

NINTH CIRCUIT
UNITED STATES COURTS



2007 ANNUAL REPORT

The Ninth Circuit's newest circuit judge, the Hon. N. Randy Smith, dons his robe during an investiture ceremony last August in Pocatello, Idaho.



The Office of the Circuit Executive would like to acknowledge the following for their contributions to the 2007 Annual Report:

Chief Judge Alex Kozinski
Senior District Judge Robert J. Bryan
Cathy A. Catterson, Circuit and Court of Appeals Executive
Molly Dwyer, Clerk, Ninth Circuit Court of Appeals
Harold Marenus, Clerk, Bankruptcy Appellate Panel
Robert Duncan, Chief Pretrial Services Officer



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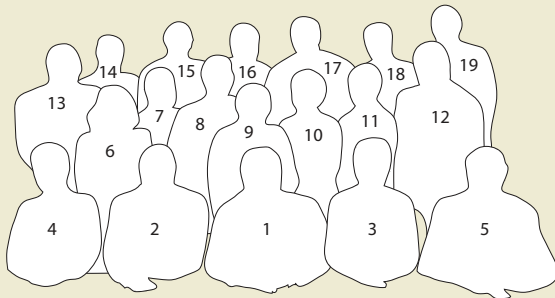
(All statistics provided by the Administrative
Office of the United States Courts)

THE 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.



1) Chief Judge Alex Kozinski; 2) Circuit Judge Sidney R. Thomas; 3) Cathy A. Catterson, Circuit and Court of Appeals Executive; 4) Circuit Judge Marsha S. Berzon; 5) Senior Circuit Judge David R. Thompson; 6) District Clerk Sue Beitia (HI); 7) Bankruptcy Clerk Bernie F. McCarthy (MT); 8) Robert J. Duncan, Chief Pretrial Services Officer (CAE); 9) Circuit Judge M. Margaret McKeown; 10) Chief District Judge Irma E. Gonzalez (CAS); 11) Chief District Judge Alicemarie H. Stotler (CAC); 12) District Judge Donald W. Molloy (MT); 13)

Jerrold G. Cooley, Chief Probation Officer (MT); 14) District Judge Charles R. Breyer (CAN); 15) Senior District Judge Stephen M. McNamee (AZ); 16) Chief Bankruptcy Judge Michael S. McManus (CAE); 17) Chief District Judge Ancer L. Haggerty (OR); 18) Senior District Judge Terry J. Hatter, Jr. (CAC); 19) Magistrate Judge Anthony J. Battaglia (CAS). Not shown, Circuit Judge Susan P. Graber and Chief District Judge Robert S. Lasnik (WAW)

FOREWORD



CHIEF JUDGE
ALEX KOZINSKI

The 2007 Ninth Circuit Annual Report profiles the federal courts serving nine western states and two Pacific island jurisdictions. The annual report provides statistical summaries of the work done by judges and judiciary staff over the last year, and highlights important events and trends in our courts. We hope you find the information useful and welcome your feedback.

This is my first report as Chief Judge of the Ninth Circuit, having assumed the gavel in December 2007. I came into the office aware that the judiciary faces challenges, but confident that our courts will continue to provide a high level of service to litigants and the general public. The credit goes to our judges and to the many court staff who contribute to the administration of justice. I look forward to working with all of them over the next few years.

Filling vacancies on the federal bench is always welcome news. In 2007, judges of the Ninth Circuit Court of Appeals warmly greeted a new colleague, Judge N. Randy Smith, who was confirmed by the Senate in February. His formal investiture was held in August before family, friends and colleagues in his hometown of Pocatello, Idaho.

The arrival of Judge Smith brought the court to nearly full strength, with 27 of our 28 judgeships filled. In addition, Congress late in the year approved a 29th judgeship for the court, which will be filled on or after January 1, 2009. It is the first new judgeship to be authorized for the court since 1984.

Also during the year, the Senate filled judicial vacancies on the district courts of the circuit. Eight new judges were confirmed, four of them in the Central District of California, our busiest trial court. Still, district courts ended the year with four vacancies.

More judges are sorely needed. Several of our district courts are laboring under heavy caseloads generated by increased law enforcement efforts along the Mexican border, and by a rising tide of prisoner litigation. Legislation to create some new judgeships was pending in Congress at year's end, while a judgeship bill pertaining to all of the nation's federal courts was anticipated in 2008. We await the outcome of both efforts.

On the administrative side, Cathy A. Catterson, the longtime clerk of court for the Ninth Circuit Court of Appeals, was selected to head the Office of the Circuit Executive, the administrative arm of the Judicial Council of the Ninth Circuit. Along with her new duties, Ms. Catterson gained the new title of Circuit and Court of Appeals Executive.

Assuring adequate space and facilities for the courts is an ongoing concern. We welcome the effort undertaken nationally by the judiciary and General Services Administration to work out fair and reasonable rents for courthouses and other court facilities. Several of our judges and staff are involved, and we look forward to a successful resolution of the issue. We continue to work hard for new courthouses

in San Diego and Los Angeles to meet the circuit's most pressing space needs. Both projects remain out of reach due to market-driven escalation in costs.

I can report better news from Montana, where work is well under way on a new courthouse in Great Falls, on the banks of the Missouri River, and in Coeur d'Alene, Idaho. The renovation of the William Kenzo Nakamura U.S. Courthouse in Seattle, which will be used by the court of appeals, is also on track.

On the operational side, the Ninth Circuit Court of Appeals had a productive year, terminating more cases than it opened for the second consecutive year. We continue to be the busiest appellate court in the nation with 12,685 new cases filed in 2007. The court terminated 13,300 cases for the year, with judges deciding just over half of those appeals on the merits. The remaining terminations were procedural in nature, including jurisdictional defects, settlements and FRAP 42(b) dismissals.

Appeals of decisions by the Board of Immigration Appeals (a division of the Department of Justice) made up more than a third of the appellate caseload. The number of BIA cases, however, declined for the second consecutive year. The court had seen a huge increase in immigration cases between 2001 and 2005 as a result of a Department of Justice push to clear its backlog.

New case filings were up slightly in the district courts of the Ninth Circuit, which accounted for 17.5 percent of all federal filings nationally. Criminal filings were up 15.3 percent, fueled by increases in immigration and drug offenses. Civil filings were down slightly.

Our bankruptcy courts, which saw filings plummet following the 1995 enactment of bankruptcy reform laws, reported a major increase in new filings in 2007, mostly from individuals.

A number of our judges were recognized during the year. Circuit Judge Marsha S. Berzon received the prestigious


2007 Margaret Brent Women Lawyers of Achievement Award from the American Bar Association's Commission on Women in the Profession. The award recognizes professional excellence, influence on other women in the profession and leadership in expanding the opportunities available to women practicing law.

Senior District Judge Consuelo B. Marshall, the first woman to serve as chief judge of the Central District of California, was recognized with the unveiling of an official portrait that now adorns the ceremonial courtroom of the federal courthouse in downtown Los Angeles. It was another in a string of firsts for Judge Marshall, also the first African-American woman to be appointed to a federal court west of the Mississippi, and the first woman attorney hired to work in the offices of the Los Angeles city attorney.

Also noteworthy was the first all-Hispanic appellate panel to sit in any of the nation's federal courts of appeal. Ninth Circuit Judge Kim McLane Wardlaw and Senior Circuit Judges Arthur Alarcón and Ferdinand Fernandez earned that distinction when they sat in Seattle last July. They are among six Hispanic judges on the Ninth Circuit Court of Appeals, the most of any circuit court in the country.

Elsewhere in the circuit, the District of Idaho announced the selection of its first woman judge. Attorney Candy Dale will be seated next year as a magistrate judge in Boise.

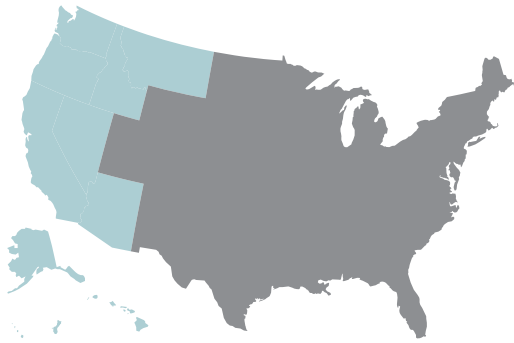
Through its many committees, the Ninth Circuit continues to be among the most active and innovative in advancing the administration of justice. This year's report highlights the work of our Pacific Islands Committee, which is expanding judicial education opportunities for judges in the northern Pacific, and the Public Information and Community Outreach (PICO) Committee, which organized a two-day media conference hosted by the court of appeals in Pasadena.

We invite you to review this report further for more information about the work of the courts of the West. 

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 15 federal judicial districts, and associated administrative units that provide various services to the court.

Judicial districts within the Ninth Circuit are 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 is 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. Article III judges are nominated by the President, confirmed by the Senate and serve for life. The Ninth Circuit Court of Appeals has been authorized 28 judgeships and ended 2007 with one vacant position. For most of the year, the district courts were authorized 112 judgeships, four 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 a reduced caseload. In the Ninth Circuit, 28 senior circuit judges sat on appellate panels, served on circuit and national judicial committees, and handled a variety of administrative matters. In the district courts, 46 senior judges heard cases, presided over procedural matters, served on committees and conducted other business during 2007.

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. Appointed by the court of appeals, bankruptcy judges serve terms of 14 years. Magistrate judges are appointed by the individual district courts and hold their positions for eight years.

In 2007, bankruptcy courts in the Ninth Circuit were authorized 68 permanent and five temporary judgeships. The district courts were authorized 95 full-time and 11 part-time magistrate judges; several courts also utilized recalled magistrate judges.

Overall, the Ninth Circuit courts experienced increased caseloads in 2007. Unless otherwise noted, statistics in this report cover the 2007 calendar year.



JUDICIAL COUNCIL & ADMINISTRATION

The Judicial Council of the Ninth Circuit is the governing body of the United States Courts for the Ninth Circuit. The 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)].

In 2007, the Judicial Council reorganized by changing the total number of voting members from 13 to 11. The voting members consist of five circuit judges, five district judges, and the chief judge of the circuit as the presiding officer. The 11 voting members are looked upon as a "judicial board of directors."

The reorganization also included creating nine non-voting observer members. The non-voting members consist of the district judge representative to the Judicial Conference of the United States; the president of the District Judges Association; the chair of the Conference of Chief District Judges; the chair of the Conference of the Chief Bankruptcy Judges; the chair of the Magistrate Judges Executive Board; the chair of the District Clerks Liaison Committee; the chair of the Bankruptcy Clerks Liaison Committee; and representatives of the chief probation officers and of the chief pretrial services officers.

Chaired by the chief judge of the circuit, the Judicial Council provides policy guidance and leadership to courts of the circuit. It meets quarterly to review issues and resolve problems, conducting additional business by conference call or mail ballot when necessary.

The Judicial Council of the Ninth Circuit 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. The council accomplishes most of its work through committees.

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 each of the circuit's 15 district courts. The conference, which is comprised of the chief district judge of each district, meets twice a year. Chief District Judge B. Lynn Winmill of the District of Idaho served as chair of the conference from June 2006 through March 2007. He was succeeded by Chief District Judge Donald Molloy of the District of Montana whose term will expire in February 2008.



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 chair of the conference is a non-voting member of the council. The conference, which also meets twice per year, consists of chief bankruptcy judges from each district and the presiding judge of the Ninth Circuit Bankruptcy Appellate Panel (BAP). Chief Bankruptcy Judge Ralph B. Kirscher of the District of Montana chaired the conference from November 2006 to May 2007, when Chief Bankruptcy Judge Michael S. McManus of the Eastern District of California became chair. Judge McManus will chair the conference until late May 2008.

Magistrate Judges Executive Board

The Magistrate Judges Executive Board provides a channel of communication between the Judicial Council of the Ninth Circuit and the more than 100 full-time, part-time and recalled magistrate judges serving in the district courts. The 14-member board meets twice a year and holds a session with all magistrate judges at the annual circuit conference. The chair of the board serves on the council as an observer.

Magistrate Judge Anthony J. Battaglia of the Southern District of California is the current chair. His term began in October 2006 and will expire in September 2008.

Clerks of Court

Day-to-day management of the courts rests with the chief judges and clerks or district executives of the court of appeals and each of the district and bankruptcy courts. The clerks' offices process new cases and appeals, handle docketing functions, respond to procedural questions from the public and bar, and provide adequate judicial staff resources. The clerk of court for the court of appeals also supervises the work of the Circuit Mediation Office and the Office of the Staff Attorneys, which includes the research, motions, case management, and pro se units. The Office of the Appellate Commissioner, also located 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, which are responsible for supervision of criminal defendants and background investigations and reports. All but one judicial district is served by federal public defender and community defenders who represent indigent defendants unable to afford private counsel. The Northern Mariana Islands relies on a Criminal Justice Act panel of attorneys for such representation.

Ninth Circuit Library System

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 council and implements its administrative decisions and policies. By statute, the circuit executive is the administrative assistant to the chief judge of the circuit and secretary to the Judicial Council. The circuit executive and his staff assist in identifying circuit-wide needs, conducting studies, proactively developing and implementing policies, 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 annual Ninth Circuit Judicial Conference. 

