse Opens

A new federal courthouse opened for business July 16, 2012, in Bakersfield, California. The state-of-the-art courthouse provides a courtroom, judicial chambers and office space for related court units. The building features high ceilings and tall windows, which

provide for natural lighting much of the day. The project was made possible through a \$28.5 million funding from the American Recovery and Reinvestment Act. The new courthouse houses a magistrate judge, the clerk's office, U.S. Probation and Pretrial Services offices, and the U.S. Marshals Service. An official building dedication was held September 28, 2012.



## Billings Courthouse Dedicated

Federal judges gathered September 18, 2012, for the dedication of a new federal courthouse in Billings, Montana. The ceremony concluded the 27-month construction project, which was completed four months ahead of schedule. Speakers included Ninth Circuit Judge Sidney R. Thomas, who is a native of Bozeman, Montana, and has his chambers in Billings. In his remarks, Judge Thomas remembered the late chief judges of the U.S. District Court for Montana, the Honorable James F. Battin and the Honorable



William J. Jameson, and the former chief judge of the Ninth Circuit Court of Appeals, the Honorable James R. Browning, who was born and raised in Belt, Montana. The courthouse, Judge Thomas said, "will be imbued with their spirit of justice,

public service, and extraordinary judicial administration."

Congress authorized designating the building the James F. Battin United States Courthouse on December 19, 2012.



# Courthouses Under Construction

## John M. Roll U.S. Courthouse, Yuma, Arizona



Gross Square Footage: 56,791  
Design/Build Team: Sundt Construction & Ehrlich Architects  
Occupancy Date: June 2013

## Prince Jonah Kuhio Kalanianaʻole Federal Building and U.S. Courthouse, Honolulu, Hawaii



Gross Square Footage: 862,269  
Architects: Gensler and Associates  
General Contractor: Swinerton  
Completion Date: Courthouse (Phase I) 2014,  
Federal Building (Phase II) 2017

## Courthouses In Design Phase



U.S. District Courthouse  
Eureka, California

Gross Square Footage:  
23,000

Owner/Developer:  
Eureka Skyline 26 Partners

Occupancy Date:  
January 2015

*cited in U.S. v. Castro-Verdugo, No. 13-50386 archived on May 14, 2014*



U.S. District Courthouse  
Los Angeles

Gross Square Footage: 550,000

Design/Build Team:

Clark Construction & SOM

Occupancy Date: March 2016



cited in U.S. v. Castro-Verdugo, No. 13-50386 archived on May 14, 2014

## The Work of the Courts



# Court of Appeals Caseload Holds Steady

The United States Court of Appeals for the Ninth Circuit saw a moderate increase in new filings and a slight dip in case terminations but ended fiscal year 2012 with its pending caseload virtually unchanged.

New appeals filed with the Ninth Circuit numbered 12,684 in FY 2012, up 4.5 percent from the prior year. The Ninth Circuit remained the nation's busiest appellate court with 22.1 percent of all new appeals nationally. Appellate filings nationwide numbered 57,501, up 4.3 percent overall and by as much as 12.3 percent among the individual circuits. Only the Second, Seventh and Tenth circuits reported fewer filings from the prior year.

The Ninth Circuit disposed of 12,735 cases in FY 2012, down 2.2 percent from the prior year, and ended the year with a pending caseload of 14,132 cases, down 0.4 percent.

Immigration matters and appeals brought by inmates in state or federal prisons within the circuit constituted two-thirds of the new filings, while more than half of all appeals were brought by litigants who were not represented by a lawyer.

## Breakdown of New Appeals

District courts, which serve as trial courts in the federal judicial system, generated 8,092 appeals, or 63.8 percent of the court's new

## 1 Appellate Caseload Profile, 2011-2012

Caseload Measure	2011	2012	Change 2011-12
Filings	12,141	12,684	4.5%
Terminations	13,025	12,735	-2.2%
<sup>1</sup> Pending Cases	14,183	14,132	-0.4%

<sup>1</sup>2011 pending cases revised

filings in FY 2012. As expected, larger district courts produced greater numbers of appeals. The Central District of California, the busiest court in the circuit, generated 2,329 appeals, up 4 percent from prior year. The Eastern District of California had the next largest number of new appeals with 1,104, down 12 percent. New appeals from the Western District of Washington and the Southern District of California rose by 16 percent and 15.3 percent, respectively.

Of the appeals of district court decisions, 6,419 were civil appeals and 1,673 were criminal appeals. On the civil side, the U.S. government was a plaintiff or defendant in 1,104 cases, or 17.2 percent of the total. Prisoner petitions involving habeas corpus, capital habeas corpus, civil rights, prison conditions and other matters numbered 2,777. On the criminal side, 490 appeals were for drug offenses, 439 for illegal immigration, 237 for property offenses, 150 for offenses involving firearms and explosives, 111 for sex offenses and 103 for violent offenses.

Appeals of agency decisions numbered 3,675, up 17.4 percent from the prior year. Within this category are appeals of decisions by the Board of Immigration Appeals. BIA appeals numbered 3,501, up 18.2 percent, and accounted for 27.6 percent of all new filings. The Ninth Circuit had 49.8 percent of the total BIA appeals filed nationally in FY 2012, more than any other circuit.

Original proceedings commenced in FY 2012 numbered 721 with the bulk involving second or successive habeas corpus petitions and mandamus appeals.

## Terminations and Pending Cases

The court terminated 12,735 in FY 2012, down 2.2 percent from the prior year. Of the total, 8,372 cases were terminated on the merits, 1,562 after oral argument and 6,376 after submission on the briefs. Merit terminations included 1,347 criminal cases and 1,440 administrative agency appeals. Another 4,363 cases were terminated on procedural grounds by judges and court staff. Judicial panels produced 605 published and 7,333 unpublished opinions in merits terminations.

## 2 Filings, Terminations and Pending Cases by Appeal Type, 2011-2012

Type of Appeal	2011 Filings	2012 Filings	Change 2011-12	% of Circuit Total	2011 Terminations	2012 Terminations	Change 2011-12	2011 Pending	2012 Pending	Change 2011-12
Civil										
U.S. Prisoner Petitions	492	513	4.3%	4.0%	503	628	24.9%	479	375	-21.7%
Private Prisoner Petitions	3,108	2,777	-10.6%	21.9%	3,202	3,601	12.5%	3,316	2,521	-24.0%
Other U.S. Civil	632	591	-6.5%	4.7%	608	649	6.7%	720	657	-8.8%
Other Private Civil	2,179	2,538	16.5%	20.0%	2,135	2,196	2.9%	2,272	2,624	15.5%
Criminal	1,624	1,673	3.0%	13.2%	1,598	1,705	6.7%	1,811	1,783	-1.5%
Other										
Bankruptcy	179	196	9.5%	1.5%	149	164	10.1%	196	231	17.9%
Administrative Appeals	3,130	3,675	17.4%	29.0%	4,033	3,092	-23.3%	5,112	5,785	13.2%
Original Proceedings	797	721	-9.5%	5.7%	797	700	-12.2%	135	156	15.6%
Circuit Total	12,141	12,684	4.5%		13,025	12,735	-2.2%	14,041	14,132	0.6%
National Appellate Total	55,126	57,501	4.3%		57,357	57,570	0.4%	43,633	43,545	-0.2%
Ninth Circuit as % of National Total	22.0%	22.1%	0.0%		22.7%	22.1%	0.6%	32.2%	32.5%	0.3%

Note: This table includes appeals reopened and remanded as well as original appeals. This table does not include data for the U.S. Court of Appeals for the Federal Circuit. Beginning in 2007, the category entitled "reopened," which includes all reopened appeals, has replaced the category entitled "reinstated." Therefore, data on reopened cases for 2007 and thereafter are not comparable to data published previously on reinstated cases.

Among cases terminated on the merits, 4,649 were affirmed or enforced and 434 disposed of through consolidation. The remaining 3,289 cases were dismissed, reversed, remanded or disposed of by other means. The court's overall reversal rate was 7.7 percent, compared to a national average of 6.8 percent. By category, reversal rates ranged from 3.7 percent for prisoner appeals to 7.3 percent for administrative appeals to 15 percent in civil matters involving the government.

The court's pending caseload was reduced to 14,132 in FY 2012, down slightly from 14,183 the previous year. Among the pending cases, 35.5 percent had been pending less than 6 months, 24.4 percent pending 6 to 12 months, and 40.2 percent for more than 12 months.

## 3 Median Time Intervals in Months for Merit Terminations of Appeals, 2011-2012

By Stage of Appeal	Number of Months			
	Ninth Circuit		National	
	2011	2012	2011	2012
<sup>1</sup> From Filing of Notice of Appeal or Docket Date to Filing of Appellee's Last Brief	8.7	7.8	6.2	6.0
From Filing of Appellee's Last Brief to Oral Argument or Submission on Brief	8.2	7.8	4.4	4.5
From Oral Argument to Last Opinion or Final Order	1.5	1.1	2.2	2.1
From Submission on Brief to Last Opinion or Final Order	0.3	0.2	0.6	0.4
<sup>1</sup> From Filing of Notice of Appeal or Docket Date to Last Opinion or Final Order	17.4	15.3	11.0	9.8
From Filing in Lower Court to Last Opinion or Final Order in Appeals Court	36.0	33.8	29.3	29.0

Note: This table does not include data for the U.S. Court of Appeals for the Federal Circuit.

<sup>1</sup>Docket date is used when computing the median time interval for original proceedings and appeals from administrative agencies.

### Median Time Intervals

Median time intervals, which measure how long it takes for cases decided on the merits to proceed through the appellate process, was reduced in FY 2012. The median time

interval from filing of a notice of appeal to final disposition of a case was 15.3 months, down from 17.4 months the previous year. Briefing accounted for 7.8 months, down from 8.7 months. The median time interval from the filing of a

case in a lower court to final appellate disposition was 33.8 months down from 36 months the year before.

The national median time intervals in FY 2012 were 9.8 months from notice of appeal to final disposition by a circuit court of appeals, and 29 months from the filing of a case in a lower court to final disposition by a circuit court.

Once an appeal was fully briefed, Ninth Circuit judges decided cases fairly quickly. In FY 2012, the median time interval was 1.1 months for a case in which oral arguments were heard, and .2 months for a case submitted on briefs.

#### Pro Se Filings and Terminations

Pro se appeals involve at least one party who is not represented by counsel. In FY 2012, new appeals by pro se litigants numbered 6,449, up 3.1 percent from the prior year. Pro se litigants accounted for 50.8 percent of all appeals opened during the year. Prisoner petitions, 2,898, and agency appeals, 1,487, made up 68 percent of pro se appeals. The majority of pro se appeals, 4,227 cases, involved decisions of the district courts of the circuit.

The court terminated 7,066 pro se appeals in FY 2012, up 10.1 percent. Of that number, 2,498 were closed on procedural grounds, while 4,568 were terminated on the merits either after oral argument or submission on the briefs.

