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## **2010 Year-End Report on the Federal Judiciary**

In 1935—in the midst of the Great Depression—many Americans sought respite from the Nation’s economic troubles at their local movie theaters, which debuted now-classic films, such as *Mutiny on the Bounty*, *Top Hat*, and *Night at the Opera*. Moviegoers of that era enjoyed a prelude of short features as they settled into their seats. As the lights dimmed, the screen beamed previews of coming attractions, Merrie Melody cartoons, and the Movietone newsreels of current events. The 1935 news shorts also provided many Americans with their first look at the Supreme Court’s new building, which opened that year.

Seventy-five years later, the Supreme Court’s majestic building stands out as a familiar and iconic monument to the rule of law. The architect’s use of classical elements and durable stone has aptly captured the Court’s imperishable role in our system of government. Thanks to the genius of those who framed our Constitution, and those who have maintained faith with its words and ideals over the past two centuries, the American people

have a Supreme Court and a national judicial system that are the model for justice throughout the world. But that is no reason for complacency. As the world moves forward, the courts must be responsive to change, while preserving their place as the venue where justice is achieved through impartial judgment and dispassionate application of law. The judiciary, no less than other public and private enterprises, must engage in strategic planning to anticipate and overcome new challenges in the immediate and more distant future.

The Judicial Conference—the federal judiciary’s policymaking body—is examining the need to adapt for the future through thoughtful and deliberate processes. The Conference, which includes all the chief judges of the federal courts of appeals as well as experienced district judges from each of the regional circuits, is the proper body to chart a course for the courts over the long term that preserves the judiciary’s unique role in our system of government. Its members are engaged trustees of a cherished institution, and they have an obligation secured by a solemn judicial oath to safeguard the integrity of the judicial process. They also have the perspective, experience, and wisdom to evaluate the positive and negative effects of change on the quality and fairness of the judicial system.

This past September, the Judicial Conference approved the *Strategic Plan for the Federal Judiciary*.<sup>\*</sup> The plan recognizes the fundamental mission of the courts to provide fair and impartial resolution of legal disputes, and it embraces the underlying values that characterize the judiciary, including independence, impartiality, excellence, and fidelity to the rule of law. The plan identifies seven long-term issues that are critical to the future operation of the federal courts. The judiciary's central objective is, of course, to do justice according to law in every case. Accomplishing that objective requires, however, a determined focus on subsidiary issues, including managing the courts' public resources, maintaining a skilled workforce of judges and support staff, deploying new technologies that enable the courts to do more with less, and developing rules and procedures that provide litigants with reasonable and economical access to the judicial process. It also requires focus on issues that extend beyond the courthouse, such as fostering positive relations with the coordinate branches of government and enhancing the public's understanding of the role of the courts.

The Judicial Conference's plan sets out goals and the strategies for attaining them. The goals and strategies are necessarily stated in general

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<sup>\*</sup> See <http://www.uscourts.gov/uscourts/FederalCourts/Publications/StrategicPlan2010.pdf>

terms, which reflect the uncertainties that emerge in any attempt to foresee the future. They are also subject to regular review and revision in response to change. Those goals and strategies, though inexact and alterable, are vital in setting national priorities. But goals and strategies are not enough. The judiciary must take determined steps to translate aspirational objectives into concrete actions. That responsibility rests in significant measure with the Judicial Conference's committees and the judges who serve on them. The ultimate success of strategic planning depends on the contributions of individual judges who participate in committee work and take time away from their pressing dockets to develop specific initiatives and put them into practice.

I am grateful to the federal judges and administrative staff who have developed the *Strategic Plan for the Federal Judiciary*, as well as the committees and their staffs who will implement it. Their work will, I believe, have a lasting impact. Some of the results we are looking for, such as cost savings, improved efficiency, and reduced backlogs, are readily quantifiable. Others, such as maintenance of the public trust, are more difficult to calculate. But we owe the public our best efforts even if the results cannot always be reduced to precise measure.

There are, however, some immediate obstacles to achieving our goals. Two stand out at the beginning of this new year: an economic downturn that has imposed budgetary constraints throughout the government, and the persistent problem of judicial vacancies in critically overworked districts.