JUDICIAL COUNCIL OF THE NINTH CIRCUIT

CHIEF JUDGE ALEX KOZINSKI

EXECUTIVE COMMITTEE

OFFICE OF THE CIRCUIT EXECUTIVE

Cathy A. Catterson, Circuit & Court of Appeals Executive

Judicial Conference Executive Committee

Lawyer
Representatives
Coordinating
Committee

Association of Judicial Officers

Conference of Chief
District Judges

Conference of Chief
Bankruptcy Judges

Magistrate Judges
Executive Board

Liaison Committees

District Clerks

Bankruptcy Clerks

Chief Probation
& Chief Pretrial
Services Officers

Advisory Standing Committees

Advisory Board

Alternative Dispute
Resolution

Capital Case

Court-Council
Committee on
Bankruptcy Judge
Appointments

Federal Public
Defenders

Information
Technology

Jury Instructions

Jury Trial
Improvement

Ninth Circuit
Judges Education

Pacific Islands

Public Information &
Community Outreach

Self Represented
Litigants (Pro Se)

Space & Security

Wellness III

JUDICIAL TRANSITIONS



NEW JUDGES

CIRCUIT JUDGE



Judge N. Randy Smith was appointed to the Ninth Circuit Court of Appeals on March 19, 2007. Prior to his appointment to the federal bench, Judge Smith served as a district judge for the State of Idaho Sixth Judicial Circuit from 1995 to 2007. Judge

Smith was an associate then partner at Merrill & Merrill, Chartered, in Pocatello, Idaho, from 1982 to 1995. He has been an adjunct professor at Idaho State University since 1984. He was an adjunct professor at Boise State University from 1979 to 1981; and an associate then assistant general counsel at J.R. Simplot Company from 1977 to 1981. Judge Smith received his B.S. from Brigham Young University in 1974, and his J.D. from Brigham Young University, J. Reuben Clark School of Law in 1977. He maintains chambers in Pocatello.

DISTRICT JUDGES



Judge Valerie Baker Fairbank was appointed a district judge for the Central District of California on February 16, 2007. Prior to her appointment to the federal bench, Judge Fairbank served as a Los Angeles County Superior Court judge, from 1987 to 2007, and the

Los Angeles Municipal Court, from 1986 to 1987. She was previously an associate then partner at Lillick, McHose & Charles in Los Angeles from 1980 to 1986, and an assistant U.S. attorney for the Central District of California from 1977 to 1980. She was an associate at Overton, Lyman & Prince in Los Angeles from 1975 to 1977. Judge Fairbank received her B.A. in 1971 and her M.A. in 1972 from the University of California at Santa Barbara and her J.D. in 1975 from the University of California at Los Angeles School of Law. She maintains chambers in Los Angeles



Judge Philip S. Gutierrez was appointed a district judge for the Central District of California on February 16, 2007. Prior to his appointment to the federal bench, Judge Gutierrez served as a Los Angeles County Superior Court judge, from 1997 to 2007. He was a

managing partner at Cotkin & Collins in Los Angeles, from 1988 to 1987, and an associate at Kern & Wooley in Los Angeles, from 1986 to 1988. Judge Gutierrez received his B.A. from the University of Notre Dame in 1981, and his J.D. from the University of California at Los Angeles School of Law in 1984. He maintains chambers in Los Angeles.



Judge Richard A. Jones was appointed a district judge for the Western District of Washington on October 29, 2007. Prior to his appointment to the federal bench, Judge Jones served as a King County (Washington) Superior Court judge, from 1994 to 2007. He was an

assistant U.S. attorney for the Western District of Washington from 1988 to 1994; an associate attorney at Bogle and Gates

in Seattle from 1983 to 1988; a staff attorney, Port of Seattle, from 1978 to 1983; and a deputy prosecutor, King County, from 1975 to 1978. Judge Jones received his B.A. from Seattle University in 1972, and his J.D. from the University of Washington School of Law in 1975. He maintains chambers in Seattle.



Judge Lawrence J. O'Neill was appointed a district judge for the Eastern District of California on February 2, 2007. Prior to his appointment, Judge O'Neill served as a magistrate judge for the Eastern District of California from 1999 until his elevation to district judge.

He served as a Fresno County Superior Court judge, from 1990 to 1999. Judge O'Neill was an adjunct professor at San Joaquin College of Law from 1986 to 1992. He was a partner at McCormick, Barstow, Sheppard, Wayte and Carruth in Fresno, from 1970 to 1990. Judge O'Neill received his B.A. from the University of California at Berkeley in 1973, his M.P.A. from Golden Gate University in 1976, and his J.D. from the University of California, Hastings College of the Law, in 1979. He clerked for Judge Robert F. Kane of the California Court of Appeal, First Appellate District, from 1976 to 1977 and in 1979. He maintains chambers in Fresno.



Judge Janis Lynn Sammartino was appointed a district judge for the Southern District of California on September 21, 2007. Prior to her appointment to the federal bench, Judge Sammartino served as a San Diego County Superior Court judge, from 1995 until

her appointment to the district court. She served as a San Diego Municipal Court judge, from 1994 to 1995, and was a deputy city attorney in the San Diego City Attorney's Office, from 1976 to 1994. Judge Sammartino received her A.B. from Occidental College in 1972, and her J.D. from the University of Notre Dame Law School in 1975. Following law school, she clerked for Judge Douglas Seely of Indiana Superior Court, St. Joseph County, from 1975 to 1976. She maintains chambers in San Diego.



Judge Benjamin Hale Settle was appointed a district judge for the Western District of Washington on July 2, 2007. Prior to his appointment, Judge Settle was a founder and partner of the law firm of Settle & Johnson PLLC for 30 years in Shelton, Washington. The

firm engaged in a general practice with emphasis on civil litigation, business, municipal, and real property law. While with the firm, he served as Shelton city attorney and general counsel for Mason General Hospital, Mason County Public Utility and Transit District, and the Shelton School District. He was a Mason County Superior Court judge pro tem and was appointed as arbitrator or mediator in numerous cases. He served as a captain in the U.S. Army Judge Advocate General Corps from 1973 to 1976, as a prosecutor in Fort Bragg, North Carolina, and defense counsel in Fort Lewis, Washington. Judge Settle received his B.A. from Claremont McKenna College in 1969, and his J.D. from Willamette University, College of Law, in 1972. He maintains chambers in Tacoma.



Judge Otis D. Wright, II, was appointed a district judge for the Central District of California on April 16, 2007. Prior to his appointment to the federal bench, Judge Wright served as a Los Angeles County Superior Court judge, from 2005 to 2007. He was

a partner at Wilson Elser Moskowitz Edelman & Dicker LLP from 1983 to 2005. Judge Wright served as a deputy attorney general for the California Department of Justice, Office of the Attorney General, from 1980 to 1983. He was a Los Angeles County sheriff deputy for 11 years. Judge Wright received his B.A. from the California State University at Los Angeles in 1976, and his J.D. from Southwestern School of Law in 1980. He maintains chambers in Los Angeles.

NEW JUDGES

DISTRICT JUDGES CONTINUED



Judge George H. Wu was appointed a district judge for the Central District of California on April 17, 2007. Prior to his appointment to the federal bench, Judge Wu served as a Los Angeles County Superior Court judge, from 1996 to 2007, and served

as a Los Angeles Municipal Court judge, from 1993 to 1996. He twice served as an assistant U.S. attorney for the Central District of California, from 1991 to 1993, and from 1982 to 1989, and was an assistant professor of law at the University of Tennessee, College of Law, from 1979 to 1982. Judge Wu received his B.A. from Pomona College in 1972, and his J.D. from the University of Chicago Law School in 1975. Following law school, he clerked for the late Judge Stanley N. Barnes of the U.S. Court of Appeals for the Ninth Circuit, from 1976 to 1977 and in 1979. He maintains chambers in Los Angeles.

BANKRUPTCY JUDGE



Judge Robert N. Kwan was appointed a bankruptcy judge for the Central District of California on February 5, 2007. Prior to his appointment, Judge Kwan served as an assistant U.S. attorney for the Central District of California from 1989 to 2007. He was a trial

attorney for the U.S. Department of Justice, Tax Unit, in Washington, D.C., from 1983 to 1987; a trial attorney in the Civil Unit from 1979 to 1983; and a law clerk in 1979. Judge Kwan received his B.A. from Yale College in 1975, his J.D. from the University of California, Hastings College of the Law, in 1979, and his LL.M. from the Georgetown University Law Center in 1985. Judge Kwan maintains chambers in Los Angeles.

MAGISTRATE JUDGES



Judge Gary S. Austin was appointed a magistrate judge for the Eastern District of California on October 12, 2007. Prior to his appointment to the federal bench, Judge Austin served as a Fresno County Superior Court judge, from 1988 to 2007, and was a Fresno Municipal Court judge, from 1986 to 1988. He served as a deputy district attorney, Fresno County, from 1977 to 1986, and was promoted to senior deputy district and lead attorney in the Career Criminal Unit in 1984. Judge Austin received his B.A. from the California State University at Fresno in 1972, and his J.D. from San Joaquin College of Law in 1976. He maintains chambers in Fresno.



Judge Michelle Hamilton Burns was appointed a magistrate judge for the District of Arizona on February 23, 2007. Prior to her appointment, Judge Burns was an assistant U.S. attorney for the District of Arizona, from 2003 to 2007. She was an attorney in professional association at Carpenter and Hamilton in Phoenix from 1990 to 2002. She served as a deputy public defender for Maricopa County Public Defender's Office from 1985 to 1989. Judge Burns received her B.A. from the University of Michigan in 1981, and her J.D. from the University of Toledo College of Law in 1985. She maintains chambers in Phoenix.



Judge Mark D. Clarke was appointed a magistrate judge for the District of Oregon on March 1, 2007. Prior to his appointment, Judge Clarke was a shareholder at Frohnmayer Deatherage Pratt Jamieson Clarke & Moore in Medford, Oregon, from 1990 to 2007. He was an associate at Bullivant Houser Bailly PC, in Portland, Oregon, from 1983 to 1990. Judge Clarke received his B.S. from Southern Oregon University in 1980, and his J.D. from the University of Oregon School of Law in 1983. He maintains chambers in Medford.



Judge Alicia G. Rosenberg was appointed a magistrate judge for the Central District of California on March 13, 2007. Prior to her appointment, Judge Rosenberg was a partner at Blecher & Collins in Los Angeles practicing complex civil litigation in the areas of antitrust, intellectual property, communications, and unfair competition, primarily in federal court. She taught antitrust law and was an adjunct professor at Loyola Law School. Judge Rosenberg received her B.A. in 1982 from Wellesley College and her J.D. in 1985 from the University of California at Los Angeles School of Law, where she served as managing editor of the UCLA Law Review. She maintains chambers in Los Angeles.



Judge Deborah M. Smith was appointed a magistrate judge for the District of Alaska on February 2, 2007. Prior to her appointment, she served as first assistant U.S. attorney then acting U.S. attorney for the District of Alaska from 2002 to 2006. Judge Smith also was chief then deputy chief of the Environmental Crimes Section, Department of Justice, in Washington, D.C., from 1995 to 2002. She was director of the New England Bank Fraud Task Force in Boston, from 1993 to 1995; a trial attorney then senior litigation counsel, Fraud Section, DOJ, Washington, D.C., from 1987 to 1993; an assistant U.S. attorney then chief assistant U.S. attorney for the District of Alaska from 1982 to 1987; a staff attorney, Alaska Court of Appeals, from 1981 to 1982; and an assistant public defender, Alaska Public Defender Agency, from 1978 to 1980. Judge Smith received her B.S. from the University of Florida at Gainesville in 1974, and her J.D. from Northeastern School of Law in 1978. She was an education editor for the Fort Lauderdale News and the Sun-Sentinel from 1974 to 1975. She maintains chambers in Anchorage.

NEW JUDGES

MAGISTRATE JUDGES CONTINUED



Judge Keith Strong was appointed a magistrate judge for the District of Montana on January 8, 2007. Prior to his appointment, Judge Strong was a partner at Dorsey and Whitney in Missoula, from 1988 to 2006. He practiced with the law firm of Church, Harris, Johnson

and Williams in Great Falls, Montana, from 1974 to 1988. Judge Strong received his B.A. from the University of Montana in 1971, and his J.D. from the University of Montana School of Law in 1974. He maintains chambers in Great Falls.

NEW SENIOR JUDGES



Judge Napoleon A. Jones, Jr., of the Southern District of California was appointed a district judge on September 15, 1994. He assumed senior status on September 19, 2007. Prior to his appointment to the federal bench, Judge Jones served as a San Diego County

Superior Court judge, from 1982 to 1994, and as a San Diego Municipal Court judge, from 1977 to 1982. He engaged in private practice at Jones, Cazares, Adler and Lopez, Attorneys at Law, in San Diego from 1975 to 1977. Judge Jones was a staff attorney at Defenders, Inc., in San Diego from 1972 to 1973; a legal intern at California Rural Legal Assistance in Modesto from 1971 to 1972; and a legal services coordinator at Community Crisis Center in San Diego in 1970. He served in the Army from 1962 to 1965. Judge Jones received his B.A. and his M.S.W. from San Diego State University in 1962 and in 1967, respectively, and his J.D. from the University of San Diego School of Law in 1971. He maintains chambers in San Diego.