#### 4 Source of Appeals and Original Proceedings Commenced, 2012

District	Appeals	% of Total
Alaska	101	0.8%
Arizona	831	6.6%
C. Calif.	2,329	18.4%
E. Calif.	1,104	8.7%
N. Calif.	902	7.1%
S. Calif.	609	4.8%
Guam	10	0.2%
Hawaii	156	1.2%
Idaho	121	1.0%
Montana	201	1.6%
Nevada	602	4.7%
Northern Mariana Islands	12	0.1%
Oregon	368	2.9%
E. Wash.	182	1.4%
W. Wash.	564	4.4%
Bankruptcy	196	1.5%
Administrative Agencies, Total	3,675	29.0%
IRS	35	0.4%
National Labor Relations Board	29	0.2%
BIA	3,501	27.6%
Other Administrative Agencies	90	0.7%
Original Proceedings	721	12.5%
Circuit Total	12,684	

Note: Totals include reopened and remanded appeals as well as original appeals. Administrative agency cases previously reported as immigration service (INS) are shown under Board of Immigration Appeals (BIA) and U.S. Tax Court is shown under IRS.

#### 5 Ninth Circuit Court of Appeals En Banc Ballots, 2008-2012

Year	Petitions Filed for Rehearing En Banc	En Banc Ballots Sent	Grants of Rehearing En Banc Following A Vote	Denials of Rehearing En Banc Following A Vote
2012	913	33	19	14
2011	826	<sup>1</sup> 28	13	14
2010	1,002	58	24	34
2009	1,014	36	14	22
2008	1,208	31	19	12

<sup>1</sup>En banc call withdrawn in one case.



# Judges of the United States Court of Appeals for the Ninth Circuit



Judges in Order of Seniority

1. Alex Kozinski	Pasadena, CA	23. M. Margaret McKeown	San Diego, CA
2. Alfred T. Goodwin	Pasadena, CA	24. Kim McLane Wardlaw*	Pasadena, CA
3. J. Clifford Wallace*	San Diego, CA	25. William A. Fletcher	San Francisco, CA
4. Procter Hug, Jr.*	Reno, NV	26. Raymond C. Fisher	Pasadena, CA
5. Mary M. Schroeder	Phoenix, AZ	27. Ronald M. Gould*	Seattle, WA
6. Jerome Farris*	Seattle, WA	28. Richard A. Paez	Pasadena, CA
7. Harry Pregerson	Woodland Hills, CA	29. Marsha S. Berzon	San Francisco, CA
8. Arthur L. Alarcón*	Los Angeles, CA	30. Richard C. Tallman	Seattle, WA
9. Dorothy W. Nelson	Pasadena, CA	31. Johnnie B. Rawlinson	Las Vegas, NV
10. William C. Canby, Jr.*	Phoenix, AZ	32. Richard R. Clifton	Honolulu, HI
11. Stephen Reinhardt*	Los Angeles, CA	33. Jay S. Bybee	Las Vegas, NV
12. John T. Noonan*	San Francisco, CA	34. Consuelo M. Callahan	Sacramento, CA
13. Diarmuid F. O'Scannlain	Portland, OR	35. Carlos T. Bea	San Francisco, CA
14. Edward Leavy*	Portland, OR	36. Milan D. Smith, Jr.	El Segundo, CA
15. Stephen S. Trott*	Boise, ID	37. Sandra S. Ikuta*	Pasadena, CA
16. Ferdinand F. Fernandez*	Pasadena, CA	38. N. Randy Smith	Pocatello, ID
17. Andrew J. Kleinfeld*	Fairbanks, AK	39. Mary H. Murguia	Phoenix, AZ
18. Michael Daly Hawkins	Phoenix, AZ	40. Morgan Christen	Anchorage, AK
19. A. Wallace Tashima*	Pasadena, CA	41. Jacqueline H. Nguyen	Pasadena, CA
20. Sidney R. Thomas	Billings, MT	42. Paul J. Watford	Pasadena, CA
21. Barry G. Silverman	Phoenix, AZ	43. Andrew D. Hurwitz	Phoenix, AZ
22. Susan P. Graber	Portland, OR		

\*Not Pictured

### En Banc Cases

En banc courts, which consist of 11 judges rather than three, are used to resolve intra-circuit conflicts or other legal questions of exceptional importance. In FY 2012, en banc courts were convened quarterly and considered 14 cases. For the year, the court received 913 petitions seeking en banc review of which 19 were granted. En banc decisions reached by the court in FY 2012 numbered 22, 21 after oral argument and one after submission on the briefs.

### Death Penalty Cases

The court ended the fiscal year with 105 pending death penalty cases from six states. Arizona and California had 53 and 32 pending cases, respectively. There were 11 pending cases in Nevada, four each in Idaho and Washington and one in Oregon. Within the circuit, another 720 death penalty cases are pending before state supreme courts and

federal trial courts of the circuit. Since 1976, there have been 71 executions by states within the circuit.

### Contributions by Active, Senior and Visiting Judges

The court ended FY 2012 with 28 active circuit judges and 15 senior circuit judges. During the year, active circuit judges participated in 65 percent of all cases terminated on the merits, up slightly from prior year. Senior judges of the circuit were involved in 24.9 percent of the cases, while visiting judges helped decide 4.1 percent. Over the course of the year, 44 circuit and district judges from other circuits and districts, both active and senior, sat with the court of appeals.

In addition to sitting on panels, senior circuit judges served on screening and motions panels and various administrative court committees. ▲▲

*U.S. v. Castro-Venugo, No. 13-50386 archived on May 14, 2014*  
cited in the

# District Courts Report Nation's Highest Criminal Caseload

United States district courts serve as trial courts in the federal judicial system. The 15 district courts in the Ninth Circuit received 66,217 criminal and civil filings or 18.9 percent of the 349,745 district court filings nationally in fiscal year 2012. Total filings in the circuit decreased by 2.8 percent from FY 2011.

## Criminal Caseload and Defendants

Beginning in FY 2012, data on criminal cases commenced by offense and district are no longer published by the Administrative Office of the U.S. Courts. Data on criminal defendants commenced by offense continues to be used because it takes into account that a single case may have multiple defendants.

In FY 2012, district courts in the Ninth Circuit had the highest criminal caseload in the nation. Criminal cases numbered 18,094, or 25.4 percent of the national total, while criminal defendants numbered 22,762, which was 24.3 percent of the national total.

Criminal defendants charged with immigration offenses accounted for 37.3 percent of all criminal defendants in the circuit. Immigration offenders included those who entered or attempted to enter the United States illegally and those found to be in the U.S. illegally under 8 USC § 1326.

The Ninth Circuit had the highest number of criminal defendants

## 6 U.S. District Courts - Total Criminal and Civil Cases Filed, Terminated and Pending, 2011-2012

Caseload Measure	2011	2012	<sup>1</sup> Change 2011-2012
Civil Filings	46,373	48,123	3.8%
Criminal Filings	21,740	18,094	-16.8%
Total Filings	68,113	66,217	-2.8%
Civil Terminations	46,968	47,455	1.0%
Criminal Terminations	21,936	20,277	-7.6%
Total Terminations	68,904	67,732	-1.7%
<sup>2</sup> Pending Civil Cases	39,748	40,416	1.7%
Pending Criminal Cases	16,023	14,179	-11.5%
<sup>2</sup> Total Pending Cases	55,771	54,595	-2.1%
Civil Case Termination Index (in months)	10.15	10.21	0.6%
Criminal Case Termination Index (in months)	8.76	8.38	-4.3%
<sup>2</sup> Overall Case Termination Index	9.71	9.67	-0.4%
Median Months (from filing to disposition) Civil Cases	7.10	6.70	-5.6%
Median Months (from filing to disposition) Criminal Defendants	5.10	5.70	11.8%
Median Months National Total (from filing to disposition) Civil Cases	7.30	7.80	6.8%
Median Months National Total (from filing to disposition) Criminal Defendants	6.40	7.20	12.5%

Note: Pending totals for criminal cases exclude cases in which the only defendants pending in such cases had been fugitives more than 12 months before the end of the period indicated. Criminal cases commenced includes all cases filed as felonies or Class A misdemeanors but includes only those cases filed as petty offenses that were assigned to district judges rather than magistrate judges. Median computed only for 10 or more defendants. Beginning in March 2012, the median time interval is computed from the proceeding date for a defendant (e.g., the date an indictment or information was filed) to the date on which the defendant was found not guilty or was sentenced. Previously, the median time interval was computed beginning with the defendant's filing date. Therefore, data for March 2012 and thereafter are not comparable to data for previous periods.

<sup>1</sup>Percent change not computed when fewer than 10 cases reported for the previous period.

<sup>2</sup>2011 total pending civil cases and total pending cases revised.

charged with drug offenses in the U.S. in FY 2012. District courts in the circuit reported 7,730 drug defendants, which constituted 33.9 percent of all criminal defendants in the circuit. Among drug offenses, 3,395 defendants faced marijuana-related charges,

which constituted 43.9 percent of all drug defendants in the circuit. Criminal defendants charged with all other drug offenses numbered 4,335.

The Ninth Circuit had the most defendants charged with



## 7 U.S. District Courts - Criminal Defendants Commenced by Offense and District, 2011-2012

	AK	AZ	C. Calif.	E. Calif.	N. Calif.	S. Calif.	GU	HI	ID	MT	NMI	NV	OR	E. Wash.	W. Wash.	2011 Total	2012 Total	Change 2011-12
Violent Offenses																		
Homicide	0	32	1	1	0	1	0	2	0	8	0	5	1	2	6	51	59	15.7%
Robbery	1	12	13	5	16	19	0	4	1	1	0	12	36	0	6	174	126	-27.6%
Assault	0	115	7	9	8	32	0	10	8	35	0	15	25	3	6	295	273	-7.5%
Other	1	30	5	2	21	1	0	3	2	11	0	15	5	8	3	132	107	-18.9%
Property Offenses																		
Burglary, Larceny & Theft	6	49	61	79	20	15	26	32	6	22	0	16	30	8	98	509	468	-8.1%
Embezzlement	2	12	6	6	6	9	1	3	7	6	0	10	4	1	7	88	80	-9.1%
Fraud	16	555	456	210	150	349	23	50	27	31	17	166	55	41	94	2,989	2,240	-25.1%
Forgery & Counterfeiting	1	20	39	15	14	3	1	11	1	4	3	2	19	3	4	130	140	7.7%
Other	2	4	1	1	7	3	0	0	2	1	0	2	2	2	9	63	36	-42.9%
Drug Offenses																		
Marijuana	6	2,377	126	131	26	553	1	16	8	36	0	10	15	29	61	3,777	3,395	-10.1%
All Other Drugs	98	502	497	282	253	1,660	29	99	118	108	8	132	170	101	278	4,084	4,335	6.1%
Firearms and Explosives Offenses	38	208	82	100	117	42	12	28	50	52	4	115	128	64	102	1,076	1,142	6.1%
Sex Offenses	15	85	56	66	31	78	5	8	23	50	3	56	42	20	35	621	575	-7.4%
Justice System Offenses	1	37	11	7	22	35	2	2	8	1	6	11	12	11		171	166	-2.9%
Immigration Offenses																		
Improper Reentry by Alien	1	3,145	484	239	166	2,324	0	7	89	5	0	90	183	82	75	8,571	6,890	-19.6%
Other	0	393	35	3	9	1,074	4	5	8	0	3	3	13	2	44	1,948	1,596	-18.1%
General Offenses	15	31	44	56	14	64	11	11	4	10	0	37	17	11	45	697	370	-46.9%
Regulatory Offenses	15	74	98	27	34	52	1	22	15	12	2	12	14	2	29	461	409	-11.3%
Traffic Offenses	2	3	1	14	27	0	13	43	0	0	0	0	1	0	251	620	355	-42.7%
All Offenses Total	220	7,684	2,023	1,253	941	6,314	127	356	371	400	43	704	771	391	1,164	26,457	22,762	-14.0%

Note: This table includes defendants in all cases filed as felonies or Class A misdemeanors but includes only those defendants in cases filed as petty offenses that were assigned to district judges rather than magistrate judges.

property offenses, 2,964, which include fraud, 2,240; burglary, larceny and theft, 468; forgery and counterfeiting, 140; embezzlement, 80; and other property offenses, 36.