Budgetary constraints are nothing new for the judiciary. Chief Justice Rehnquist's 2004 year-end report addressed what he described as the "Judiciary's Budget Crisis." He noted that the recurring delays in enacting annual appropriations bills, as well as rising fixed costs that had outpaced increased funding, had severely disrupted the judiciary's operations. In response, Chief Justice Rehnquist directed the Judicial Conference to develop an integrated cost containment strategy for fiscal year 2005 and beyond. Since that time, the judiciary has worked closely with Congress in exercising self-imposed fiscal discipline, and Congress in turn has stood ready to provide funding for the judiciary's vital needs. This year, Congress will face extraordinary challenges in addressing the federal deficit. The judiciary will continue to move forward with the initiatives begun by my predecessor to control judicial expenditures.

Those initiatives include focused efforts to reduce judicial costs through more efficient use of office space, information technology, and support personnel. On space, the judiciary has worked with the General

Services Administration to reduce its rental rates through fixed term agreements. The courts have also implemented new cost control programs that have contributed significantly to a reduction of 365,000 square feet of current space usage from the needs projected in 2005. On technology, the judiciary has realized savings by consolidating and standardizing data systems throughout the federal courts. On personnel, the judiciary has tightened its standards for adding additional support staff. It now evaluates staffing requests through new formulas that reflect best practices within the court system. That approach will enable the judiciary to reduce by 60% its request for new court staff in fiscal year 2012.

The Supreme Court itself is doing its part. I have asked Court personnel to monitor Court operations and seek out opportunities to reduce spending by improving operations and cutting unnecessary expenses. As a result of those efforts, and notwithstanding increases in operating costs owing to inflation, the Court expects to voluntarily reduce its fiscal year 2012 appropriations request to less than its fiscal year 2011 request. Not many other federal government entities can say that.

As I explained in my first year-end report, those of us in the federal judiciary understand the challenges our country faces and the many competing interests that must be balanced in funding our government. The

judiciary's needs are strikingly modest compared to the government as a whole—less than two-tenths of 1% of the federal budget for one of the three constitutional branches of government. But the courts are committed to working closely with the President and Congress to shoulder our share of the burdens of reducing the federal deficit. We will strive to reduce costs where possible, but we ask in return that our coordinate branches of government continue to provide the financial resources that the courts must have to carry out their vital mission.

The judiciary depends not only on funding, but on its judges, to carry out that mission. The Constitution, as one of its many checks and balances, entrusted the selection of new judges to the political branches. The judiciary relies on the President's nominations and the Senate's confirmation process to fill judicial vacancies; we do not comment on the merits of individual nominees. That is as it should be. The judiciary must respect the constitutional prerogatives of the President and Congress in the same way that the judiciary expects respect for its constitutional role.

Over many years, however, a persistent problem has developed in the process of filling judicial vacancies. Each political party has found it easy to turn on a dime from decrying to defending the blocking of judicial nominations, depending on their changing political fortunes. This has

created acute difficulties for some judicial districts. Sitting judges in those districts have been burdened with extraordinary caseloads. I am heartened that the Senate recently filled a number of district and circuit court vacancies, including one in the Eastern District of California, one of the most severely burdened districts. There remains, however, an urgent need for the political branches to find a long-term solution to this recurring problem.

We should all be grateful to the judges and court staff throughout the country—and especially those in overburdened districts—for their selfless commitment to public service. There is no better example of that than the work of our retired senior judges. Although they are under no obligation to do so, many of them continue to carry substantial caseloads. They do this for no extra compensation. We would be in dire straits without their service, and the country as a whole owes them a special debt of gratitude.

Despite the many challenges, the federal courts continue to operate soundly, and the Nation's federal judges continue to discharge their duties with wisdom and care. I remain privileged and honored to be in a position to thank the judges and court staff for their dedication to the ideals that make our Nation great.

Best wishes in the New Year.