Judge Stephen M. McNamee of the District of Arizona was appointed a district judge on June 4, 1990. He served as chief judge from 1999 to 2006, and assumed senior status on October 1, 2007. Prior to his appointment, Judge McNamee served as a U.S. attorney for the

District of Arizona from 1985 to 1990. He worked as a chief assistant U.S. attorney, from 1981 to 1985, and as a first assistant U.S. attorney in 1980. He was a lecturer at the University of Arizona, College of Business, from 1975 to 1979; an assistant U.S. attorney for the District of Arizona from 1971 to 1979; and an attorney at Florsheim Shoe Company's Legal and Finance Department from 1969 to 1971. Judge McNamee received his B.A. from the University of Cincinnati in 1964, his M.A. from the University of Arizona in 1967, and his J.D. from the University of Arizona, College of Law, in 1969. He maintains chambers in Phoenix.

IN MEMORIAM



Judge Polly S. Higdon, 65, a bankruptcy judge for the District of Oregon, died on October 13, 2007. She was appointed to the court on December 17, 1987, and served as chief bankruptcy judge, from 1997 to 1999. She maintained chambers in Eugene. Judge Higdon

received her B.A. from Vassar College in 1964, her J.D. from Washburn University School of Law in 1975, and her LL.M. from New York University School of Law in 1980. She was admitted to the Oregon State Bar and Kansas State Bar, and was a member of the National Conference of Bankruptcy Judges, the American Bankruptcy Institute, and the National Association of Bankruptcy Trustees (Taxation Committee). Judge Higdon is survived by her mother, daughter, and brother.



Judge Michael W. Leavitt, 63, a magistrate judge for the Eastern District of Washington, died on June 17, 2007. He was appointed to the court on February 2, 2004, and maintained chambers in Yakima. Judge Leavitt was a member of the Ninth Circuit's Magistrate

Judges Education Committee. Prior to his appointment to the federal bench, he served as a Yakima County Superior Court judge, from 1989 to 2004. He was a partner and shareholder in the former Gavin Robinson Law Firm in Yakima from 1973 to 1988. Born in Hawthorne, Nevada, and raised in Homedale, Idaho, Judge Leavitt received his B.A. from Brigham Young University in 1968, and his J.D. from the University of Utah, School of Law, in 1971. Judge Leavitt is survived by his wife, Alona, five children, five brothers and sisters, his father and stepmother.



Judge Alan A. McDonald, 79, a district judge for the Eastern District of Washington, died on July 26, 2007. He was appointed to the court on October 17, 1985. He assumed senior status on December 13, 1996, and maintained chambers in Yakima. Prior to his appointment

to the bench, Judge McDonald engaged in private practice with the law firm of Halverson & Applegate in Yakima for 31 years. He began his legal career as a deputy prosecuting attorney, Yakima County, from 1952 to 1954. Judge McDonald received his B.S. from the University of Washington in 1950, and his LL.B. from the University of Washington, School of Law, in 1952. While in law school, he was a member of the editorial board of the Law Review and was awarded a Carkeek Scholarship. Judge McDonald is survived by his wife, Ruby, three daughters, three grandchildren, and a brother.



Judge Carl A. Muecke, 89, a district judge for the District of Arizona, died on September 21, 2007. He was appointed to the court on October 1, 1964, and served as chief judge from 1979 to 1984. Judge Muecke assumed senior status on November 30, 1984, and

maintained chambers in Phoenix. Prior to his appointment, Judge Muecke served as a U.S. attorney for the District of Arizona from 1961 to 1964. He engaged in private practice in Phoenix from 1953 to 1961. Judge Muecke served as a major in the Marine Corps Reserve from 1946 to 1950, and as a major in the Marine Corps from 1942 to 1946. He received his B.A. from the College of William and Mary in 1941, and his LL.B. from the University of Arizona, College of Law, in 1953. Judge Muecke is survived by his wife, Vicki, two sons, a daughter, and four grandchildren.

IN MEMORIAM CONTINUED



Judge John S. Rhoades, Sr., 82, a district judge for the Southern District of California, died on September 3, 2007. He was appointed to the court on October 28, 1985. He assumed senior status on November 4, 1995, and maintained chambers in San Diego.

Prior to his appointment, Judge Rhoades was a senior partner in the Rhoades, Hollywood, and Neil law firm from 1960 to 1985, and was a sole practitioner from 1956 to 1960. He was a deputy city attorney and prosecuting attorney in San Diego, from 1956 to 1957, and from 1955 to 1956, respectively. Judge Rhoades received his A.B. from Stanford University in 1948, and his J.D. from the University of California, Hastings College of the Law, in 1951. He served in the Navy from 1943 to 1946 and in the Naval Reserve until 1966. He is survived by his five sons.



Judge Joseph E. Schmitt, 84, was appointed a magistrate judge for the Southern District of California on October 3, 1975. He remained on recall status for the district until the time of his death. Prior to his appointment, Judge Schmitt served as city attorney in Brawney,

California, from 1961 to 1991. He worked for the District Attorney's Office in El Centro and was a special advisor to the county board of supervisors. Judge Schmitt received his B.S. from Indiana University in 1948, and his law degree, along with classmates Sandra Day O'Connor and William Rehnquist, from Stanford University in 1951. Judge Schmitt served in the Army during the Korean War, and following law school, he served as a captain in the Army Judge Advocate General Corps from 1951 to 1953. He is survived by his wife, Jean.

NINTH CIRCUIT HIGHLIGHTS



NINTH CIRCUIT INITIATIVES

CIRCUIT CASE BUDGETING PROJECT

Legal defense of indigent defendants charged with major crimes in federal courts can be very expensive. The Ninth Circuit is one of three federal circuits engaged in efforts to control these costs without compromising legal representation. Their goal is to develop case management and budgeting tools for judges and for defense counsel appointed under the Criminal Justice Act, the federal law requiring indigent defense.

Working through its Committee on Defender Services, the Judicial Conference of the United States, national governing body of the federal courts, selected the Second, Sixth and Ninth circuits for the pilot project. The Ninth Circuit, through its Office of the Circuit Executive, provided staff, hiring a veteran CJA attorney, Nancy Rutledge, to carry forward the effort. Ms. Rutledge, who came onboard in January 2007, is a former CJA supervising attorney for the U.S. District Court in Colorado.

“It is a matter of managing the money spent for the defense of CJA defendants more effectively and efficiently. It will never be about compromising the representation of a defendant,” Ms. Rutledge observed.

Containment of CJA costs focuses on capital cases and so called “mega” cases where defense costs for a single defendant can exceed \$30,000.

The pilot project has multiple goals. The first is to help judges develop and manage case budgets using the spreadsheet software program, Microsoft Excel. A customized Excel spreadsheet was developed, along with supporting documents and training manuals. The Excel-based budgeting system is now being used by all three circuits. Improvements to the system are ongoing. Contributing significantly to the development of this tool was Sandy Andrews, a policy and research analyst with the Circuit Executive’s Office.

In addition to their work with judges, court staff and CJA attorneys in the federal trial courts, circuit staff also is working with the Ninth Circuit Court of Appeals, assisting

a committee of circuit judges responsible for reviewing CJA excess payments. The committee is developing an attorney billing program that also uses Excel for reporting and calculating hours and expenses. It is anticipated that the new billing system will be implemented in 2008 by many district courts, making possible faster audits and reviews, uniformity in court billing practices, and more timely payment to CJA attorneys.

The pilot project also seeks to:

- Develop compensation standards, including maximum rates for investigators, experts, and other service providers.
- Maintain a statistical database, which can be used to measure the effects of case budgeting, answer questions from judges and others, and manage the Criminal Justice




The Ninth Circuit hosted a training and planning session for the Circuit Case Budgeting Project in June. Attendees included, from left front row, Paul E. Denicoff of the AO’s Office of Defender Services; Nancy Rutledge of the Ninth Circuit OCE; Christopher Davis, mega-case budgeting consultant; from left second row, Bob Ranz and Timothy D. Schroeder of the Sixth Circuit Court of Appeals; and Jerry L. Tritz of the Second Circuit Court of Appeals.

Act program. The database will provide information about the range and average costs of more common case types in the district courts.

- Plan, create and implement training programs and materials, including the Ninth Circuit Criminal Justice Act Summit scheduled to take place in January 2008.
- Solicit assistance from experienced judges and other judiciary personnel in developing policy guidance for

the review of cases. Model motions and orders will be made available to district courts and CJA attorneys throughout the Ninth Circuit.

The multi-circuit pilot project presents an excellent opportunity for federal courts throughout the nation to address inconsistencies in the CJA payment process, adopt uniform standards for appointment and payment of CJA counsel, and increase the overall quality of representation in the targeted cases. 

PACIFIC ISLANDS COMMITTEE

Through the work of its Pacific Islands Committee, the Ninth Circuit has helped to promote the rule of law far beyond the nation's borders.

The committee was established in 1991 by the Judicial Council of the Ninth Circuit to carry on oversight responsibilities related to the judiciaries of current and former U.S. territories in the Pacific. These responsibilities were delegated to the circuit by the Judicial Conference of the United States, the national governing body for federal courts.

Since... 2002, the committee has approved 44 educational and training conferences, seminars and workshops.

The territories in question are Guam and American Samoa, the Commonwealth of the Northern Mariana Islands, the republics of Palau and the Marshall Islands, and the Federated States of Micronesia. All but American Samoa are in the North Pacific. (Guam and the Northern Mariana Islands are part of the Ninth Circuit and have their own federal courts.) The committee is responsible for developing and providing continuing educational and training opportunities for judges and court professionals, and for the overall improvement of the administration of justice in the courts of these island nations. Since



Retired Supreme Court Justice Sandra Day O'Connor attended the FJC's Mid-Winter Workshop held January 29-31 in Santa Barbara, California. Justice O'Connor is shown here with, from left, Chief District Judge Frances Marie Tydingco-Gatewood of the District of Guam, Justice F. Philip Cabullido of the Supreme Court of Guam, and Chief Justice Aliksa B. Aliksa of Kosrae State Supreme Court.

establishing the Pacific Islands Judicial Education Program in 2002, the committee has approved 44 educational and training conferences, seminars and workshops.

During fiscal year 2007, the committee approved 17 events, which served more than 150 chief justices, judges, probation officers, public defenders, attorneys, clerks and court administrators. The programs focused on trial practices and procedures, court administrator training, interaction between judges and journalists, domestic violence and other topics.

continued


NINTH CIRCUIT INITIATIVES CONTINUED

The Domestic Violence Conference, held in August in Hagatna, Guam, was a groundbreaking effort focusing on the role of judges and the courts in dealing with domestic violence. The two-day event featured lectures and exercises to help judges be prepared to take a leadership role in their community's response to domestic violence.

Funding for these programs comes through multiple grants from the U.S. Department of the Interior. For fiscal year 2007, funds received from the DOI totaled \$320,000 for programs in American Samoa, NMI, Guam and Palau, and \$316,000 for programs benefiting the Federated States of Micronesia and the Republic of the Marshall Islands.

The grants also funded participation by island judges and court staff in regional judicial gatherings such as the Pacific Judicial Council Leadership Training Conference, held in February in Kosrae, Micronesia, which was attended by 15 chief justices and presiding judges representing all six jurisdictions. Judges and court staff also were brought to the United States to participate in the Federal Judicial Center's Mid-Winter Workshop in Santa Barbara, California, and to attend classes at the National Judicial College in Reno.

In fiscal year 2007, the Pacific Islands Committee was chaired by Senior District Judge Consuelo B. Marshall of the Central District of California. Other members included Circuit Judges Richard R. Clifton of Honolulu and M. Margaret McKeown of San Diego; Senior Circuit Judge J. Clifford Wallace, also of San Diego; Chief District Judges Alex R. Munson of the Northern Mariana Islands and Frances Marie Tydingco-Gatewood of Guam; and District Judge J. Michael Seabright of Honolulu.

The committee roster also included as ex officio members Circuit Judge Mary M. Schroeder of Phoenix, former chief judge of the circuit, and, Senior District Judge Howard D. McKibben of Reno and Idaho Supreme Court Justice Linda Copple-Trout, who represent the judiciary's national Committee on Federal-State Jurisdiction. 

PUBLIC INFORMATION AND COMMUNITY OUTREACH COMMITTEE

Judges, Journalists Gather for Ninth Circuit Media Conference

The U.S. Court of Appeals for the Ninth Circuit welcomed dozens of journalists, media lawyers and academics to the Richard H. Chambers U.S. Courthouse in Pasadena in September for a two-day media conference.

The educational program included segments on secrecy, judicial ethics, cameras in the courtroom and the proliferation and growing influence of bloggers in legal news coverage, plus a review of Supreme Court rulings on Ninth Circuit cases and a rare opportunity for the press to hear remarks from a panel of current, former and incoming chief judges of the circuit.

The event was organized by the Ninth Circuit Public Information and Community Outreach (PICO) Committee, whose mission is to promote public understanding of and confidence in the judiciary. The committee has organized similar media programs for a number of the federal district courts in the circuit.

The September 5-6 conference in Pasadena drew journalists from Seattle, San Francisco, San Diego and the Los Angeles metropolitan area. A number of media attorneys, mostly from Southern California, also attended.