Defendants charged with firearms and explosive offenses numbered 1,142, while violent offenses

including homicide, robbery, and assault numbered 458.

The border courts in the districts of Arizona and Southern California reported the highest number of criminal defendants with drug-related and immigration offenses in FY 2012. Defendants numbered 7,684 in the District

of Arizona or 33.8 percent of all criminal defendants in the circuit. The Arizona court had 2,879 defendants charged with drug offenses or 37.2 percent of all criminal defendants charged with drug offenses in the circuit. Defendants charged with immigration offenses numbered 3,538 or 41.7 percent of all

## 8 U.S. District Courts: Weighted and Unweighted Filings Per Authorized Judgeship, 2011-2012

District	Weighted Filings Per Judgeship							Unweighted Filings Per Judgeship			
	Authorized Judgeships	Civil	Criminal	Supervision Hearings	2011 Total	2012 Total	Change 2011-2012	Civil	Criminal	Supervision Hearings	2012 Total
Alaska	3	122	74	0.29	194	196	1.0%	103	73	1.67	178
Arizona	13	302	390	19.53	815	712	-12.6%	303	590	139.31	1,032
C. Calif.	28	626	60	4.53	655	691	5.5%	540	72	31.96	644
E. Calif.	6	947	176	8.73	1,098	1,132	3.1%	873	208	62.00	1,143
N. Calif.	14	611	60	4.38	631	675	7.0%	488	68	28.93	585
S. Calif.	13	279	305	17.53	581	602	3.6%	239	486	124.85	850
Hawaii	4	229	69	5.61	362	304	-16.0%	184	89	38.50	312
Idaho	2	409	162	6.41	516	577	11.8%	349	186	45.50	581
Montana	3	231	139	9.61	362	380	5.0%	223	133	63.67	420
Nevada	7	442	100	5.19	575	547	-4.9%	400	101	34.43	535
Oregon	6	414	110	9.30	505	533	5.5%	379	129	65.83	574
E. Wash.	4	207	88	17.16	312	312	-	216	97	121.75	435
W. Wash.	7	535	118	6.50	643	330	-48.7%	479	167	44.14	690
Circuit Total	110	5,354	1,851	114.77	7,249	6,991	-3.6%	4,776	2,399	802.54	7,979
Circuit Mean	***	412	142	8.83	558	538	-3.6%	367	185	61.73	614
Circuit Median	***	409	110	6.50	575	547	-4.9%	349	139	45.5	581
National Mean	***	355	118	5.30	478	478	-	333	148	35.36	516
National Total	673	386	118	5.26	509	520	2.2%	354	152	35.51	545

Note: Case weights are based on the 2003-2004 district court case weighting study conducted by the Federal Judicial Center. This table excludes civil cases arising by reopening, remand, or transfer to the district by the order of the Judicial Panel on Multidistrict Litigation. This table includes defendants in all felony and Class A misdemeanor cases but includes only those petty offense defendants whose cases have been assigned to district judges. Remands and reopens for criminal defendants are excluded. This table excludes data for the territorial courts. Data are reported for supervised release and probation hearings (both evidentiary and non-evidentiary) previously not presented in this table. Data are obtained from the monthly reports of trials and other court activities conducted by resident and visiting judges. Due to rounding, subtotals for weighted and unweighted civil, criminal, and revocation filings may not equal totals for weighted and unweighted filings.

criminal defendants charged with immigration offenses.

The Southern District of California had 6,314 defendants or 27.7 percent of all criminal defendants in the circuit. The district had 2,213 defendants charged with drug offenses and 3,398 defendants charged with immigration offenses.

### Civil Caseload

New civil filings in the district courts of the circuit numbered 48,123, up 3.8 percent from FY 2011. The circuit accounted

for 17.3 percent of the 278,442 civil filings in the district courts nationally. Civil filings decreased nationally by 3.7 percent over the prior fiscal year.

Private civil cases, which numbered 38,529, accounted for 80.1 percent of all civil filings in FY 2012. Prisoner petitions were most numerous, totaling 9,200 or 23.9 percent of all new private civil cases. The U.S. government acted as a plaintiff in 2,228 cases and as a defendant in 7,366 cases, accounting for 15.3 percent of all new civil filings.

Other major categories of new private civil filings were civil rights, 5,863 cases or 15.2 percent; contracts, 4,222 cases or 11 percent; real property suits, 3,821 cases or 10 percent; intellectual property suits, 3,040 or 8 percent; labor suits, 2,806 cases or 7.3 percent; and other personal injury, 2,379 or 6.2 percent.

U.S. civil cases or civil cases in which the government was a party numbered 9,594. Social security cases were most numerous, 3,579 cases or 37.3 percent of the total. Other

major categories were prisoner petitions 1,998 cases or 20.8 percent, and contracts, 1,214 cases or 12.7 percent.

Eleven district courts reported increased civil filings in fiscal year 2012 including the Central District of California, which had the largest civil caseload in the circuit and second in the nation with 15,739 filings, up 3.2 percent from FY 2011. Other districts with increased civil filings include the districts of Alaska, Arizona, Northern California, Southern California, Idaho, Montana, Northern Mariana Islands, Oregon, Eastern Washington, and Western Washington.

Civil filings declined in the districts of Eastern California, Guam, Hawaii and Nevada.

Civil case terminations in the Ninth Circuit numbered 47,455, slightly up 1 percent from 46,968 in FY 2011.

Civil terminations nationwide decreased by 10.4 percent to 271,572. Pending civil cases totaled 40,416, up 1.7 percent.

### Case Processing Times

Case processing times in the district courts of the Ninth Circuit remained constant in fiscal year 2012. The Case Termination Index, which computes how long it would take to clear the pending caseload if the current termination rate remained constant, was 9.67 months compared to 9.71 months the prior fiscal year.

The median time from filing to disposition of civil cases in the Ninth Circuit was down to 6.7 months from 7.1 months the prior fiscal year, while the national median increased from 7.3 to 7.8 months in FY 2012.

For criminal defendants, the median time from filing to disposition in the Ninth Circuit was 5.7 months compared to 5.1 months in FY 2011. The national median time was 7.2 months, up from 6.4 months the prior fiscal year. ▲▲

cited in U.S. v. Castro-Verdugo, No. 13-50386 archived on May 14, 2014



# Bankruptcy Filings Continue Downward Trend

United States bankruptcy courts in the Ninth Circuit experienced another significant decline in new case filings during fiscal year 2012. It was the second consecutive year in which new filings dropped after four years of steady increases.

Bankruptcy courts in the Ninth Circuit reported 305,524 new cases, down 20.1 percent from the prior fiscal year. Thirteen out of 15 districts in the circuit experienced a downturn in bankruptcy filings including the nation's busiest venue, the U.S. Bankruptcy Court for the Central District of California.

The Central District bankruptcy court, which takes in the Los Angeles metropolitan area, saw its new filings drop 20 percent, the first decline since 2007. The Central District remains the busiest bankruptcy court in the nation with 111,909 total filings reported.

Other districts in the circuit with large numbers of bankruptcy filings also reported significant decreases. The Eastern District of California, which takes in Sacramento, Fresno and the Central Valley, had 39,481 new cases, down 23.3 percent. The District of Arizona reported 30,135 new cases, down 23

percent. Filings were down by 21.1 percent to 28,935 in the Northern District of California, which includes the San Francisco Bay Area; by 13 percent to 22,955 in the Western District of Washington, which takes in Seattle and Tacoma; by 25.9 percent to 19,434 cases in the District of Nevada; by 17.6 percent to 18,359 cases in the Southern District of California, which takes in San Diego; and by 12.2 percent to 16,048 cases in the District of Oregon.

Throughout the circuit, Chapter 7 cases were most numerous, accounting for 77.1 percent of all new filings. Chapter 13 filings amounted to nearly 22 percent of the circuit total with Chapters 11 and 12 making up the remainder. Nonbusiness filings involving individual debtors accounted for 96.7 percent of all new cases.

## Pro Se Bankruptcy Filings

Bankruptcy courts continued to deal with large numbers of self-represented filers, who are unfamiliar with bankruptcy law and court procedures, therefore requiring more assistance from court staff. A number of courts have established self-help centers for pro se filers and have encouraged their local bar to provide pro bono representation for some cases.

Pro se filings in the Ninth Circuit totaled 58,372 or 51.9 percent of all pro se filings nationally in FY 2012, the most of any

## 9 Business and Nonbusiness Bankruptcy Cases Commenced, by Chapter of the U.S. Bankruptcy Code, 2011-2012

Caseload Measure	2011	2012	Change 2011-2012
Filings			
Business Chapter 7	9,275	7,394	-20.3%
Business Chapter 11	2,415	1,912	-20.8%
Business Chapter 12	129	108	-16.3%
Business Chapter 13	887	792	-10.7%
Nonbusiness Chapter 7	281,847	228,217	-19.0%
Nonbusiness Chapter 11	1,007	836	-17.0%
Nonbusiness Chapter 13	86,639	66,250	-23.5%
Total	382,199	305,509	-20.1%
Terminations	379,722	329,107	-13.3%
<sup>1</sup> Pending Cases	304,337	280,744	-7.8%

<sup>1</sup>2011 pending cases revised

Note: (1) Section 101 of the U.S. Bankruptcy Code defines consumer (nonbusiness) debt as that incurred by an individual primarily for a personal, family, or household purpose. If the debtor is a corporation or partnership, or if debt related to operation of a business predominates, the nature of the debt is business.