## Appendix

### Workload of the Courts

In 2010, nearly all major areas of the federal judiciary had larger caseloads. Filings of bankruptcy petitions climbed 14% to nearly 1.6 million. Filings in the U.S. district courts grew 2% to 361,323 in response to a 2% increase in civil case filings (totaling 282,895) and criminal case filings (totaling 78,428). The number of persons under post-conviction supervision rose 2.5% to 127,324. Cases opened in the pretrial services system increased 6% to 111,507. Only the federal courts of appeals experienced a reduced caseload this year with 55,992 filings, a decrease of 3%.

#### *The Supreme Court of the United States*

The total number of cases filed in the Supreme Court increased from 7,738 filings in the 2008 Term to 8,159 filings in the 2009 Term—an increase of 5.4%. The number of cases filed in the Court's *in forma pauperis* docket increased from 6,142 filings in the 2008 Term to 6,576 filings in the 2009 Term—a 7.0% increase. The number of cases filed in the Court's paid docket decreased from 1,596 filings in the 2008 Term to 1,583 filings in the 2009 Term—a 1.0% decrease. During the 2009 Term, 82 cases

were argued and 77 were disposed of in 73 signed opinions, compared to 87 cases argued and 83 disposed of in 74 signed opinions in the 2008 Term.

### *The Federal Courts of Appeals*

Filings in the regional courts of appeals dropped 3% to 55,992. Filings of original proceedings increased, and filings of civil appeals remained stable. Reductions occurred, however, in filings of criminal appeals of many types, and filings of appeals of administrative agency decisions decreased in response to a decline in appeals involving the Board of Immigration Appeals, which made fewer decisions, thereby reducing the pool of cases that could be appealed.

### *The Federal District Courts*

Civil filings in the U.S. district courts rose 2%, increasing by 6,498 cases to 282,895. Cases filed with the United States as plaintiff or defendant remained stable, decreasing by 107 cases to 43,037.

Filings of federal question cases (i.e., actions under the Constitution, laws, or treaties of the United States in which the United States is not a party in the case) climbed 2% to 138,655 as the courts received more cases related to consumer credit, civil rights, labor laws, Social Security, and foreclosures. Many of these cases arose out of the economic downturn.

Filings of diversity of citizenship cases (i.e., cases between citizens of different states) rose 4% to a new record of 101,202. Most of these cases addressed claims of personal injury or product liability. Filings of multidistrict litigation related to asbestos that were transferred to the Eastern District of Pennsylvania and severed into separate filings grew 2% to 48,588.

Criminal case filings (including transfers) rose 2% to 78,428, and the number of defendants in those cases also grew 2% to reach an all-time high of 100,366. Immigration offenses accounted for much of the criminal caseload as filings of immigration cases increased 9% to 28,046 and the number of defendants in those cases increased 8% to 29,149. The majority of immigration cases—73%—were filed in the five southwestern border districts. Most of the immigration cases—83%—involved charges of improper reentry by aliens.

Filings of fraud cases also set a new record. Cases grew 12% to 9,371, and the number of defendants in those cases rose 13% to 12,639. Significant increases were reported for offenses related to identification documents and information, most of which involved false documents and information presented by illegal immigrants. Filings of cases involving drug

offenses decreased 5% to 15,785, and the number of defendants in those cases declined 2% to 29,410.

### *The Bankruptcy Courts*

Filings of petitions for bankruptcy totaled 1,596,355, a 14% increase over the previous year's filings and the highest number received since 2005, the last full year before the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 took effect. Filings rose in 73 of the 90 bankruptcy courts. Although business petitions fell 1%, nonbusiness petitions grew 14%. Bankruptcy filings increased by 16% under Chapter 7, fell by 4% under Chapter 11, and grew by 9% under Chapter 13.

### *The Federal Probation and Pretrial Services System*

On September 30, 2010, the number of persons under post-conviction supervision was 127,324, an increase of 2.5% over the total one year earlier. The number of persons serving terms of supervised release after leaving correctional institutions rose more than 3% and accounted for 81% of all persons under supervision. Cases opened in the pretrial services system this year, including pretrial diversion cases, grew nearly 6% to 111,507.