Media panelists included Fred Graham, anchor of CourtTV; Dahlia Lithwick, editor and legal correspondent for the online magazine, Slate; Lucy Dalglish, executive director of the Reporters Committee for Freedom of the Press; Howard Mintz, legal affairs writer for the San Jose Mercury News; Tony Mauro, Supreme Court correspondent for Legal Times; Henry Weinstein, legal affairs writer for the Los Angeles Times; Martin Berg, editor of the Los Angeles and San Francisco legal publication, The Daily Journal; Pam MacLean, California bureau chief for the National Law Journal; David Postman,

Pictured right is the Ninth Circuit—Past, Present, Future panel, from left to right, Senior Circuit Judge Procter Hug, Jr., Chief Judge Mary M. Schroeder, Circuit Judge Alex Kozinski, and Senior Circuit Judge J. Clifford Wallace. Pictured below is Chief District Judge Robert S. Lasnik receiving an award from District Judge Marilyn L. Huff in recognition of his outstanding leadership while serving as chair of the Public Information and Community Outreach (PICO) committee from October 2004 to September 2007.




chief political writer of the Seattle Times; and Eugene Volokh, UCLA law professor and sponsor of the online legal blog, The Volokh Conspiracy.

A number of judges of the Ninth Circuit Court of Appeals participated. The panel of chief judges included Chief Judge Mary M. Schroeder, who has served since December 2000; Judge Alex Kozinski, the incoming chief scheduled to assume the gavel in December 2007; and two past chiefs, Senior Circuit Judge Procter Hug, Jr., who served from 1996 to 2000, and Senior Circuit Judge J. Clifford Wallace, who served from 1991 to 1996.

Also participating from the bench were Ninth Circuit Judges Kim M. Wardlaw, Raymond C. Fisher, Susan P. Graber, M. Margaret McKeown, Jay S. Bybee, Sidney R. Thomas, Richard R. Clifton and Carlos T. Bea; and Chief District Judge Robert S. Lasnik of the Western District of Washington, and District Judge Wiley Daniel of the District of Colorado.

Other participants included Nevada Federal Defender Franny Forsman; Debra Yang, a former U.S. Attorney in Los Angeles; media attorneys Kelli Sager and Guylyn Cummins; attorney Kathleen Sullivan, former dean of the Stanford Law School; Vikram Amar, a law professor at the University of California at Davis School of Law; and Gary Hengstler, director of the National Center for Courts and the Media.

Since 2002, the PICO Committee has helped organize media workshops around the Ninth Circuit. The committee also seeks to promote community outreach efforts undertaken by the federal district and bankruptcy courts, such as Law Day and the Open Doors to Federal Courts programs. Through the Office of the Circuit Executive, the committee distributes “Children at Risk,” a video-based educational program that teaches younger students about the basics of the court system, and has strongly endorsed the Credit Abuse Resistance and Education (CARE) program, which helps educate high school seniors about the problems associated with credit card debt. 

NINTH CIRCUIT MAKES JUDICIAL HISTORY WITH FIRST PANEL OF HISPANIC JUDGES

The United States Court of Appeals for the Ninth Circuit made judicial history when an appellate panel consisting of three judges of Hispanic descent heard oral arguments in Seattle on July 11, 2007. It was the first time that an all-Hispanic panel sat in any of the nation's federal courts of appeal since they were established in 1891.

Circuit Judge Kim McLane Wardlaw and Senior Circuit Judges Arthur L. Alarcón and Ferdinand F. Fernandez comprised the panel, which considered appeals of decisions reached in the federal trial courts of Washington and Idaho. They are among six Hispanic judges on the Ninth Circuit Court of Appeals, the most of any circuit court in the country.

"When you think of the immigration this country has had from all quarters and our melting pot history, I would have thought this would have happened more than once by now," observed Judge Wardlaw, who was appointed to the court in 1998 by President Clinton.

"It's very important for our courts to reflect the diversity and multiculturalism of our society," she added. "It gives us credibility when people are being judged by people who may have had similar experiences or at least can comprehend their experiences."

For Judge Alarcón, appointed in 1979 by President Carter and currently the longest-serving Hispanic circuit judge in the country, an all-Hispanic panel may be overdue, but gratifying nonetheless.



Pictured above (left to right): Senior Circuit Judges Arthur L. Alarcón, Circuit Judge Kim McLane Wardlaw and Senior Circuit Judge Ferdinand F. Fernandez.

"I would hope that it will encourage Hispanic kids that they can go after their dreams and achieve. There has never been a Hispanic on the Supreme Court and I think that's something that will be available very soon," Judge Alarcón said.

Also of Hispanic descent are Ninth Circuit Judges Richard A. Paez, appointed in 2000 by President Clinton, and Consuelo M. Callahan and Carlos T. Bea, appointed in 2003 and 2005, respectively, by President Bush.

Appellate panels are drawn randomly and there has been the possibility of an all-Hispanic panel in the Ninth Circuit since 1998. The U.S. Court of Appeals for the Fifth Circuit has had at least three judges of Hispanic descent since 1994, but has not drawn an all-Hispanic panel yet.

All told, there are currently 14 judges of Hispanic descent currently serving on the 11 regional courts of appeal, according to the Federal Judicial Center, which maintains a database on the gender and ethnicity of federal judges. The Second Circuit has two Hispanic judges and the First, Third and 10th circuits each have one.



NINTH CIRCUIT JUDICIAL CONFERENCE

The 2007 Ninth Circuit Judicial Conference was held July 16-19 at the Sheraton Waikiki in Honolulu, Hawaii. The theme of the conference was “Collision Course: When Liberty and Order Clash.” More than 800 judges, judiciary employees, representatives of government agencies and private attorneys participated in the conference.

The annual event 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 such circuit.” Most of the judges who preside and lawyers who practice in the federal courts of the western United States participate.

Ninth Circuit Chief Judge Mary M. Schroeder introduced Hawaii Governor Linda Lingle who welcomed attendees at the opening session. Chief Judge Schroeder delivered her final state of the circuit address, highlighting initiatives undertaken, goals achieved and challenges that lie ahead for the federal courts of the western United States.

Educational Programs

The conference general sessions included various educational programs that focused on drug abuse policy, secrecy and privacy in the electronic age, confidentiality in the courts, and the role of the courts in wartime.

The session “Reexamining Drug Abuse Policy: Theory, Science and Practice” discussed whether the increase in the number of persons sentenced for federal drug offenses represent progress, defeat, or the expected results of the use of the criminal justice system to prevent drug abuse. Panelists included District Judge Reggie Walton of the District of Columbia and Scott Burns, deputy director for state and local affairs in the White House Office of National Drug Control Policy.

In the “Secrecy in the Electronic Age” segment, experts examined how the courts had to balance the presumptive constitutional rights of the public and press to attend court proceedings and inspect court records against other important public concerns, such as litigants’ rights to financial and personal privacy, companies’ rights to protect trade secrets and other proprietary information, and the rights of jurors and other involuntary players in the judicial system.

Panelists for this session included Senior District Judge Terry J. Hatter, Jr., of the Central District of California; Bankruptcy Court Clerk Barry K. Lander of the Southern District of California; Lucy Dalglish, executive director of the Reporters Committee for Freedom of the Press; and attorney Debra W. Yang



Pictured above: Hawaii Governor Linda Lingle welcoming conference attendees. Pictured below: Chief Judge Mary M. Schroeder (right) and Chief District Judge Robert S. Lasnik (left), Chair, Ninth Circuit Conference Executive Committee.



Appointed in 1975, Supreme Court Justice John Paul Stevens is the longest-serving justice on the nation's highest court.

of Los Angeles. Professor David C. Kohler of Southwestern University School of Law moderated the session.

“Breakfast with the Bench — Confidentiality in the Courts,” which involves members of the bench and bar, further discussed secrecy in the electronic age and examined how the definition of confidentiality in the courts had changed as a result of the Internet. Attorney Andrew P. Gordon of Las Vegas made the panel introduction, and District Judge William Alsup of the Northern District of California and Lucy Dalglish moderated the panel.

The historic role played by the courts in times of crises was the focus of the segment “The Role of the Courts in Wartime: A Historical Perspective.” Panelists included Professor John O. McGinnis of Northwestern University School of Law; Professor Harry N. Scheiber of the University of California, Boalt Hall School of Law; and Professor Geoffrey R. Stone of the University of Chicago Law School. Dean Elizabeth Rindskopf Parker of the University of the Pacific, McGeorge School of Law, moderated the session.

Conversation with the Justice

The highlight of the conference was the participation of Associate Justice John Paul Stevens of the United States Supreme Court. Justice Stevens, who last attended the conference in 2002, was warmly welcomed by attendees.

Chief District Judge Robert S. Lasnik of Seattle, chair of the Conference Executive Committee, Andrew P. Gordon of Las Vegas, chair of the Lawyer Representatives Coordinating Committee, and attorney Laura S. Taylor of San Diego, presented questions to Justice Stevens. The conversation segment was well-received by the attendees. Some gathered next to the justice and took photographs as their remembrance of the conference. 🏛️

AUDIENCE RESPONSE SYSTEM USED AT CONFERENCE

The 2007 Ninth Circuit Judicial Conference employed the use of an Audience Response System which enabled the audience to participate in one of the panel presentations by submitting their answers to interactive questions posed by the panel.

The panel on “Reexamining Drug Abuse Policy: Theory, Science and Practice,” showed filmed scenarios to the audience about individuals abusing or selling drugs. The audience was asked to respond to the solutions suggested by the panel members. Using a keypad device, the audience had the opportunity to submit their responses and to see the results in real time. 🏛️



Pictured above is Circuit Judge Consuelo M. Callahan of Sacramento inputting her response on the filmed scenarios.

CONFERENCE AWARD PRESENTATIONS

The Ninth Circuit Judicial Conference provides an opportunity to recognize outstanding service to the legal profession and judicial system. Awards established by the Ninth Circuit Judicial Council, the Administrative Office of the United States Courts, and the prestigious American Inns of Court are presented during the opening session of the conference. The following recipients were announced for 2007.

Ninth Circuit Professionalism Award

Sacramento media attorney Charity Kenyon received the 2007 American Inns of Court Ninth Circuit Professionalism Award, which recognizes “a senior practicing lawyer 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.”

Ms. Kenyon is nationally known for her expertise in First Amendment law and regarded by members of the bench and bar as a model of professionalism, ethics and civility. Over the course of her 30-year career in the law, she has emphasized appellate practice, news media representation, and public contracts disputes.

Ms. Kenyon is a founding member of Sacramento’s Milton L. Schwartz American Inn of Court and served on its executive committee for four years. Nominated for her exceptional mentoring aptitude and warm friendship toward newer lawyers, she was also acknowledged for her creative and stimulating programs, many of which have been models for Inns of Courts throughout the country.

The American Inns of Court, a national organization with 340 inns and 75,000 active and alumni members, is dedicated to excellence, civility, professionalism, and ethics in the practice of law. An American Inn of Court is an amalgam of judges, lawyers, and in some cases, law professors and law students. The inns are intended to improve the skills, professionalism and ethics of the bench and bar.

continued



TOP (from left to right): Albert F. Pagni, Advisory Board member (NV), Fredric C. Tausend, John P. Frank Award recipient; and J. Richard Creatura, Advisory Board member (WAW).

MIDDLE (from left to right): Charity Kenyon, American Inns of Court Ninth Circuit Professionalism Award recipient; and Chief Justice Ronald T.Y. Moon of the Supreme Court of Hawaii.

BOTTOM (from left to right): Susan M. Doherty, Robert F. Peckham Award recipient; and Senior Circuit Judge Dorothy W. Nelson of Pasadena, Chair, ADR Committee.

John P. Frank Award

Fredric C. Tausend of Seattle, an elite trial attorney, former law school dean and early advocate of diversity in the legal profession, received the 2007 John P. Frank Award, which recognizes a lawyer who has “demonstrated outstanding character and integrity; dedication to the rule of law; proficiency as a trial and appellate lawyer; success in promoting collegiality among members of the bench and bar; and a lifetime of service to the federal courts of the Ninth Circuit.”

Mr. Tausend’s legal career spans 50 years. Since 1990, he has been a senior counsel at Kirkpatrick & Lockhart Preston Gates Ellis in Seattle. Prior to joining that firm, he was a partner at the Seattle firm of Schweppe, Krug & Tausend, where he made his mark as top anti-trust lawyer and was involved in precedent-setting anti-trust cases in federal and state courts around the country.

From 1980 to 1986, Mr. Tausend served as dean of the University of Puget Sound Law School (now Seattle University Law School), which flourished under his leadership. He served as an adjunct professor of law at the school, teaching courses in anti-trust, trademark and copyright, and legal ethics. He also taught at the University of Washington Law School as a Shefelman Distinguished Lecturer from 1991 to 1992, and in 1995.


In nominating him for the award, colleagues noted that Mr. Tausend recognized the need for diversity long before the rest of the legal profession and advocated quietly on behalf of women and people of color. He made significant contributions as a mentor and friend to generations of young lawyers, and to pro bono and bar activities, including his work as a former lawyer representative to the Ninth Circuit.