These figures include the following cases not reflected elsewhere:

Fiscal Year 2011: Arizona (Chapter 15 = 1); Central Calif. (Chapter 15 = 3); Northern Calif. (Chapter 15 = 5); Idaho (Chapter 9 = 1); Western Wash. (Chapter 15 = 1)

Fiscal Year 2012: Arizona (Chapter 15 = 3); Central Calif. (Chapter 9 = 1, Chapter 15 = 2); Eastern Calif. (Chapter 9 = 3, Chapter 15 = 3); Northern Calif. (Chapter 9 = 1, Chapter 15 = 1); Nevada (Chapter 15 = 1)

circuit. The Central District alone reported 30,900 pro se filings, which is more than the combined total of pro se filings in the 11th, Seventh, and Fourth circuits.

Also reporting large numbers of pro se bankruptcy filings were the Eastern District of California with 7,135 filings; the District of Arizona, 6,861; the Northern District of California, 5,083; the District of Nevada, 2,214; the Western District of Washington, 2,065; the Southern District of California, 1,699; and the District of Oregon, 1,384.

#### Terminations and Pending Cases

Bankruptcy courts in the circuit terminated 329,107 cases. The Central District of California, which has 24 authorized bankruptcy judgeships, had the highest number of cases terminated in the circuit with 120,433 or 5,018 terminations per judgeship unweighted. The Eastern District of California, seven judgeships, followed with 41,460 cases terminated; the District of Arizona, seven judgeships, 33,444 cases; the Northern District of California, nine judgeships, 28,985 cases; the Western District of Washington, five judgeships, 24,486 cases; the District of Nevada, four judgeships, 24,026 cases; and the Southern District of California, four judgeships, 19,239 cases.

Pending caseloads at the end of the fiscal year varied among bankruptcy courts in the Ninth Circuit. The Central District of California saw its pending caseload decrease by 11.1 percent to 68,088 cases. The

### 10 Ninth Circuit Bankruptcy Courts, 2011-2012

District	2011 Total Filings	2012 Total Filings	<sup>1</sup> Change 2011-2012
Alaska	1,019	841	-17.5%
Arizona	39,148	30,135	-23.0%
C. Calif.	139,882	111,909	-20.0%
E. Calif.	51,481	39,481	-23.3%
N. Calif.	36,663	28,935	-21.1%
S. Calif.	22,285	18,359	-17.6%
Guam	146	153	4.8%
Hawaii	3,566	2,672	-25.1%
Idaho	7,912	6,690	-15.4%
Montana	2,705	2,175	-19.6%
Nevada	26,239	19,434	-25.9%
N. Mariana Is.	4	11	-
Oregon	18,281	16,048	-12.2%
E. Wash.	6,490	5,726	-11.8%
W. Wash.	26,389	22,955	-13.0%
Circuit Total	382,210	305,524	-20.1%

Note: Due to differences among districts in reporting intra-district transfers, the total provided above for cases pending on September 30, 2012, may not equal the number obtained by adding totals for cases pending at the end of the prior period plus cases filed during the current period, then subtracting cases terminated during the current period.

<sup>1</sup>Percent change not computed when fewer than 10 cases reported for the previous period.

District of Arizona reported a 7.3 percent decrease to 42,386. In the Ninth Circuit as a whole, the pending caseload declined by 7.8 percent.

#### Appointments, Transitions

In 2012, the U.S. Court of Appeals for the Ninth Circuit appointed five new bankruptcy judges: Fredrick E. Clement, appointed to the Eastern District of California; M. Elaine Hammond, appointed to the Northern District of California; Mark D. Houle, appointed to the Central District of California; Christopher B. Latham, appointed to the Southern District of California; and Gary Allan Spraker, appointed to the District of Alaska.

Two bankruptcy courts saw a change of leadership in 2012. Elevated to chief bankruptcy judge were Gary Allan Spraker

of Anchorage in the District of Alaska, and Laura S. Taylor of San Diego in the Southern District of California

Ninth Circuit bankruptcy courts also rely on recalled bankruptcy judges who are appointed on a temporary basis with the approval of the Judicial Council of the Ninth Circuit. In 2012, 11 recalled bankruptcy judges served in nine districts.

In May 2012, President Barack H. Obama signed the Temporary Bankruptcy Judgeships Extension Act of 2012 which extended 29 existing temporary judgeships for an additional five years. In the Ninth Circuit, the act extended a total of five existing temporary judgeships in the Eastern District of California, the Northern District of California, and the District of Nevada. ▲▲▲

# Bankruptcy Appellate Panel Sees Workload Level Off

The Ninth Circuit Bankruptcy Appellate Panel hears appeals of decisions made by bankruptcy judges. The BAP operates under the authority of the Judicial Council of the Ninth Circuit. BAP judges, who are appointed by the judicial council, serve seven-year terms and may be reappointed to an additional three-year term. BAP judges are precluded from hearing appeals arising from their own districts.

The BAP is authorized seven bankruptcy judges but has kept one seat vacant since 2003 to reduce costs. While new filings have increased substantially since then, the BAP continues to operate with six judges as a cost-saving measure.

All district courts within the Ninth Circuit have issued general orders providing for the automatic referral of bankruptcy appeals to the BAP for disposition. However, if

any party files a timely election to have the appeal heard by a district court, the appeal is transferred according to the consent rule.

## New Filings

After three years of double-digit growth, total annual filings leveled off in fiscal year 2012. For the year, 1,015 new appeals were filed, a slight increase of .4 percent from FY 2011. The BAP handled 58 percent of all bankruptcy appeals, and the district courts handled 42 percent. Historically, the percentage of appeals that the BAP has handled has ranged between 49 percent and 60 percent.

## Dispositions

The BAP disposed of 724 appeals in fiscal year 2012, up 28 percent the prior fiscal year. Of those, 185 appeals were merits terminations. Oral argument was held in 163 appeals, and 22 appeals

## 11 New Bankruptcy Appeal Filings 2012

District	Bankruptcy Appellate Panel	<sup>1</sup> District Court	Total
Alaska	4	3	7
Arizona	63	53	116
C. Calif.	266	160	426
E. Calif.	89	33	122
N. Calif.	44	42	86
S. Calif.	21	18	39
Hawaii	10	5	15
Idaho	5	4	9
Montana	7	21	28
Nevada	40	34	74
Oregon	4	12	16
E. Wash.	6	0	6
W. Wash.	31	40	71
Total	590 (58%)	425 (42%)	1,015

<sup>1</sup>The numbers for bankruptcy appeals to the district courts are taken directly from a statistical caseload table prepared by the Administrative Office of the United States Courts ("AOUSC Table B-23"). The numbers for bankruptcy appeals to the BAP are calculated based on data from AOUSC Table B-23 and on data from the BAP's CM/ECF docketing system. The district court numbers include all appeals in which a timely election was made to have the appeal heard in the district court (both appellant and appellee elections) as well as other cases transferred in the interest of justice. The BAP numbers exclude all such appeals.

The Ninth Circuit Bankruptcy Appellate Panel consists of, seated from left, Bankruptcy Judges Randall L. Dunn of the District of Oregon, Jim D. Pappas of the District of Idaho (chair of the BAP), Meredith A. Jury of the Central District of California; and standing from left, Bankruptcy Judges Eileen W. Hollowell of the District of Arizona, Bruce A. Markell of the District of Nevada, and Chief Bankruptcy Judge Ralph B. Kirscher of the District of Montana.





were submitted on briefs. Of the 185 merits decisions, 28 were published opinions. The reversal rate was 3 percent. The median time for an appeal decided on the merits was 9.8 months.

Of the remaining 539 closed cases, 10 were terminated by consolidation; 122 were transferred to the district courts after appellee elections or in the interest of justice; and 407 were terminated on procedural grounds, such as for lack of prosecution, lack of jurisdiction or voluntary dismissal. The BAP ended fiscal year 2012 with 323 appeals pending, a 4 percent decline from FY 2011.

#### Appeals to the Ninth Circuit

Appeals from a bankruptcy decision of either the BAP or a district court may be made to the Ninth Circuit Court of Appeals for second-level appellate review. In fiscal year 2012, 189 second-level appeals were filed. Of these, 78 were appeals from decisions by the BAP and 111 were from decisions by the district courts. Thus, of the 724 appeals that were disposed of by the BAP,

## 12 Ninth Circuit Bankruptcy Appeal Filings, 2010-2012

Year	Appeals Total	<sup>1</sup> Raw Appeals Received by BAP	<sup>2</sup> Net Appeals BAP	<sup>3</sup> Net Appeals District Court	<sup>4</sup> Election Rate	Percentage of Appeals Heard by BAP
2010	783	481	396	387	49%	54%
2011	1,011	698	597	417	41%	59%
2012	1,015	712	590	425	42%	58%

<sup>1</sup>Number of new appellate filings received and opened as new case files at the BAP Clerk's Office. This figure includes some appeals where an appellee files an election and the appeal thereafter is transferred to district court. (Where a timely election is made by an appellant, the bankruptcy court generally bypasses the BAP and refers the appeal directly to the district court.)

<sup>2</sup>The number of raw bankruptcy appeals received by BAP less the number of appeals transferred from BAP to district court by election or other transfer.

<sup>3</sup>Includes the number of all bankruptcy appeals received by district court either referred directly from the bankruptcy court or transferred from the BAP.

<sup>4</sup>Percentage of bankruptcy appeals where one or more parties timely elected to have their appeals heard in district court.

roughly 89 percent were fully resolved, with only about 11 percent seeking second-level review.

#### BAP Use of Pro Tem Judges

The BAP continued to use bankruptcy judges from throughout the Ninth Circuit on a pro tem basis to assist with its large caseload. In fiscal year 2012, the BAP used 16 pro tem appointees to assist with oral arguments and merits decisions. The BAP reached out eight of the Ninth Circuit's newly appointed bankruptcy judges to provide them the opportunity to review trial work from the appellate perspective.

#### BAP Transitions

Chief Bankruptcy Judge Laura S. Taylor of the Southern District of California was appointed to a seven-year term on the BAP, replacing Judge Eileen W. Hollowell of the District of Arizona. Her term began January 1, 2013.

Bankruptcy Judge Jim D. Pappas of the District of Idaho was reappointed to the BAP for a term of three years, which commenced on August 28, 2012. Judge Pappas has served as chief judge of the BAP since 2010 and will serve in that capacity until 2015. ▲▲▲

# Magistrate Judges Make Vital Contributions

The Ninth Circuit continues its historical reliance on magistrate judges, who make invaluable contributions to the work of the federal trial courts. They assist district judges in a variety of judicial matters with duties ranging from handling petty offenses to taking felony pleas. Magistrate judges preside over preliminary proceedings, trial jurisdiction cases, and civil consent cases, review prisoner petitions, and perform other duties related to criminal and civil matters.

In 2012, 101 full-time and seven part-time magistrate judges along with 27 recalled magistrate judges served in Ninth Circuit courts. They disposed of a combined

247,631 judicial matters during the year, down 4.5 percent from fiscal year 2011.

Although preliminary proceedings continue to be the largest category, the total number declined by 8.3 percent to 100,598 in FY 2012. These proceedings included arraignments, initial appearances, detention hearings, and warrants for searches and arrests. Search warrants, which numbered 13,057, was the only category that increased under preliminary proceedings in FY 2012.

Additional duties related to criminal matters totaled 47,215, down 8.1 percent. This category includes pretrial motions and

conferences, taking of guilty pleas, hearings on probation revocation and supervised release, and evidentiary hearings. Pretrial conferences numbered 18,866, down 11.9 percent.

Additional duties related to civil matters increased to 28,461 dispositions, up 6.2 percent. Motions, pretrial conferences and settlement conferences made up the bulk of this work.

Trial jurisdiction cases, which include Class A misdemeanors and petty offenses, increased to 40,264, up 2.9 percent. Petty offenses numbered 37,722, up 3.3 percent. Class A misdemeanors numbered 2,542, slightly down 1.9 percent.



The Magistrate Judges Executive Board includes, seated from left, Judges Jennifer L. Thurston of Bakersfield, Valerie P. Cooke of Reno, David K. Duncan of Phoenix, Mary Alice Theiler of Seattle, Jeremiah C. Lynch of Missoula, and Deborah M. Smith of Anchorage. Standing from left are Joan Gee, executive secretary, Office of the Circuit Executive; Judges Joaquin V.E. Manibusan, Jr., of Guam, Stephen J. Hillman of Los Angeles, Joseph C. Spero of San Francisco, Jan M. Adler of San Diego, Richard Puglisi of Hawaii, Dennis J. Hubel of Portland, Oregon, James P. Hutton of Yakima; Chief Bankruptcy Judge Frank L. Kurtz of Yakima, a guest at the meeting; Assistant Circuit Executive Dr. Bob Rucker; and recalled Magistrate Judge Larry M. Boyle of Boise.

Civil consent cases, in which a magistrate judge presides at the consent of the parties, numbered 4,627, up 2.6 percent. The great majority of cases were disposed of without trial.

Prisoner petitions numbered 7,463, down 7.5 percent from the prior fiscal year. State habeas and civil rights petitions made up the bulk of this work.

### New Magistrate Judges and Governance

Nine new full-time magistrate judges were sworn into office in 2012. They were Bridget S. Bade, Leslie Ann Bowman, Bruce G. Macdonald, and Steven P. Logan of the District of Arizona; David H. Bartick and Karen S. Crawford of the Southern District of California; Stanley Boone and Allison Claire of the Eastern District of California; and Kandis A. Westmore of the Northern District of California.

<sup>1</sup>Before 2000, category included contested motions only. Beginning in 2000, uncontested motions were added.

<sup>2</sup>Before 2000, category did not include status conferences. Beginning in 2000, status conferences were added.

<sup>3</sup>Category includes mental competency hearings, motion hearings, and writs.

<sup>4</sup>Category includes fee applications, summary jury trials, and motion hearings. Beginning in 2006, early neutral evaluations were added.

<sup>5</sup>Category includes material witness hearings and attorney appointment hearings.

<sup>6</sup>Before 2000, this category included seizure/inspection warrants and orders of entry; judgement debtor exams; extradition hearings; contempt proceedings; Criminal Justice Act fee applications; naturalization proceedings; grand/other jury returns; civil and criminal IRS enforcement proceedings; calendar calls; and voir dire. Beginning in 2000, civil and criminal other jury matters and international prisoner transfer proceedings were added. Due to a reporting problem, CJA fee applications, a component of Miscellaneous Matters are estimated at their 2009 level.

## 13 Matters Disposed of by Ninth Circuit Magistrate Judges 2011-2012

	2011 Total	2012 Total	Change 2011-2012
Total Matters	259,209	247,631	-4.5%
Preliminary Proceedings	109,715	100,598	-8.3%
Search Warrants	11,684	13,057	11.8%
Arrest Warrants	7,833	7,609	-2.9%
Summonses	1,279	1,226	-4.1%
Initial Appearances	28,381	25,741	-9.3%
Preliminary Examinations	10,050	8,550	-14.9%
Arraignments	22,991	20,643	-10.2%
Detention Hearings	17,390	15,474	-11.0%
Bail Reviews/Nebbia Hearings	2,082	1,846	-11.3%
<sup>5</sup> Other	8,025	6,452	-19.6%
Trial Jurisdiction Cases	39,114	40,264	2.9%
Class A Misdemeanors	2,591	2,542	-1.9%
Petty Offenses	36,523	37,722	3.3%
Civil Consent Cases	4,508	4,627	2.6%
Without Trial	4,454	4,562	2.4%
Jury Trial	44	51	15.9%
Nonjury Trial	10	14	40.0%
Additional Duties			
Criminal	53,530	49,215	-8.1%
<sup>1</sup> Motions 636(b)(1)(A)	14,866	14,630	-1.6%
Motions 636(b)(1)(B)	342	180	-47.4%
Evidentiary Proceedings	221	242	9.5%
<sup>2</sup> Pretrial Conferences	21,425	18,866	-11.9%
Probation Revocation Hearings and Supervised Release	1,139	1,470	29.1%
Guilty Plea Proceedings	13,581	12,137	-10.6%
<sup>3</sup> Other	1,956	1,690	-13.6%
Civil	26,807	28,461	6.2%
Settlement Conferences	2,670	2,667	-0.1%
<sup>2</sup> Other Pretrial Conferences	5,058	4,942	-2.3%
<sup>1</sup> Motions 636(b)(1)(A)	13,434	14,523	8.1%
Motions 636(b)(1)(B)	1,925	2,334	21.2%
Evidentiary Proceedings	98	93	-5.1%
Social Security	518	702	35.5%
Special Master References	8	1	-87.5%
<sup>4</sup> Other	3,096	3,199	3.3%
Prisoner Petitions	8,069	7,463	-7.5%
State Habeas	4,359	3,381	-22.4%
Federal Habeas	472	449	-4.9%
Civil Rights	3,204	3,611	12.7%
Evidentiary Proceedings	34	22	-35.3%
<sup>6</sup> Miscellaneous Matters	17,466	17,003	-2.7%

cited in U.S. v. Castro-Verdugo, No. 13-50386 archived on May 14, 2014



Chief Magistrate Judge Candy W. Dale of the District of Idaho succeeded Magistrate Judge David K. Duncan of the District of Arizona as chair of the Magistrate Judges Executive Board. Judge Dale serves as an official observer at meetings of the Judicial Council of the Ninth Circuit. Appointed to the board in 2012 were Magistrate Judges Craig M. Kellison of the Eastern District of California, Peggy A. Leen of the District of Nevada, Charles R. Pyle of the District of Arizona, and R. Keith Strong of the District of Montana.

Members of the Magistrate Judges Executive Board joined the new magistrate judges for the circuit's New Judges Orientation, held May 17-18, 2012 at the James R. Browning U.S. Courthouse in San Francisco. The judges listened to a presentation by Magistrate Judge Andrew J. Wisrich on "The Psychology of Judging."

Other presentations focused on jury voir dire, case management issues, managing the media,



*Magistrate Judge Gary S. Austin from the Eastern District of California introducing 'How Not to Get Your Habeas Handed to You.'*

juries and social networking, and training for new technology.

#### **Educational Programs**

At the 2012 Ninth Circuit Judicial Conference, the Magistrate Judges Education Committee organized a panel discussion on federal habeas review under the Antiterrorism and Effective Death Penalty Act. Panel members include lawyers who argued Cullen

v. Pinholster. They are James W. Bilderback, II, supervising deputy attorney general of California; Sean Kennedy, federal public defender for the Central District of California; and Mark Drozdowski, assistant federal public defender, also from the Central District. Kathleen M. Sullivan, a partner at the New York law firm of Quinn Emanuel Urquhart & Sullivan LLP, served as moderator. ▲▲

# Workload Unchanged for Federal Public Defenders

For the first time in six years, federal public defenders in the Ninth Circuit saw their caseload decline, albeit slightly, in fiscal year 2012. The total of new cases opened in the circuit was 33,664 cases, down 0.8 percent from FY 2011.

The Central District of California, Northern District of California, District of Guam, and District of Montana were the only districts to report an increase in new cases opened by federal public defenders in FY 2012. Defenders opened 3,688 new cases in the Central District numbered, up

11.8 percent. The Northern District followed with 1,761 cases, up 47 percent; the District of Montana, 678 cases, up 9.4 percent; and the District of Guam, 124 cases, up .8 percent.

Elsewhere in the circuit, 11 districts experienced a decline in cases opened. The District of Arizona

had 12,033 new cases, down 5.4 percent from the prior fiscal year. It was the largest numeric decrease in the circuit. The Western District of Washington followed with 1,342 cases, down 12.6 percent; Eastern District of California, 1,700 cases, down 5.9 percent; District of Alaska, 302 cases, down 17.5 percent; Southern

## 14 Ninth Circuit Federal Defender Organizations: Cases Opened, Closed and Pending, 2008-2012

Cases	2008	2009	2010	2011	2012	Change 2011-2012
Opened	29,700	30,552	31,691	33,929	33,664	-0.8%
Closed	29,233	29,316	31,508	33,733	33,376	-1.1%
Pending	9,340	10,580	10,753	10,950	11,236	2.6%

## 15 Federal Defender Organizations: Summary of Representations by District, 2011-2012

District	Opened 2011	Opened 2012	Change 2011-2012	Closed 2011	Closed 2012	Change 2011-2012	Pending 2012
Alaska	306	302	-17.5%	347	348	0.3%	80
Arizona	12,724	12,033	-5.4%	12,510	12,297	-1.7%	1,283
C. Calif.	3,299	3,688	11.8%	3,387	3,323	-1.9%	1,667
E. Calif.	1,806	1,700	-5.9%	2,051	1,776	-13.4%	789
N. Calif.	1,198	1,761	47.0%	1,196	1,671	39.7%	592
S. Calif.	7,934	7,881	-0.7%	7,538	7,525	-0.2%	3,680
Guam	123	124	0.8%	113	131	15.9%	75
Hawaii	568	521	-8.3%	603	551	-8.6%	461
Idaho	306	303	-1.0%	313	289	-7.7%	144
Montana	620	678	9.4%	594	716	20.5%	210
Nevada	1,131	1,100	-2.7%	1,099	1,110	1.0%	722
Oregon	1,458	1,420	-2.6%	1,505	1,445	-4.0%	801
E. Wash.	861	811	-5.8%	868	839	-3.3%	310
W. Wash.	1,535	1,342	-12.6%	1,609	1,355	-15.8%	422
Circuit Total	33,929	33,664	-0.8%	33,733	33,376	-1.1%	11,236
National Total	122,813	137,764	12.2%	120,932	135,579	12.1%	48,148
Circuit Total as % of National Total	27.6%	24.4%	-3.2%	27.9%	24.6%	-3.3%	23.3%

<sup>1</sup>Community Defender Organizations: In addition to handling criminal defenses and appeals, public defenders are assigned to court-directed prisoner and witness representations, bail/pre-sentencing, and probation and parole revocation hearings.