Alternative Dispute Resolution Awards

Attorney Susan M. Doherty, Alternative Dispute Resolution program coordinator for the U.S. Bankruptcy Court for the Central District of California, received the 2007 Robert F. Peckham Award for Excellence in Alternative Dispute Resolution. The Peckham award recognizes judicial employees who have significantly advanced the delivery of effective court-based ADR programs in the circuit.

Ms. Doherty helped start the court’s Bankruptcy Mediation Program Panel in 1994 after being hired as a career law clerk by Bankruptcy Judge Barry Russell. The program serves Los Angeles and six adjoining counties. More than 150 certified attorneys, many of them bilingual, help litigants resolve their disputes more promptly, at less cost, and without the stress and pressure of litigation. After taking a leave of absence in 1999, Ms. Doherty returned to the court in 2004 and resumed her positions with Judge Russell and the mediation program.

The University of California Hastings College of the Law received the 2007 Ninth Circuit ADR Education Award which recognizes law schools that have significantly advanced ADR scholarship and research.

Hastings Center for Negotiation and Dispute Resolution, established in 2003, is one of the largest ADR education programs in the country which provides elective course selections for more than 450 students each year. The center includes a mediation clinic in which students participate in an intensive academic seminar on mediation, then serve as mediators in small claims court and for the City and County of San Francisco’s Equal Employment Opportunity division. 

2007 SEES ELEVATION OF NEW CHIEF JUDGE FOR NINTH CIRCUIT

2007 closed with a changing of the guard at the United States Court of Appeals for the Ninth Circuit. Chief Judge Mary M. Schroeder of Phoenix, the first woman to lead the Ninth Circuit, stepped down after seven eventful years. She was succeeded by new Chief Judge Alex Kozinski of Pasadena.

A symbolic gavel passing ceremony held November 30 at the James R. Browning U.S. Courthouse in San Francisco marked the changeover. Dozens of federal judges, prominent members of the bar and elected leaders attended the event.

“We can only do our jobs as judges due to the support we have from our staff.”

In his first remarks as executive officer of the nation’s largest and busiest appellate court, Judge Kozinski sought to share the spotlight with his predecessors and with the many people who work behind the scenes in the federal courts of the West.

“We can only do our jobs as judges due to the support we have from our staff. We are really nothing without these people, the men and women, who serve us,” he said of law clerks, secretaries and judicial assistants, staff in the circuit and district courts, and probation and pretrial services officers.

“The reason (the judiciary) is such a great institution is because those folks who work with us show a commitment to the job and a commitment to the institution that is truly remarkable.”

Noting that he has served as either a judge or law clerk under six of the nine previous chief judges of the circuit, Judge Kozinski praised their individual talents, temperaments and commitment to the courts of the circuit.



Chief Judge Mary M. Schroeder passes the gavel to incoming Chief Judge Alex Kozinski.

“As have all of my predecessors, who have risen to the occasion with the help of incredibly talented and helpful colleagues, both on the court of appeals and in the district courts, I hope also to rise to the occasion and manage to lead this court through the years ahead.”

Chief judges of the 15 federal trial courts in the circuit will be looking to the new chief circuit judge for help and leadership, said Chief District Judge Donald W. Molloy of the U.S. District Court for the District of Montana.

“There are many, many events and issues that we are going to need your help, your guidance and your direction. All of us are looking forward to that happening,” Judge Molloy said.


Judge Kozinski is the 10th chief judge of the circuit since Congress created the position in 1948. As chief judge, he will serve as executive officer of both the Ninth Circuit Court of Appeals and the Judicial Council of the Ninth Circuit, the governing body for federal courts in the West. He also will represent the Ninth Circuit at biannual meetings of the Judicial Conference of the United States, the judiciary’s national policy-making body. The chief judge also presides over the 11-judge en banc courts convened

by the court of appeals to resolve intra-circuit legal conflicts or other matters of exceptional importance.

Judge Kozinski has served 22 years on the Ninth Circuit Court of Appeals. Nominated by President Reagan, he received his judicial commission on November 7, 1985. Prior to his appointment to the appellate bench, Judge Kozinski served as chief judge of the United States Court of Federal Claims from 1982 to 1985.

Judge Kozinski received his A.B. degree in 1972 from the University of California at Los Angeles, and his J.D. in 1975 from the UCLA Law School. He served as a law clerk to then-Ninth Circuit Judge Anthony M. Kennedy, 1975-76, and to the late Chief Justice Warren E. Burger of the U.S. Supreme Court, 1976-77.

Judge Schroeder, who has served on the court since 1979, was elevated to chief judge in December 2000. Under her leadership, the court successfully ward off attempts to split the circuit and developed innovative new methods to weather a 600-percent increase in immigration appeals. Judge Schroeder also undertook important initiatives addressing jury reform in federal district courts, health and wellness for all judges, media relations and other matters. Several of these initiatives have been adopted by the judiciary nationally.

The chief judge of the circuit assumes the position based on seniority. The chief judge is the judge in regular active service who is senior in commission of those judges who are (1) 64 years of age or under; (2) have served for one year or more as a circuit judge; and (3) have not served previously as chief judge. The term of office is seven years, or until the incumbent turns 70, whichever comes first. The process is authorized by 28 U.S.C. §45. 

NEW CIRCUIT EXECUTIVE, CHIEF CIRCUIT MEDIATOR NAMED

2007 also saw noteworthy changes in court administration in the Ninth Circuit.

Cathy A. Catterson, the longtime clerk of court for the United States Court of Appeals for the Ninth Circuit, was named to head the Office of the Circuit Executive, the administrative arm of the Judicial Council of the Ninth Circuit, which governs federal courts in the western states. The appointment was announced in December by new Chief Judge Alex Kozinski.

Ms. Catterson was given a new title, Circuit and Court of Appeals Executive, in recognition of her additional responsibilities. Molly Dwyer, chief deputy clerk under Ms. Catterson, was named acting clerk of court.



Cathy A. Catterson, the new Circuit and Court of Appeals Executive has been with the courts for 28 years.

Ms. Catterson had served as clerk of court since 1985, managing a staff of more than 200 employees working in the circuit's headquarters in San Francisco and divisional offices in Pasadena, Portland and Seattle. She was originally hired in 1979 as a senior case expeditor and also worked as chief deputy clerk.

The Office of the Circuit Executive, which is located in San Francisco, assists the Judicial Council in achieving its goals and objectives by providing varied professional services. The office, which currently has a staff of 34, works closely with judges, clerks and other staff in the federal district and bankruptcy courts of the circuit.

The position of circuit executive had been vacant since June 1, when Dr. Gregory B. Walters, who had held the job for 18 years, resigned to take a position in Washington, D.C., as special assistant to James C. Duff, chief executive of the Administrative Office of the United States Courts.



Senior Circuit Judge Dorothy W. Nelson and new Chief Circuit Mediator Claudia L. Bernard at a reception held at the James R. Browning U.S. Courthouse in San Francisco.

A native of Queens, New York, Ms. Catterson received her undergraduate degree in 1974 from Catholic University of America, and her J.D. in 1978 from George Mason University Law School. She served as a law clerk to the late U.S. District Judge Edward J. Devitt of St. Paul, Minnesota, and is admitted to practice before the U.S. Courts of Appeal for the Fourth and Ninth circuits, the U.S. District Court for the Eastern District of Virginia, and the Supreme Court of Virginia.


The court of appeals' highly successful mediation unit also turned the page in 2007 with the appointment of Claudia L. Bernard as the new chief circuit mediator. Her appointment, effective May 1, was announced by Chief Judge Mary M. Schroeder. She succeeded David E. Lombardi, Jr.,

who retired after leading the mediation unit since the early 1990s.

Ms. Bernard has been a circuit mediator with the Ninth Circuit Court of Appeals since 1989. In addition to mediating scores of civil and administrative cases per year, she has helped train new mediators and conducted training in communications for employees of various court units.

As chief circuit mediator, Ms. Bernard will supervise eight circuit mediators who all work exclusively for the court of appeals. They collectively resolve about 1,200 cases annually, removing them from the court's docket. All of the mediators are licensed attorneys, experienced and highly skilled in appellate mediation.

Prior to joining the Ninth Circuit staff, Ms. Bernard worked as an attorney with the law firm of Lieff, Cabraser & Heimann in San Francisco, and was a law clerk for Magistrate Judge Wayne D. Brazil of the U.S. District Court for the Northern District of California. She began her professional career as an educator and paralegal working with various legal services foundations and a San Francisco law firm, Lillick, McHose & Charles.

Ms. Bernard received her undergraduate degree in criminology from the University of California at Berkeley, graduating Phi Beta Kappa with highest honors. She received her J.D. from the University of California Hastings College of the Law, where she was an associate editor of the school's Communications Law Review. She also has wide range of post-graduate training in mediation-related subjects. 

NINTH CIRCUIT BANKRUPTCY APPELLATE PANEL MERIT DECISIONS PASS 5,000 MARK

The number of appeals decided on the merits by the United States Bankruptcy Appellate Panel of the Ninth Circuit (BAP) exceeded 5,000 cases in April. Of these appeals, 1,439, nearly 30 percent, were decided in published opinions with the remaining 3,572 decided in unpublished memorandum decisions. The decisions reflect the work of 82 different bankruptcy judges who serve on BAP since its inception in 1979.

BAP Clerk of Court Harold Marenus noted that federal law allows litigants to have their bankruptcy appeals heard either by the BAP or a district court.

“The BAP is a court of choice,” Mr. Marenus said. “Our staff is keenly aware that litigants have a choice as to where they take their bankruptcy appeals. This keeps us highly motivated to provide the best service possible.”

“...BAP decisions are cited in courts throughout the United States as persuasive authority on bankruptcy issues.”

Commenting on the milestone, BAP Chief Judge Philip H. Brandt of Western Washington noted, “The BAP has been instrumental in developing a uniform body of bankruptcy case law within this circuit. BAP decisions are cited in courts throughout the United States as persuasive authority on bankruptcy issues.”

Judge Brandt added that the 5,000-plus merits decisions do not include procedural dispositions, such as dismissals for lack of jurisdiction or lack of prosecution. “All told, the BAP has disposed of more than 15,000 bankruptcy appeals, which has enabled the court of appeals and district courts to focus more of their attention on their heavy civil and criminal caseloads,” he said.

The BAP, which has offices in the Richard H. Chambers U.S. Courthouse in Pasadena, was established by the Judicial Council of the Ninth Circuit as an alternative forum for hearing bankruptcy appeals. The BAP consists of six members, all sitting bankruptcy judges from districts within the circuit. Panel membership is voluntary, and appointments are for seven-year terms. Twenty-five bankruptcy judges have served on the BAP as members. Another 57 bankruptcy judges have served on the BAP as pro tem judges, whose assignments typically cover a single panel sitting consisting of three to six appeals.

The Ninth Circuit was the first federal circuit to establish a bankruptcy appellate panel. Other circuits with bankruptcy appellate panels include the First, Sixth, Eighth and Tenth circuits.



The Ninth Circuit Bankruptcy Appellate Panel consists of, seated from left, Bankruptcy Judge Dennis Montali of the Northern District of California, Chief Bankruptcy Judge Christopher M. Klein of the Eastern District of California, Bankruptcy Judge Jim D. Pappas of the District of Idaho; and, standing from left, Bankruptcy Judge Bruce A. Markell District of Nevada, Bankruptcy Judge Meredith A. Jury of the Central District of California, and Bankruptcy Judge Randall L. Dunn of the District of Oregon.

PORTRAIT HONORS JUDGE MARSHALL

Like many federal courts, the U.S. District Court for the Central District of California honors its past chief district judges. At its main courthouse in downtown Los Angeles, the ceremonial courtroom is adorned with the portraits of those who have led the court since it was established by Congress in 1966. A particularly special portrait was added in 2007: that of the Hon. Consuelo B. Marshall, who led the court from 2001 to 2005.

Judge Marshall was the first woman to serve as chief district judge in the district's 41-year history. It was another first for Judge Marshall, who, in 1980, became the first African-American woman appointed to a federal court west of the Mississippi, and, in 1962, was the first woman attorney of any race to serve in the office of the Los Angeles city attorney.

She is the second African-American to lead the Central District, one of the nation's largest trial courts, following Senior Circuit Judge Terry J. Hatter, Jr., who served from 1998 to 2001.

Judge Marshall's portrait was unveiled at a special ceremony held October 26, 2007, at the courthouse. Several hundred guests attended, including many of her colleagues on the district court bench, family and friends, elected officials, and dozens of the judge's former law clerks.

Leading the tributes to Judge Marshall was the Hon. Ann C. Williams of the U.S. Court of Appeals for the Seventh Circuit, a longtime friend who said she looked upon Judge Marshall as a model in life and the law. Borrowing from one of Robert F. Kennedy's most famous quotes, she described Judge Marshall as a "standup woman."

Senior District Judge Consuelo B. Marshall pictured along with her commissioned portrait by artist Simmie Knox.



"Each time a woman stands up for an ideal or acts to improve the lots of others or strikes out at an injustice, she sends forth a tiny ripple of hope. Those ripples build a current that can sweep down the mightiest walls of oppression and resistance," Judge Williams said.


"Judge Marshall is a stand-up woman. She has spent her life standing up, for herself, her family, her many communities, and for equal justice for all."