Note: Eastern Washington and Idaho are combined into one organization, and Northern Mariana Islands is not served by a defender organization.

District of California, 7,881 cases, down .7 percent; Eastern District of Washington, 811 cases, down 5.8 percent; District of Hawaii, 521 cases, down 8.3 percent; District of Oregon, 1,420 cases, down 2.6 percent; District of Nevada, 1,100 cases, down 2.7 percent; and the District of Idaho, 303 cases, down 1 percent. New cases opened nationally totaled 137,764, up 12.2 percent from FY 2011.

Total cases closed by federal public defenders numbered 33,376 in FY 2012, down 1.1 percent. The Northern District of California had the highest increase in number of cases closed with 1,671 cases, up 39.7 percent. The District of Montana followed with 716 cases closed, up 20.5 percent; the District of Guam, 131 cases, up 15.9 percent; the District of Nevada, 1,110, up 1 percent; and the District of Alaska, 348, up .3 percent. Cases closed nationwide numbered 135,579, up 12.1 percent from FY 2011.

Congress created the Office of the Federal Public Defender to fulfill the constitutional requirement that indigents charged with federal crimes be provided with no-cost, professional legal representation. Congress funds public defender and community defender offices



*Federal public defenders met during the circuit conference to consider funding questions and other issues.*

through the Defender Services Division of the Administrative Office of the United States Courts.

Community defender organizations are non-profit legal service organizations staffed by non-government employees, while public defender offices are federal agencies staffed by federal judiciary employees.

Both types of organizations are staffed with experienced federal criminal law practitioners who provide a consistently high level of representation. In addition to criminal defense and appeals, public defenders are assigned to court-directed prisoner and witness representations, bail/pre-sentencing, and probation and parole revocation hearings.

By statute, judges of a court of appeals select and appoint federal public defenders to four-year terms. The court

makes its initial appointment after a nationwide recruitment and the use of a local screening committee. A federal public defender may be reappointed if the court concludes that he or she is performing in a highly satisfactory manner based upon a broad survey and performance evaluation process.

In 2012, Andrea K. George became the executive director of the Federal Defenders of the Eastern District of Washington and Idaho, a Community Defender Program with up to a 15-member board of directors and staffed offices in Spokane and Yakima. Federal public defenders reappointed in 2012 include Richard Curtner of the District of Alaska, Jon M. Sands of the District of Arizona, Steven T. Wax of the District of Oregon, and Peter C. Wolff of the District of Hawaii.





# Probation Officers Serve Courts, Communities

United States probation officers prepare presentence reports on convicted defendants and supervise offenders who have been placed on probation, supervised release, parole or conditional release. In the Ninth Circuit, some 913 probation officers are performing these duties in various settings, from courthouses in major cities to one-person offices in rural areas. Probation officers investigate the offense conduct and the defendant's personal background and history. They identify applicable guidelines and policy statements, and calculate the defendant's offense level and criminal history category. They report the resulting sentencing range, identifying factors relevant to the appropriate sentence. Presentence reports assist a judge in sentencing convicted defendants.

In the area of supervision, probation officers monitor persons who are released to the community after serving prison sentences. They assist supervised individuals by directing them to services including substance abuse and mental health treatment, medical care, employment assistance, literacy and training programs, and cognitive-behavioral treatment therapies to foster long-term positive changes to reduce recidivism. In addition, 105 searches were conducted by officers in fiscal year 2012.

## 16 Ninth Circuit Federal Probation System: Persons Under Post-Conviction Supervision, 2011-2012

Persons Under Supervision	2011	2012	Change 2011-2012
<sup>1</sup> From Courts	4,058	3,895	-4.0%
<sup>2</sup> From Institutions	17,327	17,792	2.7%
Total	21,385	21,687	1.4%

<sup>1</sup>Includes judge and magistrate judge probation

<sup>2</sup>Includes parole, special parole, mandatory release, and military parole

Officers work diligently to protect the community, while promoting long-term change.

### Presentence Reports

Standard guideline presentence reports are generally prepared in felony and Class A misdemeanor cases for which the U.S. Sentencing Commission has promulgated guidelines. In the Ninth Circuit, probation officers prepared 17,447 reports in FY 2012, down 4 percent from the prior year. Officers also wrote 68 non-guideline presentence reports, prepared for crimes in which the USSC has not promulgated guidelines, which were down 65 percent in FY 2012. There were 253 supplemental reports completed to the U.S. Bureau of Prisons for defendants who did not receive presentence reports, down by 46.1 percent from FY 2011.

### Offenders Under Supervision

Persons under supervision in the Ninth Circuit numbered 21,889 in FY 2012, up 2.4 percent the prior year. The circuit accounted for 16.5 percent of the national total of 132,340 persons under supervision.

Among those under supervision, 3,895 were on probation, down 4 percent while 17,792 were on supervised release, up 3.9 percent from FY 2011. Another 171 persons were on parole, down 5 percent and 31 cases were the Bureau of Prisons Custody type of supervision. The districts of Western Washington, Northern Mariana Islands, and Nevada had a decrease in the number of supervision cases, while the rest of the Ninth Circuit experienced an increase of supervision cases.

Drug offenders remain the largest group of persons under supervision both in the Ninth Circuit and nationwide. In FY 2012, drug offenders under supervision in the circuit numbered 9,254 cases, up 4.2 percent from the prior year. Drug cases accounted for 42.3 percent of persons under supervision in the Ninth Circuit.

### Revocations and Early Terminations

Ninth Circuit cases that were revoked and closed after post-conviction supervision numbered 4,063, up 11.7 percent in FY

## 17 Ninth Circuit Federal Probation System: Persons Under Post-Conviction Supervision by District, 2011-2012

District	From Courts	Referred by Institutions			Persons Under Supervision, 2011	Persons Under Supervision, 2012	Change 2011-2012
	<sup>1</sup> Probation	Supervised Release	<sup>2</sup> Parole	<sup>3</sup> BOP Custody			
Alaska	84	226	2	11	310	323	4.2%
Arizona	760	2,880	21	7	3,536	3,668	3.7%
C. Calif.	914	4,745	38	0	5,587	5,697	2.0%
E. Calif.	243	1,413	18	0	1,644	1,674	1.8%
N. Calif.	458	1,335	23	0	1,752	1,816	3.7%
S. Calif.	294	2,158	13	0	2,374	2,465	3.8%
Guam	58	101	2	5	153	166	8.5%
Hawaii	86	687	2	0	750	775	3.3%
Idaho	101	383	2	3	448	489	9.2%
Montana	87	611	4	4	672	706	5.1%
Nevada	249	817	7	0	1,099	1,073	-2.4%
N. Mariana Is.	11	27	0	1	41	39	-4.9%
Oregon	258	816	16	0	1,044	1,090	4.4%
E. Wash.	58	470	1	0	510	529	3.7%
W. Wash.	234	1,123	22	0	1,465	1,379	-5.9%
Circuit Total	3,895	17,792	171	31	21,385	21,889	2.4%

<sup>1</sup>Includes judge and magistrate judge probation

<sup>2</sup>Includes parole, special parole, mandatory release, and military parole

<sup>3</sup>BOP = Bureau of Prisons

2012. Of the revocations, 259 were from probation sentences and 3,791 were from supervised release terms. The Ninth Circuit had 25 percent or 4,063 cases of the 16,249 cases revoked nationally.

Since 2002, the Committee on Criminal Law of the Judicial Conference of the United States has encouraged officers to identify offenders who qualify for early termination. When conditions of supervision have been met and the offender does not pose a foreseeable risk to the public or an individual, the probation officer may request the sentencing judge to consider early termination.

Ninth Circuit cases terminated early numbered 1,224, up 8.5

percent from the prior year. Federal pretrial services and probation services officers seek to reduce recidivism by using “evidence-based practices” to make informed decisions about the supervision risks defendants may pose. The Post-Conviction Risk Assessment (PCRA) is designed to improve post-conviction supervision by providing information, which directs strategic resource allocation—directing attention and services to the highest risk offenders. Officers in the Ninth Circuit completed 25,893 assessments (18,621 initial assessments and 7,272 re-assessments). The circuit completed 18.38 percent of the 140,869 assessments completed nationally.

The Administrative Office of the U.S. Courts and Federal Judicial Center are also studying the efficacy of federal reentry court programs in reducing recidivism. The FJC designed a multi-year randomized experimental study following a reentry court program developed by the AO. The Central District of California is one of the five districts participating in this study.

### Transition

In 2012, one new chief probation officer was appointed, Chad Boardman in the District of Nevada.

# Ninth Circuit Pretrial Services Officers Are Nation's Busiest

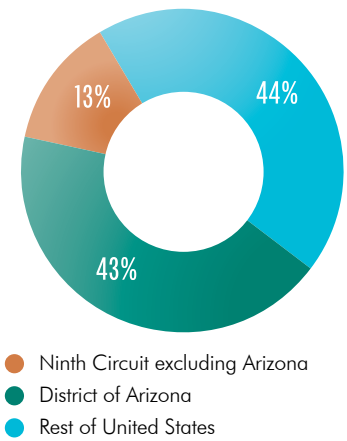
United States pretrial services officers contribute to the fair administration of justice, protect their communities, and seek to bring about positive, long-term change to individuals under supervision.

Pretrial services officers investigate defendants charged with federal crimes, recommend to the court whether to release or detain them, and supervise those who are released to the community while awaiting trial. While the defendant is presumed innocent until proven guilty, pretrial services officers must balance this presumption with the reality that some persons, if not detained before their trial, are likely to flee or pose a danger to the community or to certain persons through criminal activity.

Pretrial services officers also conduct investigations to determine the suitability of a defendant to participate in the Office of the U.S. Attorney's Pretrial Diversion Program. They are responsible for supervision of those defendants who are deemed appropriate and accepted into the program.

## 2012 Immigration Cases

43,051 Activations



## Case Activations

Pretrial services offices in the Ninth Circuit accounted for over 35 percent of all case activations nationally. In fiscal year 2012, case activations numbered 38,765, down 1.5 percent from FY 2011. New case activations nationally were 108,273, down 4.2 percent from the prior year.

## Offenses Charged

Immigration offenses nationwide numbered 43,051 and accounted for nearly 40 percent of all cases activated nationally in FY 2012.

Of these, 23,933 or 56 percent were from the Ninth Circuit, with 18,393 or 43 percent originating from the District of Arizona.

Drug offenses rank as the second most common type of offense both nationally at 48 percent and within the Ninth Circuit at 58 percent. The District of Arizona led the circuit in drug offenses with 2,818 cases reported.

## Pretrial Bail Reports

In FY 2012, pretrial services officers in the Ninth Circuit prepared 37,916 written pre-bail reports and 538 post-bail reports. Bail reports were prepared in 99.1 percent of the cases activated. Officers conducted 10,035 pretrial bail interviews. Excluding cases involving illegal aliens, officers made recommendations to the court in 92.7 percent of cases in which interviews were conducted. Officers recommended release in 50.8 percent of the cases. U.S. attorneys in the circuit recommended release in 43 percent of these cases.