More than 60 of Judge Marshall's former law clerks joined together to commission famed artist Simmie Knox to paint the oil-on-canvas portrait of Judge Marshall. She joined a select group of noteworthy subjects painted by Knox that includes former President Bill Clinton and First Lady Hillary Clinton, Supreme Court Justice Ruth Bader Ginsburg and the late Justice Thurgood Marshall.

In her remarks, Judge Marshall talked of the importance of family and friends, and of passing along knowledge to the next generation. She described her clerks as her "children in law."

"I am so proud of all of them, the contributions they are making to the community," she said.

As to breaking the gender barrier among chief judges, Judge Marshall referred to her two young granddaughters, who were often perplexed that all of the portraits on the courtroom walls were of men.

"They'd ask me, 'Why aren't there any girls up there, any women?' Well, there is now," she said with a smile. 

COURT OF APPEALS HOSTS ASIAN PACIFIC HERITAGE EVENT, EXHIBIT

The Northern California legal community met at the James R. Browning United States Courthouse in San Francisco in May to look back at major court cases having significant legal and social impacts on Asian Americans.

The event was part of the celebration of the Asian Pacific American Heritage Month. Sponsors included the Northern California Chapter of the Federal Bar Association, the Asian American Bar Association of the Greater Bay Area, the Ninth Judicial Circuit Historical Society and the Northern District of California Historical Society.

The highlight of the evening was a panel discussion of key cases heard in the U.S. District Court for the Northern District of California and the U.S. Court of Appeals for the Ninth Circuit, and ultimately decided by the Supreme Court of the United States. Magistrate Judge Edward M. Chen of the Northern District; attorneys Karen Kai of the Korematsu Coram Nobis Team and Malcom Yeung of the Asian Law Caucus, and Professor Edward H. Steinman of the Santa Clara University School of Law served as panelists. Cases discussed included:

Yick Wo v. Hopkins, an 1886 case in which the conviction of a Chinese laundry owner under a San Francisco ordinance was reversed because the ordinance was administered in a discriminatory fashion;

Korematsu v. U.S.; a 1944 case upholding the conviction of a California man who sought to evade the government's internment of Japanese Americans during World War II. Under a rare legal procedure known as writ of error coram nobis (Latin for error before us), Fred T. Korematsu's conviction was vacated by the district court in 1984. Ms. Kai served on the legal team that achieved this extraordinary vindication;

Lau v. Nichols, the 1974 case that led to bilingual education in the U.S. involved Chinese students in San Francisco. Professor Steinman argued the case on behalf of Lau; and *Wong v. Hampton*, a 1976 case which declared unconstitutional a Civil Service Commission




"Remembering 1882," pictured here is Judy Hu who prepared the traveling exhibit sponsored by the Chinese Historical Society of America.



regulation barring non-citizens, including lawfully admitted resident aliens, from employment in the federal competitive civil service.

Also as part of the heritage month observance, the Browning Courthouse hosted a traveling exhibit that marked the 125th anniversary of the Chinese Exclusion Act, the first law to bar entry of an ethnic group on the premise that it endangered certain localities.

The exhibit, entitled “Remembering 1882,” was a set of eight panels which explored the historical debate over the 1882 Exclusion Act, the nation’s first immigration legislation. The panels followed the law from its origins through its full repeal in 1968, the civil rights struggle of Chinese Americans and their allies, and the historic importance of habeas corpus in the Chinese American community. The traveling exhibit was sponsored by the Chinese Historical Society of America, which is based in San Francisco. 

FEDERAL COURTS DO THEIR PART IN COOP PLANNING

Through continuity of operations (COOP) planning, federal courts are preparing for operations during or soon after a major emergency. In 2007, the Ninth Circuit, through its Office of the Circuit Executive, played a central role in a major regional planning exercise focusing on a hypothetical outbreak of avian flu in the United States.


The Pandemic Preparedness Symposium, held December 5 in the auditorium of the Oakland Federal Building, brought together the Federal Executive Board, the Federal Emergency Management Agency, the General Services Administration, and the Ninth Circuit. Heather Henson, COOP planning/coordinator for the Office of the Executive, served as program chair. The one-day event was intended as a warm-up for a more extensive program in 2008.

Symposium highlights included a keynote address by Dr. Erica Pan, M.D., M.P.H., who is the director of the Bioterrorism and Infectious Disease Emergency Unit at the San Francisco Department of Public Health. Dr. Pan covered the emerging threat of the H5N1 Avian Flu virus in which 355 human cases were reported in Asia, Africa, the Pacific, Europe and the near East. The mortality rate in the reported cases was 60 percent.

The City and County of San Francisco also was represented by Vicki Hennessy, director of the Department of Emergency Services, who stressed the need for local response efforts to be tied in closely with the state and federal emergency plans and efforts.

Also participating was Commander Tim Gruber, regional emergency coordinator for the U.S. Department of Health and Human Services, who discussed the agency’s capabilities and provided an overview of the department’s plan for a pandemic crisis.

Panel discussions covered health service capabilities, private sector preparedness, and problems that should be anticipated by federal, state, and local agencies as they plan for a pandemic crisis. Human capital, business continuity, and alternative work possibilities were among the topics discussed.

Concluding remarks were given by Farley Howell, director of the National Preparedness program for FEMA Region IX, who discussed how FEMA will continue to play a large role in exercising and evaluating response capabilities with a specific focus on pandemic planning. 

COURT IT STAFF GATHERS IN LOS ANGELES

The Ninth Circuit's annual Technology Users Group (TUG) conference was held August 14-16 at the Omni Hotel in Los Angeles and drew about 175 information technology and other court staff attendees. All of the judicial districts in the circuit were represented along with the Administrative Office of the United States Courts and the Office of the Circuit Executive.

District Judge Thomas I. Vanaskie of the U.S. District Court for the Middle District of Pennsylvania, chair of the Judicial Conference of the United States Committee on Information Technology, opened the conference with an overview of current IT projects and initiatives at the national level.


Judge Vanaskie often has the opportunity to implement new technology first. His court served as a pilot court for the next iteration of the courts' data communication network (DCN) and the Financial Accounting System for Tomorrow (FAS4T) server consolidation. Plans to modify the DCN by making it faster are projected to rollout in October 2008.

The national committee implemented the JCUS policy on security and privacy in December 2007, and is providing general guidelines for management

of the courts' wide and local area networks. A plan to provide increased publicity for new court tools, such as JPORT which provides remote access to the desktop as an alternative to VPN, is in the works.

Judge Vanaskie also introduced the Information Technology Fellows Program created to encourage court IT professionals to assume leadership roles at the national IT level. The program was announced in December 2007 by Director James C. Duff of the AO.

One of the hot topics of the conference was the creation of policies for wireless devices in the courtroom. A panel that included Judge Vanaskie, district and bankruptcy court clerks, a reporter from the Los Angeles Times, and a representative from the Office of the Circuit Executive addressed key questions such as whether to allow the use of wireless devices in the courtroom, whether to allow attorneys to check their personal digital assistant (PDA) for email during proceedings instead of passing notes, and whether the courts should provide WiFi access to attorneys, jurors, and the media.

The audience participated with great enthusiasm, and the use of an audience response system (ARS) was well received. The ARS was utilized to obtain survey of audience opinions in real time. 

SPACE & FACILITIES



TACOMA COURTHOUSE PROVIDES UNIQUE MIX OF HISTORY AND ART

Among federal courthouses, the Union Station Courthouse in Tacoma may well be unique. Not only does it occupy a wonderfully-restored, near century-old train depot, it also provides a showcase for elaborate blown-glass art created on a grand scale.

The courthouse has been home to the southern division of the U.S. District Court for the Western District of Washington since 1993. The building houses 10 courtrooms and chambers for district, bankruptcy and magistrate judges, plus offices for court services staff, two congressional representatives and an art education coordinator.

The art in question is the work of Tacoma artist Dale Chihuly, a pioneer in introducing blown glass art into the realm of large-scale contemporary sculpture. His monumental art decorates the building rotunda, while smaller pieces are displayed elsewhere in the courthouse.

The artist's signature piece, the "End of the Day" chandelier, hangs from the ceiling of the dome. Also in the rotunda is the Monarch Window, which looks out onto Mount Rainier, while another wall is adorned with a third piece called the Basket Mural. Visitors can enter the rotunda to see the artwork without entering the courthouse proper, and the rotunda has become a popular venue for weddings and other events.

Union Station was built by the Northern Pacific Railroad to serve as its Pacific Northwest terminus. The domed, classical Beaux-Arts style train terminal opened in 1911 at a time when rail travel seemingly had no limits. But as travelers turned to the automobile and away from trains, use of the station declined steadily. By the late 1970s, only Amtrak was serving the city. Amtrak service ended in 1984 and the station was shuttered a year later.



Tacoma's treasured Union Station, below, serves as the entrance to the U.S. District Court. Inside the rotunda are blown glass art works by famed artist Dale Chihuly, a Tacoma native. The include the Monarch Window, above, and, facing page, the End of the Day chandelier and other works. Senior District Judge Robert J. Bryan has his chambers in the building.






Amid talk of razing the building, Tacoma citizens rallied to save the station. A letter to the editor suggesting the federal courts might make use of the building led a local congressman to push for federal participation. The property eventually was transferred to the City of Tacoma, which, in turn, entered into a 30-year lease with the General Services Administration, which agreed to restore and refurbish the building for court use. The property will be turned over to the federal government when the lease expires.

The project included a 120,000-square-foot addition immediately north of the station. Courtrooms in the new building are interchangeable and can be used by all judges. The bars separating spectators from participants in the courtrooms can be moved to accommodate crowds, and the jury boxes also are expanded to seat additional jurors. The building also allows for future expansion.

The restoration of Union Station is credited with helping revive Tacoma's Pacific Avenue neighborhood. Other developments to follow the courthouse project included the University of Washington's Tacoma campus, the Washington State History Museum, the Tacoma Art Museum and the International Museum of Glass.

"It was kind of exciting to watch the community develop around us," observed Senior District Judge Robert J. Bryan, who became involved with the project shortly after being appointed to the court in 1986. "We're very proud of how everything has turned out." 



COURTHOUSES UNDER CONSTRUCTION

Great Falls

U.S. Courthouse

Gross Square Footage: 48,411

Project Completion Date: 2009

Architects: BC Development
with Hoefer Wysocki Architects, LLC



Coeur d'Alene

U.S. Courthouse

Gross Square Footage: 63,079

Project Completion Date: 2008

Architects: ALSC Architects

IN DESIGN PHASE



Los Angeles

U.S. Courthouse

Gross Square Footage: 1,016,300

Architects: Perkins & Will Architecture

San Diego

U.S. Courthouse

Gross Square Footage: 619,644

Architects: Richard Meier & Partners



THE WORK OF THE COURTS



COURT OF APPEALS STATISTICS

After a long upward trend, the number of appeals filed with the U.S. Court of Appeals for the Ninth Circuit declined for the second consecutive year. The court received 12,685 new appeals in 2007, down 8.3 percent from 2006. Appellate filings nationally were down 9 percent with 10 of the 12 regional courts of appeal reporting decreases. The Ninth Circuit continued to have the largest share of new filings, 21.9 percent of the national total.

The court terminated 13,300 cases for the year. The court ruled on the merits in 6,531 appeals, while judges and staff disposed of 6,276 cases before the completion of briefing for jurisdictional defects or because the result was manifest from the face of the record.

1 Appellate Caseload Profile, 2006-2007

	2006	2007	Change 2006-2007
Filings	13,828	12,685	-8.3%
Terminations	13,470	13,300	-1.3%
*Pending Cases	17,176	16,561	-3.6%

*Total pending cases for calendar year 2006 revised.

The downturn in new Ninth Circuit filings reflected a continuing decline in immigration appeals, which had risen 626 percent between 2001 and 2005. The deluge resulted from accelerated review and frequent rejection of asylum and other requests by the Board of Immigration Appeals. Federal law allows BIA decisions to be appealed to circuit courts.

Appeals of BIA actions declined 14.2 percent in 2007. Still, the 4,430 BIA appeals received in 2007 once again constituted the largest category of new appeals, amounting to 34.9 percent of the court's total filings.

Breakdown of New Appeals

Appeals of administrative decisions by federal agencies, which include the 4,430 BIA matters, numbered 4,625 or 36.5 percent of the new appeals in 2007. It was the largest category of new filings.

Appeals of cases originating in the federal district courts in the circuit numbered 7,027 in 2007, down 6.6 percent from the prior year. Of the appeals originating in the district courts,

5,335, or 76 percent, were civil in nature and 1,692, or 24 percent, were criminal.

Rounding out the new cases were 836 original proceedings and 197 bankruptcy appeals.

The Central District of California, one of the busiest federal trial courts in the nation, once again generated the largest number of appeals among the district courts, 1,940, or 27.6 percent of the total. The Central District generated 80 fewer cases, about 4 percent less than 2006.

Three districts generated more appeals in 2007. Appeals increased by 1.6 percent for the Eastern District of California, up 12 to 833 filings; by 9.7 percent for the Western District of Washington, up 43 to 485 filings; and by 21.4 percent in the District of the Northern Mariana Islands, up 3 cases to 17 filings. Several districts generated significantly fewer appeals: Nevada had 451 appeals, 102 fewer than the year before; Oregon had 406 appeals, 53 fewer; and the Eastern District of Washington had 162 appeals, 61 fewer.

Criminal appeals decreased by 21.5 percent in 2007, from 2,155 to 1,692. The decline may possibly reflect fewer challenges to criminal sentencing practices, which had spiked upward following groundbreaking decisions in this area of law by the U.S. Supreme Court in 2004 and 2005.

The circuit had 13.2 percent of criminal appeals filed nationally. The most numerous criminal appeals involved drug offenses with 463 filings, criminal immigration offenses with 411 filings, property offenses with 214 filings, and firearms and explosives offenses with 192 filings. Violent offenses numbered 119, including 18 homicides.

Total civil appeals coming from the district courts numbered 5,335 in 2007, down slightly from the prior year. The federal government was either a plaintiff or defendant in 1,013 of those cases, or 19 percent. Private cases numbered 4,322, or 81 percent. Among private cases, prisoner petitions

constituted the largest single category. In 2007, prisoners filed 2,372 petitions for habeas corpus, capital habeas corpus, civil rights, prison conditions and other causes. Prisoner filings constituted 44.5 percent of the civil appeals coming from the district courts.

Terminations and Pending Cases

The number of appeals terminated by the court in 2007 numbered 13,300, down 1.3 percent from 13,470 in 2006. The number of administrative appeals terminated by the court was 5,133, down slightly from the year before.

Among appeals terminated, administrative appeals ranked first with 5,133, or 38.6 percent, followed by private prisoner petitions, 2,214, up 10.5 percent; other private civil matters, 2,018, up 8 percent; and criminal appeals, 1,884, down 21.7 percent.

Of the appeals terminated, 6,276 involved procedural terminations by judges and court staff. Another 6,531 cases were terminated on the merits, 1,933 cases after oral argument and 4,598 cases after submission of briefs. Cases disposed of by consolidation numbered 493.

continued

2 Filings, Terminations and Pending Cases by Appeal Type, 2007

Type of Appeal	2006 Filings	2007 Filings	Change 2006-07	% of Circuit Total	2006 Terminated	2007 Terminated	Change 2006-07	2006 Pending	2007 Pending	Change 2006-07
Civil										
U.S. Prisoner Petitions	390	357	-8.5%	2.8%	413	397	-3.9%	357	319	-10.6%
Private Prisoner Petitions	2,277	2,372	4.2%	18.7%	2,004	2,214	10.5%	1,918	2,079	8.4%
Other U.S. Civil	633	656	3.6%	5.2%	528	651	23.3%	852	860	0.9%
Other Private Civil	2,067	1,950	-5.7%	15.4%	1,867	2,018	8.1%	2,786	2,720	-2.4%
Criminal	2,155	1,692	-21.5%	13.3%	2,407	1,884	-21.7%	2,306	2,116	-8.2%
Other										
Bankruptcy	143	197	37.8%	1.6%	155	176	13.5%	224	245	9.4%
Administrative Appeals	5,340	4,625	-13.4%	36.5%	5,276	5,133	-2.7%	8,486	7,992	-5.8%
Original Proceedings	823	836	1.6%	6.6%	820	827	0.9%	222	230	3.6%
Circuit Total	13,828	12,685	-8.3%		13,470	13,300	-1.3%	17,151	16,561	-3.4%
National Appellate Total	63,676	57,973	-9.0%		67,699	61,462	-9.2%	55,253	51,240	-7.3%
Ninth Circuit as % of National Total	21.7%	21.9%	-0.2%		19.9%	21.6%	-1.7%	31.0%	32.3%	1.3%

******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." Data on reopened cases for 2007 and thereafter are not comparable to data published previously on reinstated cases.

3 Median Time Intervals Calendar Years 2006 and 2007

By Stage of Appeal	Number of Months			
	Ninth Circuit		National	
	2006	2007	2006	2007
From Notice of Appeal to Filing Last Brief	6.1	6.4	5.8	5.9
From Filing Last Brief to Hearing or Submission	6.6	8.7	4.2	4.6
From Hearing to Final Disposition	1.2	1.2	2.1	2.0
From Submission to Final Disposition	0.2	0.2	0.5	0.5
From Filing of Notice of Appeal to Final Disposition	15.5	18.6	12.1	12.5
From Filing in Lower Court to Final Disposition in Appellate Court	34.2	38.4	27.4	28.8

*The subtotals do not add up to the number for total cases because total cases include original proceedings not reported separately in this table. This table does not include data for the U.S. Court of Appeals for the Federal Circuit.

4 Source of Appeals and Original Proceedings, 2007

District	Appeals	% of Total
Alaska	89	0.7%
Arizona	777	6.1%
C. Calif.	1,940	15.3%
E. Calif.	768	6.1%
N. Calif.	833	6.6%
S. Calif.	477	3.8%
Hawaii	153	1.2%
Idaho	142	1.1%
Montana	314	2.5%
Nevada	451	3.6%
Oregon	406	3.2%
E. Wash.	162	1.3%
W. Wash.	485	3.8%
Guam	13	0.1%
Northern Mariana Islands	17	0.1%
Bankruptcy	197	1.6%
Administrative Agencies, Total	4,625	36.5%
IRS	94	0.7%
National Labor Relations Board	29	0.2%
BIA	4,430	34.9%
Other Administrative Agencies	72	0.6%
*Original Proceedings	836	34.9%
Circuit Total	12,685	

*Totals include reopened and remanded appeals as well as original appeals. This table does not include data for the U.S. Court of Appeals for the Federal Circuit, 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.

Among the 6,531 cases decided on the merits, 4,208 cases, or 64.4 percent, were affirmed or enforced. The remaining 2,323 were dismissed, reversed, remanded or terminated by other means. The reversal rate was 6.2 percent.

En banc courts, used to decide intra-circuit conflicts and other important legal matters, heard 18 cases in 2007.

The court ended the year with 16,561 pending cases, down from 17,176 cases in 2006.

Median Time Intervals

Median time intervals, which measure how long it takes for cases decided on the merits to proceed through the appellate process, slipped for the Ninth Circuit in 2007. The median time interval from filing of a notice of appeal to final disposition of a case was 18.6 in 2007, an increase from 15.5 months in 2006. The median time interval from the filing of a case in a lower court to final disposition by the Ninth Circuit was 38.4 months, an increase from 34.2 months in 2006.

Once an appeal was fully briefed, Ninth Circuit judges decided cases fairly quickly. In 2007, the median time interval for final disposition was 1.2 months for a case in which oral arguments were heard, and .2 months for a case submitted on briefs.

National median time intervals also increased, but were shorter than those of the Ninth Circuit. National median times were 12.5 months from notice of appeal to final disposition by a circuit court of appeals, and 28.8 months from the filing of a case in a lower court to final disposition by a circuit court.

Pro Se Filings and Terminations

Pro se appeals, in which at least one party is not represented by legal counsel, continue to represent a large portion of the Ninth Circuit's appellate caseload. New pro se filings numbered 5,498 in 2007, down 2.5 percent from 2006. Private prisoner petitions and administrative appeals ranked first and second among categories of pro se filings with 1,909 and 1,714 cases, respectively.

The Ninth Circuit terminated of 5,330 pro se cases in 2007, most on procedural grounds.

Contributions by Active, Senior and Visiting Judges

The court had 27 active circuit judges and 23 senior circuit judges for most of 2007. Active circuit judges participated in 64 percent of the cases terminated on the merits during the year. Senior circuit judges participated in 30.9 percent, while visiting judges helped decide 5.2 percent.

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

DISTRICT COURT FILINGS

Federal district courts serve as trial courts in the federal court system. Criminal and civil case filings in the federal district courts of the Ninth Circuit increased slightly in 2007. Courts in the circuit's 15 judicial districts reported a total of 55,093 filings, up 1.2 percent from the prior year. They accounted for 17.5 percent of the national federal district court caseload of 315,105 filings. Overall, national filings decreased by 6.4 percent in 2007.

5 U.S. District Courts - Total Criminal and Civil Cases Filed, Terminated, and Pending Period: 12 Months Ending December 31, 2007

	2006	2007	Change 2006-2007
Civil Filings	41,759	40,478	-3.1%
Criminal Filings	12,672	14,615	15.3%
Total Filings	54,431	55,093	1.2%
Civil Terminations	40,800	39,245	-3.8%
Criminal Terminations	13,334	15,048	12.9%
Total Terminations	54,134	54,293	0.3%
*Pending Civil Cases	40,136	41,369	3.1%
*Pending Criminal Cases	13,266	12,833	-3.3%
*Total Pending Cases	53,402	54,202	1.5%
Civil Case Termination Index (in months)	11.8	12.7	7.6%
*Criminal Case Termination Index (in months)	11.9	10.2	-14.3%
*Overall Case Termination Index	11.8	11.9	0.8%
Median Months (from filing to disposition) Civil Cases	8.3	7.8	-6.0%
Median Months (from filing to disposition) Criminal Defendants	7.1	6.4	-9.9%
Median Months National Total (from filing to disposition) Civil Cases	7.9	8.7	10.1%
Median Months National Total (from filing to disposition) Criminal Defendants	7.1	7.0	-1.4%

Median time intervals computed only for 10 or more cases and only for 10 or more defendants. Median time intervals from filing to disposition of civil cases terminated, by district and method of disposition, excludes land condemnation, prisoner petitions, deportation reviews, recovery of overpayments and enforcement of judgments. Median time intervals from filing to disposition of criminal defendants disposed of, by district, excludes transfers.

*Revised

Criminal Filings, Terminations and Pending Cases

Criminal filings in district courts of the circuit totaled 14,615 in 2007, up 15.3 percent from the prior year. Criminal filings accounted for 26.5 percent of the circuit's total district court filings. Immigration offenses were the largest category, numbering 5,932 and constituting 40.6 percent of the total criminal filings. Drug offenses followed with 2,944 filings, or 20.1 percent of the total.

Increases were reported in 12 of 19 categories of criminal filings. Categories with the largest increases were improper reentry by an alien, 3,924 filings, up 39.5 percent from 2006, followed by fraud, 1,777 filings, up 35.8 percent, and traffic offenses, 515 filings, up 34.2 percent.

Nationwide, criminal filings (excluding transfers) numbered 68,565, up 3.7 percent from 66,094 in 2006. District courts of the Ninth Circuit accounted for 21.2 percent of the national criminal caseload, up 2.2 percent from last year. They had 33.7 percent of the criminal immigration cases and 17.5 percent of the drug offense cases filed nationally in 2007.

Eleven out of 15 districts reported increases in criminal filings in 2007. The Southern District of California had the largest numerical increase, reporting 3,455 filings, up 25 percent from 2,763 cases the year before, followed by the Central District of California with 1,633 new cases, up 50.2 percent; the District of Arizona with 4,082 new cases, up 16.6 percent; and the District of Hawaii, with 426 new cases, up 22.8 percent.

The only decreases in criminal case filings were reported by the District of Nevada, which had 350 cases, down 24.4 percent; the Eastern District of Washington, which had 332 cases, down 13.8 percent; the District of Guam, which had 116 cases, down 7.9 percent; and the District of Oregon, which had 646 cases, down 3.1 percent.

continued

6 Ninth Circuit District Courts - Types of Criminal Cases Commenced, by Major Offense and District (Excluding Transfers), 2007

	AK	AZ	C. Calif.	E. Calif.	N. Calif.	S. Calif.	HI	ID	MT	NV	OR	E. Wash.	W. Wash.	Guam	NMI	Total
Violent Offenses																
Homicide	1	17	3	0	0	1	0	0	9	0	4	1	3	0	0	39
Robbery	2	9	27	6	9	14	4	2	1	23	23	3	11	0	0	134
Assault	2	124	18	29	10	24	12	13	23	3	9	5	10	0	1	283
Other	3	24	6	4	3	2	1	2	5	2	1	9	4	0	0	66
Property Offenses																
Burglary, Larceny & Theft	4	88	59	67	44	4	39	4	6	17	44	11	175	39	2	603
Embezzlement	12	7	12	1	5	1	3	6	5	11	11	1	4	0	0	79
Fraud	26	674	361	121	122	125	32	18	51	58	61	16	85	22	5	1,777
Forgery & Counterfeiting	1	7	41	13	6	2	1	2	4	2	5	4	1	1	0	90
Other	0	2	0	5	1	1	3	0	2	2	3	1	6	2	0	28
Drug Offenses																
Marijuana	3	350	7	37	2	715	14	2	5	2	30	7	64	0	0	1,238
All Other Drugs	57	243	126	177	73	395	102	36	79	42	98	66	185	11	16	1,706
Firearms and Explosives Offenses																
	15	198	85	66	47	47	34	52	99	38	73	70	62	15	0	901
Sex Offenses																
	9	53	61	59	44	11	7	17	70	21	32	18	32	0	0	434
Justice System Offenses																
	3	36	14	10	18	26	5	0	5	3	8	11	13	1	0	153
Immigration Offenses																
Improper Alien Reentry	5	1,939	649	171	171	592	2	88	38	95	53	88	27	6	0	3,924
Other	0	245	30	12	10	1,459	1	2	9	13	148	4	71	4	0	2,008
General Offenses																
	2	14	38	25	14	15	8	2	26	10	13	4	78	1	0	250
Regulatory Offenses																
	20	41	77	35	29	12	9	2	6	3	23	5	24	8	0	294
Traffic Offenses																
	5	4	5	46	23	0	148	0	3	0	0	3	272	6	0	515
All Offenses Total	170	4,075	1,619	884	631	3,446	425	248	446	345	639	327	1,127	116	24	14,522

This table includes all felony and Class A misdemeanor cases but includes only those petty offense cases that have been assigned to district judges.