In FY 2012, a total of 5,810 defendants were released and received for supervision, down slightly from FY 2011. Of these, 4,364 were released on standard supervision; 1,215 supervised on a courtesy basis from another district or circuit, up 8 percent. The remaining 231 defendants were on pretrial diversion caseloads.

## 18 Pretrial Services Cases Activated in Ninth Circuit Courts, 2011-2012

Caseload Measure	2011	2012	Change 2011-2012
Reports	38,403	37,916	-1.3%
Interviews	10,328	10,035	-2.8%
Cases Activated	39,343	38,765	-1.5%

Note: Total pretrial services cases activated includes complaints, indictment/information, material witness, superseding, and other cases, and includes data reported for previous periods as "transfers received."



## Violations

Of 12,137 cases in release status, 1,303 had violations reported to the court in FY 2012. They include 86 felony violations, 71 misdemeanor violations, 14 for other violations, and 124 for failure to appear. Technical violations, such as positive urine tests for illegal substances and violations of electronic monitoring conditions, made up the remainder.

## Evidence-Based Practices

All districts in the Ninth Circuit now use the Pretrial Services Risk Assessment, or PTR, to make informed decisions about supervision risks each defendant may pose. Several districts also

use this “evidence-based” tool as a cost-containment strategy to ensure that the majority of alternative to detention funds are used for higher risk defendants.

Defendants placed on diversion in the Ninth Circuit continues to rise. Additionally, some districts have implemented diversion courts which allow successful defendants to have their cases dismissed. The “Alternative to Prison Solutions” pilot diversion program in the Southern District of California seeks to reduce recidivism by addressing criminogenic needs. District Judge Cathy Ann Bencivengo, Magistrate Judges Barbara L. Major, and William McCurine, Jr.,

pretrial services officers, and others utilize a collaborative problem solving approach to deter future criminal activity and affect positive behavior change in participants.

The program has been successful with over 250 participants, who undergo an intensive 12-month court supervision program. Participants are U.S. citizens charged with “bringing in and harboring certain aliens” and are all held accountable for their offense. Custodial cost savings total \$4.5 million for the U.S. Department of Justice and additional savings in regard to judicial officers, prosecutors, and post-conviction supervision.

## 19 Pretrial Workload, 2011-2012

District	Defendant Contact		Written Reports			Total Cases Activated 2011	Total Cases Activated 2012	Change 2011-12
	Interviewed	<sup>1</sup> Not Interviewed	<sup>2</sup> Prebail	Postbail	No Reports Made			
Alaska	107	111	212	0	6	249	218	-12.4%
Arizona	1,658	20,379	21,953	50	34	21,899	22,037	0.6%
C. Calif.	1,480	1,008	2,454	27	7	2,487	2,488	-
E. Calif.	539	610	1,064	61	24	1,119	1,149	2.7%
N. Calif.	518	540	785	268	5	1,056	1,058	0.2%
S. Calif.	3,702	3,890	7,487	77	28	7,963	7,592	-4.7%
Guam	102	28	121	0	9	98	130	32.7%
Hawaii	253	62	305	2	8	342	315	-7.9%
Idaho	96	277	364	2	7	348	373	7.2%
Montana	217	181	388	3	7	450	398	-11.6%
Nevada	475	314	778	9	2	843	789	-6.4%
N. Mariana Is.	36	8	42	0	2	32	44	37.5%
Oregon	316	432	742	2	4	801	748	-6.6%
E. Wash.	122	257	208	6	165	486	379	-22.0%
W. Wash.	414	633	1,013	31	3	1,170	1,047	-10.5%
Circuit Total	10,035	28,730	37,916	538	311	39,343	38,765	-1.5%
National Total	58,399	49,874	102,152	2,913	3,208	112,969	108,273	-4.2%
Circuit % of National	17.2%	57.6%	37.1%	18.5%	9.7%	34.8%	35.8%	1.0%

Note: This table excludes data for the District of Columbia and includes transfers received.

<sup>1</sup>Includes cases in which interviews were refused, includes defendants not available for interview, and includes transfer-received cases in which defendants were interviewed in other districts.

<sup>2</sup>Includes prebail reports both with recommendations and without, and includes types of reports categorized in previous periods as “other reports.”

# Juror Utilization

## 20 Juror Utilization, 2011-2012

District	Grand Juries Empaneled, 2012	Petit Juries Selected, 2012	<sup>1</sup> Petit Juror Utilization Rate Percent Not Selected or Challenged		
			2011	2012	Change 2011-2012
Alaska	1	9	26.4	27.5	1.1
Arizona	12	104	39.2	33.8	-5.4
C. Calif.	24	172	50.8	47.2	-3.6
E. Calif.	10	81	43.5	43.8	0.3
N. Calif.	8	78	35.5	43.6	8.1
S. Calif.	7	118	41.9	42.6	0.7
Guam	2	2	43.6	30.8	-12.8
Hawaii	4	8	40.3	37.3	-3.0
Idaho	6	32	26.7	21.2	-5.5
Montana	4	43	28.7	27.6	-1.1
Nevada	3	30	46.6	44.0	-2.6
N. Mariana Is.	4	6	43.0	49.2	6.2
Oregon	11	48	31.2	28.1	-3.1
E. Wash.	6	29	26.3	22.8	-3.5
W. Wash.	4	43	29.7	32.0	2.3
Circuit Total	106	803	***	***	***
Circuit Average	13	100	36.9	35.4	-1.5
National Total	783	4,899	***	***	***
National Average	8	51	37.7	37.3	-0.4

Note: This table includes data on jury selection days only. Data on juror service after the selection day are not included.

<sup>1</sup>Jurors who completed pre-screening questionnaires or were in the courtroom during the conducting of voir dire but were not selected or challenged. Other jurors not selected or challenged who were not called to the courtroom or otherwise did not participate in the actual voir dire.

# Court Interpreters

## 21 Interpreter Usage by District Courts, 2012

Language	AK	AZ	CAC	CAE	CAN	CAS	GU	HI	ID	MT	NV	NMI	OR	WAE	WAW	2011 Total	2012 Total	Change 2011-12
Arabic	0	0	10	21	15	20	0	0	0	0	0	0	3	0	0	78	69	-11.5%
Armenian	0	1	81	10	0	0	0	0	0	0	4	0	0	0	7	199	103	-48.2%
Cantonese	0	0	33	112	129	8	0	11	0	0	5	0	3	0	4	440	305	-30.7%
Farsi	0	0	27	0	6	3	0	0	0	0	0	0	0	0	0	50	36	-28.0%
Japanese	0	0	1	0	6	6	0	2	0	0	3	0	0	0	0	24	18	-25.0%
Korean	0	0	233	5	18	32	16	28	0	0	9	0	0	0	49	252	390	54.8%
Mandarin	0	13	149	3	139	23	10	5	0	3	55	0	2	0	12	274	414	51.1%
Navajo (Certified)	0	67	0	0	0	0	0	0	0	0	0	0	0	0	0	112	67	-40.2%
Navajo (Non-Certified)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	-
Russian	0	8	31	150	2	6	0	0	0	0	9	0	1	1	19	107	227	112.1%
Sign (American)	0	6	11	11	0	14	0	0	0	1	2	0	0	0	5	38	50	31.6%
Sign (Mexican)	0	1	0	0	0	3	0	0	0	0	0	0	0	0	0	0	4	-
Spanish Staff	86	51,747	2,094	989	490	25,634	0	0	0	0	240	0	612	0	0	82,742	81,892	-1.0%
Spanish (Certified)	1	21,426	2,999	1,400	1,402	354	23	161	6	242	0	510	526	946		31,712	29,996	-5.4%
Spanish (Non-Certified)	0	31	0	0	0	0	0	60	251	63	134	0	38	30	15	1,001	622	-37.9%
Tagalog	3	0	5	0	13	0	3	1	0	0	3	0	0	0	1	41	29	-29.3%
Vietnamese	2	0	74	10	77	38	0	4	0	0	2	0	0	0	139	312	346	10.9%
All Others	0	277	105	161	39	186	0	13	0	0	32	0	9	2	120	1,048	944	-9.9%
Total	92	73,577	5,853	2,872	2,336	26,327	29	147	412	73	740	0	1,178	559	1,317	118,430	115,512	-2.5%

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# District Caseloads

## District of Alaska

Authorized places of holding court: Anchorage, Fairbanks, Juneau, Ketchikan, Nome

Caseload Measure	2011	2012	Change 2011-2012	Per Judgeship Unweighted, 2012		
<b>District Court</b>					<b>Authorized Judgeships</b>	
Filings	460	462	0.4%	154	District	3
Terminations	504	499	-1.0%	166	Bankruptcy	2
<sup>1</sup> Pending	678	665	-1.9%	222	Magistrate	
<b>Bankruptcy Court</b>					Full-time	2
Filings	1,019	841	-17.5%	421	Part-time	3
Terminations	1,107	1,166	5.3%	583		
Pending	1,098	773	-29.6%	387		

<sup>1</sup>2011 total pending cases revised.

## District of Arizona

Authorized places of holding court: <sup>3</sup>Bullhead City, Flagstaff, Kingman, Phoenix, Prescott, Tucson, Yuma

Caseload Measure	2011	2012	Change 2011-2012	Per Judgeship Unweighted, 2012		
<b>District Court</b>					<b>Authorized Judgeships</b>	
Filings	12,596	10,364	-17.7%	892	<sup>2</sup> District	13
Terminations	12,497	11,643	-6.8%	896	Bankruptcy	7
<sup>1</sup> Pending	6,618	5,354	-19.1%	412	Magistrate	
<b>Bankruptcy Court</b>					Full-time	14
Filings	39,148	30,135	-23.0%	4,305	Part-time	1
Terminations	36,704	33,444	-8.9%	4,778		
<sup>1</sup> Pending	45,409	42,101	-7.3%	6,014		

<sup>1</sup>2011 total pending cases revised.

<sup>2</sup>Includes one authorized temporary judgeship.

<sup>3</sup>Bullhead City and Kingman apply only to the bankruptcy court.

## Central District of California

Authorized places of holding court: Los Angeles, Riverside, <sup>4</sup>San Fernando Valley, Santa Ana, <sup>4</sup>Santa Barbara

Caseload Measure	2011	2012	Change 2011-2012	Per Judgeship Unweighted, 2012		
<b>District Court</b>					<b>Authorized Judgeships</b>	
Filings	16,571	17,086	3.1%	601	<sup>2</sup> District	28
Terminations	16,523	16,986	2.8%	607	<sup>3</sup> Bankruptcy	24
<sup>1</sup> Pending	12,723	12,856	1.0%	459	Magistrate	
<b>Bankruptcy Court</b>					Full-time	24
Filings	139,882	111,909	-20.0%	4,663	Part-time	1
Terminations	144,486	120,433	-16.6%	5,018		
<sup>1</sup> Pending	76,608	68,088	-11.1%	2,837		

<sup>1</sup>2011 total pending cases revised.

<sup>2</sup>Includes one authorized temporary judgeship.

<sup>3</sup>Includes three authorized temporary judgeships.

<sup>4</sup>San Fernando Valley and Santa Barbara apply only to the bankruptcy court.

## Eastern District of California

Authorized places of holding court: Bakersfield, Fresno, <sup>3</sup>Modesto, Redding, Sacramento, Yosemite National Park

Caseload Measure	2011	2012	Change 2011-2012	Per Judgeship Unweighted, 2012	Authorized Judgeships	
<b>District Court</b>						
Filings	6,496	6,235	-4.0%	1,039	District	6
Terminations	7,105	6,590	-7.2%	1,098	<sup>2</sup> Bankruptcy	7
<sup>1</sup> Pending	8,367	8,011	-4.3%	1,335	Magistrate	
<b>Bankruptcy Court</b>					Full-time	12
Filings	51,481	39,481	-23.3%	5,640	Part-time	0
Terminations	50,038	41,460	-17.1%	5,923		
<sup>1</sup> Pending	36,102	34,120	-5.5%	4,874		

<sup>1</sup>2011 total pending cases revised.

<sup>2</sup>Includes one authorized temporary judgeship.

<sup>3</sup>Modesto applies only to bankruptcy court.

## Northern District of California

Authorized places of holding court: Eureka, Oakland, Salinas, San Francisco, San Jose, Santa Rosa

Caseload Measure	2011	2012	Change 2011-2012	Per Judgeship Unweighted, 2012	Authorized Judgeships	
<b>District Court</b>						
Filings	7,369	7,851	6.5%	561	District	14
Terminations	7,951	7,359	-7.4%	526	Bankruptcy	9
<sup>1</sup> Pending	6,578	7,036	7.0%	503	Magistrate	
<b>Bankruptcy Court</b>					Full-time	11
Filings	36,663	28,935	-21.1%	3,215	Part-time	0
Terminations	33,998	28,985	-14.7%	3,221		
<sup>1</sup> Pending	36,796	36,740	-0.2%	4,082		

<sup>1</sup>2011 total pending cases revised.

## Southern District of California

Authorized places of holding court: <sup>2</sup>El Centro, San Diego

Caseload Measure	2011	2012	Change 2011-2012	Per Judgeship Unweighted, 2012	Authorized Judgeships	
<b>District Court</b>						
Filings	8,887	8,935	0.5%	687	<sup>2</sup> District	13
Terminations	8,802	9,564	8.7%	736	Bankruptcy	4
<sup>1</sup> Pending	5,852	5,539	-5.3%	426	Magistrate	
<b>Bankruptcy Court</b>					Full-time	11
Filings	22,285	18,359	-17.6%	4,590	Part-time	0
Terminations	21,345	19,239	-9.9%	4,810		
<sup>1</sup> Pending	14,035	13,150	-6.3%	3,288		

<sup>1</sup>2011 total pending cases revised.

<sup>2</sup>El Centro applies only to the district court.

## District of Guam

Authorized place of holding court: Hagatna

Caseload Measure	2011	2012	Change 2011-2012	Per Judgeship Unweighted, 2012	Authorized Judgeships	
<b>District Court</b>						
Filings	127	115	-9.4%	115	<sup>2</sup> District	1
Terminations	114	141	23.7%	141	Bankruptcy	0
<sup>1</sup> Pending	138	154	11.6%	154	Magistrate	
<b>Bankruptcy Court</b>					Full-time	1
Filings	146	153	4.8%	385	Part-time	0
Terminations	168	125	-25.6%	271		
Pending	144	172	19.4%	327		

Note: The Guam district judge also handles all bankruptcy cases.

<sup>1</sup>2011 total district court pending cases revised.

## District of Hawaii

Authorized place of holding court: Honolulu

Caseload Measure	2011	2012	Change 2011-2012	Per Judgeship Unweighted, 2012	Authorized Judgeships	
<b>District Court</b>						
Filings	1,634	1,065	-34.8%	836	<sup>2</sup> District	4
Terminations	1,612	1,132	-29.8%	283	Bankruptcy	1
<sup>1</sup> Pending	1,203	1,142	-5.1%	286	Magistrate	
<b>Bankruptcy Court</b>					Full-time	3
Filings	3,566	2,672	-25.1%	2,672	Part-time	1
Terminations	3,290	2,868	-12.8%	2,868		
<sup>1</sup> Pending	2,927	2,731	-6.7%	2,731		

<sup>1</sup>2011 total pending cases revised.

<sup>2</sup>Includes one temporary judgeship.

## District of Idaho

Authorized places of holding court: Boise, Coeur d'Alene, Moscow, Pocatello, <sup>2</sup>Twin Falls

Caseload Measure	2011	2012	Change 2011-2012	Per Judgeship Unweighted, 2012	Authorized Judgeships	
<b>District Court</b>						
Filings	869	1,005	15.7%	503	District	2
Terminations	891	928	4.2%	464	Bankruptcy	2
<sup>1</sup> Pending	987	1,066	8.0%	533	Magistrate	
<b>Bankruptcy Court</b>					Full-time	2
Filings	7,912	6,690	-15.4%	3,345	Part-time	0
Terminations	8,034	7,634	-5.0%	3,817		
<sup>1</sup> Pending	7,324	6,380	-12.9%	3,190		

<sup>1</sup>2011 total pending cases revised.

<sup>2</sup>Twin Falls applies only to the bankruptcy court. One of the bankruptcy judges also holds court in Twin Falls once a month.



## District of Montana

Authorized places of holding court: Billings, Butte, Great Falls, Helena, Missoula

Caseload Measure	2011	2012	Change 2011-2012	Per Judgeship Unweighted, 2012	Authorized Judgeships	
<b>District Court</b>						
Filings	970	980	1.0%	327	District	3
Terminations	896	921	2.8%	307	Bankruptcy	1
<sup>1</sup> Pending	826	838	1.5%	279	Magistrate	
<b>Bankruptcy Court</b>					Full-time	3
Filings	2,705	2,175	-19.6%	2,175	Part-time	1
Terminations	2,686	2,483	-7.6%	2,483		
<sup>1</sup> Pending	3,621	3,313	-8.5%	3,313		

<sup>1</sup>2011 total pending cases revised.

## District of Nevada

Authorized places of holding court: Carson City, Elko, Ely, Las Vegas, Lovelock, Reno

Caseload Measure	2011	2012	Change 2011-2012	Per Judgeship Unweighted, 2012	Authorized Judgeships	
<b>District Court</b>						
Filings	3,658	3,419	-6.5%	488	District	7
Terminations	3,592	3,413	-5.0%	488	<sup>2</sup> Bankruptcy	4
<sup>1</sup> Pending	3,968	3,984	0.4%	569	Magistrate	
<b>Bankruptcy Court</b>					Full-time	7
Filings	26,239	19,434	-25.9%	4,859	Part-time	0
Terminations	28,149	24,026	-14.6%	6,007		
<sup>1</sup> Pending	29,121	24,527	-15.8%	6,132		

<sup>1</sup>2011 total pending cases revised.

<sup>2</sup>Includes one authorized temporary judgeship.

## District of Northern Mariana Islands

Authorized place of holding court: Saipan

Caseload Measure	2011	2012	Change 2011-2012	Per Judgeship Unweighted, 2012	Authorized Judgeships	
<b>District Court</b>						
Filings	51	63	23.5%	63	District	1
Terminations	33	39	18.2%	39	<sup>2</sup> Bankruptcy	0
<sup>1</sup> Pending	109	134	22.9%	134	Magistrate	
<b>Bankruptcy Court</b>					Full-time	0
Filings	4	11	-	3	Part-time	0
Terminations	1	7	-	7		
<sup>1</sup> Pending	14	18	28.6%	1		

Note: The Northern Mariana Islands district judge also handles all bankruptcy cases.

<sup>1</sup>2011 total pending cases revised.

<sup>2</sup>Percent change not computed when fewer than 10 cases reported for the previous period.

## District of Oregon

Authorized places of holding court: <sup>2</sup>Bend, <sup>2</sup>Coos Bay, Coquille, Eugene, Klamath Falls, Medford, Pendleton, Portland, <sup>2</sup>Redmond, <sup>2</sup>Roseburg, <sup>2</sup>Salem

Caseload Measure	2011	2012	Change 2011-2012	Per Judgeship Unweighted, 2012	Authorized Judgeships	
<b>District Court</b>					<b>District</b>	
Filings	2,950	2,978	0.9%	496	District	6
Terminations	3,082	3,054	-0.9%	509	Bankruptcy	5
<sup>1</sup> Pending	2,958	2,893	-2.2%	482	Magistrate	
<b>Bankruptcy Court</b>					Full-time	6
Filings	18,281	16,048	-12.2%	3,210	Part-time	1
Terminations	17,842	16,653	-6.7%	3,331		
<sup>1</sup> Pending	20,446	19,841	-3.0%	3,968		

<sup>1</sup>2011 total pending cases revised.

<sup>2</sup>Bend, Coos Bay, Redmond, Roseburg, and Salem apply only to the bankruptcy court.

## Eastern District of Washington

Authorized places of holding court: <sup>2</sup>Richland, Spokane, <sup>2</sup>Walla Walla, Yakima

Caseload Measure	2011	2012	Change 2011-2012	Per Judgeship Unweighted, 2012	Authorized Judgeships	
<b>District Court</b>					<b>District</b>	
Filings	1,256	1,271	1.2%	318	District	4
Terminations	1,146	1,192	4.0%	298	Bankruptcy	2
<sup>1</sup> Pending	1,097	1,062	5.9%	291	Magistrate	
<b>Bankruptcy Court</b>					Full-time	2
Filings	6,490	5,726	-11.8%	2,863	Part-time	0
Terminations	6,395	6,098	-4.6%	3,049		
<sup>1</sup> Pending	6,112	5,740	-6.1%	2,870		

<sup>1</sup>2011 total pending cases revised.


<sup>2</sup>Richland and Walla Walla apply only to the district court.

## Western District of Washington

Authorized places of holding court: Bellingham, Seattle, Tacoma, Vancouver

Caseload Measure	2011	2012	Change 2011-2012	Per Judgeship Unweighted, 2012	Authorized Judgeships	
<b>District Court</b>					<b>District</b>	
Filings	4,219	4,388	4.0%	627	District	7
Terminations	4,156	4,271	2.8%	610	Bankruptcy	5
<sup>1</sup> Pending	3,669	3,761	2.5%	537	Magistrate	
<b>Bankruptcy Court</b>					Full-time	5
Filings	26,389	22,955	-13.0%	4,591	Part-time	2
Terminations	25,479	24,486	-3.9%	4,897		
<sup>1</sup> Pending	24,580	23,050	-6.2%	4,610		

<sup>1</sup>2011 total pending cases revised.



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We would like to thank the judges and staff of the Southern District of California for their assistance, and the General Services Administration for providing photographs of the new and old courthouses in San Diego.



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