7 Ninth Circuit District Courts
Weighted and Unweighted Filings Per Authorized Judgeship
Period: 12 Months Ending December 31, 2007

Unweighted Filings Per Judgeship						Weighted Filings Per Judgeship					
District	Authorized Judgeships	Civil	Criminal	Supervised Release Hearings	Total	Civil	Criminal	Supervised Release Hearings	2007 Weighted Total	2006 Weighted Total	Change 2006-2007
Alaska	3	108	74	4.00	186	131	67	0.75	199	198	0.5%
Arizona	13	268	369	107.23	744	272	241	15.04	528	535	-1.3%
C. Calif.	28	408	78	40.36	527	501	62	5.67	569	519	9.6%
E. Calif.	6	732	209	60.17	1,002	682	176	8.45	866	952	-9.0%
N. Calif.	14	443	55	35.14	533	569	41	4.94	615	650	-5.4%
S. Calif.	13	188	305	88.69	581	226	188	12.54	427	442	-3.4%
Hawaii	4	156	132	37.00	325	193	92	5.42	290	324	-10.5%
Idaho	2	269	175	44.50	489	322	177	6.55	505	438	15.3%
Montana	3	195	177	48.33	420	199	173	7.27	379	377	0.5%
Nevada	7	337	61	30.00	427	412	50	4.34	466	490	-4.9%
Oregon	6	403	139	57.67	600	430	119	8.25	558	559	-0.2%
E. Wash.	4	150	117	81.50	348	157	102	11.59	270	239	13.0%
W. Wash.	7	396	193	39.43	629	471	119	6.07	596	557	7.0%
Circuit Total	110	4,053	2,084	674	6,811	4,565	1,607	96.88	6,268	6,280	-0.2%
Circuit Mean	***	312	160	51.85	524	351	124	7.45	482	483	-0.2%
Circuit Median	***	269	139	44.5	527	322	119	6.55	505	490	3.1%
National Mean	***	322	133	32.82	487	356	107	4.78	468	478	-2.1%

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 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.

Immigration and drug offenses dominated the criminal dockets in the District of Arizona and the Southern District of California. In Arizona, immigration made up 53.5 percent of criminal cases commenced, while drug offenses accounted for 14.5 percent. In the Southern District of California, immigration made up 59.4 percent of criminal cases opened, while drug offenses accounted for 32.1 percent.

The number of criminal cases terminated by district courts in the circuit numbered 15,048 in 2007, up 12.9 percent from the prior year. The number of pending criminal cases decreased to 12,833, down 3.3 percent from 2006.

Civil Filings, Terminations and Pending Cases

Civil filings in the Ninth Circuit district courts declined 3.1 percent to 40,478 new cases in 2007. The circuit accounted for 16.5 percent of the 246,039 civil filings in the district courts nationally in 2007. National civil filings were down 8.9 percent over the prior year.

Private civil cases accounted for 77.1 percent of all new civil filings in district courts of the circuit. The U.S. government acted as a plaintiff or defendant in the remaining 22.9 percent of the new filings. Prisoner petitions made up 33.2 percent of all new private civil cases, up slightly from the prior year. Other major categories of new private civil filings were civil rights, 15 percent; contracts, 12 percent; and copyright, patent and trademark cases, 9.5 percent.

Among civil filings in which the government was a party, the most numerous were Social Security, which accounted for 29.8 percent; prisoner petitions, 11 percent; and motions to vacate 10.7 percent.

Nine out of 15 districts in the circuit reported fewer new civil cases. The largest decrease was reported by the Northern District of California, which had 6,756 filings, down 17.3 percent from 8,171 filings in 2006. The District of Arizona followed at 3,574, down 8.3 percent, and the Eastern District of California at 4,530, down 6.2 percent.

Elsewhere in the circuit, increases in new civil filings were reported in the districts of Central California, Idaho, Nevada, Oregon, Eastern Washington, and Western Washington.

Civil case terminations numbered 39,245, down 3.8 percent from 40,800 in 2006. The number of pending civil cases was 41,369, up 3.1 percent from 40,136 the prior year.

Case Processing Times

Case processing times in the district courts of the Ninth Circuit's remained relatively stable in 2007. The Case Termination Index, which computes how long it would take to clear the pending caseload if the current termination rate remained constant, was 11.9 months in 2007, a slight increase from 11.8 in 2006.

The median time from filing to disposition for civil cases was 7.8 months, a slight improvement over the 8.3 months reported in 2006. Due to increased filings, the national median time for civil cases was 8.7 months in 2007 compared with 7.9 months in 2006.

For criminal cases, the median time from filing to disposition was the same for the circuit and nationally: 7 months, down slightly from 7.1 months in 2006.



BANKRUPTCY COURT FILINGS

After bottoming out in 2006, bankruptcy filings nationwide increased in 2007. Bankruptcy courts nationally reported 850,912 new filings, up 37.8 percent from 617,660 cases opened in 2006. Bankruptcy courts in the Ninth Circuit reported 127,392 filings, an increase of 62.3 percent from 78,505 filings in 2006. The circuit accounted for 15 percent of the 2007 national filings.

Non-business filings continued to make up the majority of new bankruptcy filings nationally and in the circuit. Non-business filings nationally made up nearly 97 percent of the total filings in 2007 with 822,590 new cases. In the circuit, non-business filings totaled 122,043 new cases, or 96 percent of the total.

8 Business and Non-Business Bankruptcy Cases Commenced by Chapter of the U.S. Bankruptcy Code Period: 12 Months Ending December 31, 2007

Caseload Measure	2006	2007	Change 2006-2007
Filings			
Business Chapter 7	2,180	3,705	70.0%
Business Chapter 11	725	1,009	39.2%
Business Chapter 12	45	36	-20.0%
Business Chapter 13	454	594	30.8%
Non-Business Chapter 7	56,035	88,128	57.3%
Non-Business Chapter 11	120	189	57.5%
Non-Business Chapter 13	18,934	33,726	78.1%
*Total	78,505	127,392	62.3%
Terminations	223,414	125,713	-43.7%
**Pending Cases	142,081	140,931	-0.8%

*Chapter 15 was added and section 304 was terminated by changes in the bankruptcy laws effective October 17, 2005.

(1) Section 101 of the U.S. Bankruptcy Code defines consumer (non-business) debt as that incurred by an individual primarily for a personal, family, or household purpose. If the debtor is a corporation or a 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:
Calendar Year 2006: Arizona (Chapter 15 = 1); Central Calif. (Chapter 9 = 1 and Chapter 15 = 1); Eastern Calif. (Chapter 15 = 3); Northern Calif. (Chapter 9 = 1 and Chapter 15 = 2); Hawaii (Chapter 15 = 2); Western Wash. (Chapter 15 = 1)
Calendar Year 2007: Central Calif. (Chapter 9 = 1 and Chapter 15 = 1); Eastern Calif. (Chapter 15 = 1); Northern Calif. (Chapter 9 = 1); and Arizona (Chapter 15 = 1); Central Calif. (Chapter 9 = 1 and Chapter 15 = 1); Eastern Calif. (Chapter 15 = 3); Northern Calif.

**Pending cases for 2007 revised.

Filings under Chapter 7 of the Bankruptcy Code were the most common type of filing among both business and non-business filers. Chapter 7 filings nationally totaled 538,115, or 63.2 percent of the total. In the circuit, Chapter 7 filings numbered 95,538, or 75 percent of the total filings in the circuit.

Bankruptcy Filings by Chapter

Chapter 7 allows non-business filers to keep certain exempt property, including primary residences, while the remaining property is sold to pay creditors.

Businesses filings under Chapter 7 are liquidated and terminated. In the Ninth Circuit in 2007, Chapter 7 was used by 72 percent of non-business filers and 69.3 percent of business filers.

Chapter 13 was the second largest category of bankruptcy filings among non-business filers. Under Chapter 13 bankruptcy, creditors may be repaid in installments, in full or in part, over three to five years and debts may not exceed a statutory amount. Chapter 13 is available for individuals operating businesses as sole proprietorships, but not for partnerships or corporations.

In 2007, non-business Chapter 13 filings totaled 321,359 nationally, 39.1 percent of the total, and 33,726 in the circuit, 27.6 percent of the total. Business Chapter 13 filings numbered 3,412 nationally, 12 percent of the total, and 594 in the circuit, 11.1 percent of the total.

Chapter 11 was second largest category of bankruptcy filings among business filers, numbering 5,736 nationally, 20.1 percent of the total business filings, and 1,009 in the circuit, 19 percent of all business filings. Chapter 11 allows a business to continue to operate while formulating a plan to repay its

creditors. Although used less commonly in non-business filings, it also allows an individual to use future earnings to pay off creditors. Non-business Chapter 11 filings totaled 617 nationally and 189 in the circuit.

The smallest category of filings was Chapter 12, which is available only to business filers and provides family farmers facing bankruptcy a chance to reorganize their debts and keep their farms. Chapter 12 business filings numbered 376 nationally, 1.3 percent of the total, and 36 in the circuit, .7 percent of the total.

Bankruptcy Filings by District

Fourteen out of 15 bankruptcy courts in the circuit reported increased filings, ranging from 1.8 percent in Montana to 98.5 percent in Nevada.

The Central District of California reported 34,028 new bankruptcy filings, the most in the Ninth Circuit and the second most in the nation in 2007. Its non-business filings numbered 32,248, 94.7 percent of the total. Chapter 7 filings numbered 25,668, 75.4 percent of the total.

The Eastern District of California reported 18,052 new filings in 2007, followed by the Northern District of California, 12,599; the Western District of Washington, 11,224; the District of Nevada, 10,953; and the District of Arizona, 10,920.

Terminations and Pending Cases


Bankruptcy case terminations nationally numbered 891,783 in 2007, down 37.9 percent from the prior year, while pending cases totaled 1,320,726, down 3 percent. In the Ninth Circuit, terminations totaled 125,713, down 43.7 percent, while pending cases numbered 143,759, up 1.2 percent.

Appointments, Transitions

In 2007, the Ninth Circuit Court of Appeals appointed one bankruptcy judge, Judge Robert N. Kwan, who was appointed to the Central District of California on February 5.

The U.S. Bankruptcy Court for the Eastern District of Washington saw the elevation of Chief Bankruptcy Judge Frank L. Kurtz in January 2007. Judge Kurtz was appointed a bankruptcy judge on November 1, 2005. He succeeded Judge Patricia C. Williams as chief.

Recalled Bankruptcy Judge John L. Peterson from the District of Montana became the recalled judges' representative on the Conference of Chief Bankruptcy Judges in January 2007. Judge Peterson, a 45-year veteran of the bankruptcy bench, succeeded Judge Richard T. Ford.

Ninth Circuit bankruptcy courts continue to rely on recalled judges to relieve the active bankruptcy judges. During 2007, six recalled bankruptcy judges assisted in six districts. 

BANKRUPTCY APPELLATE PANEL

All district courts within the Ninth Circuit have issued general orders providing for the automatic referral of bankruptcy appeals to the Bankruptcy Appellate Panel (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. Seven bankruptcy judges are authorized by the Ninth Circuit Judicial Council to serve on the BAP. Over the past five years, one position has been left vacant due to reduced workload based on new filings.

New Filings

For the 2007 calendar year, 658 new appeals were filed. BAP heard 58 percent of all bankruptcy appeals, while 42 percent went to district courts. Historically, the percentage of appeals that the BAP has handled has ranged between 50 percent and 60 percent. Over the last seven years, bankruptcy appeal filings have declined significantly, from a high of 904 in 2002 to an all-time low of 658 in 2007. The decline in appeal filings is expected to continue in 2008 due to the decline in underlying bankruptcy case filings. Table 9 shows bankruptcy appeal filings by district for 2007.

Dispositions

The BAP disposed of 511 appeals in 2007. Of those, 177 appeals were merits terminations. Oral argument was held in 162 appeals, and 15 appeals were submitted on briefs. Of the 177 merits decisions, 38 were published opinions. The reversal rate was 19.2 percent. The median time for an appeal decided on the merits was 8.9 months, down from 11.4 months in 2006. The remaining 334 closed appeals were terminated on procedural grounds, such as for lack of prosecution, lack of jurisdiction, consolidation, or based on voluntary dismissal. The BAP ended the period with 201 appeals pending.

Appeals to the Ninth Circuit

Appeals from a decision of either the BAP or a district court may be filed with the Ninth Circuit Court of Appeals for second-level appellate review. In 2007, 197 second-level appeals were filed. Of these, 85 were appeals from decisions by the BAP and 112 were from decisions by the district courts. Thus, of the 511 appeals that were disposed of by the BAP, roughly 83 percent were fully resolved, with only about 17 percent seeking second-level review.

9 New Bankruptcy Appeal Filings Period: 12 Months Ending December 31, 2007

District	Bankruptcy Appellate Panel	*District Court	Total
Alaska	0	3	3
Arizona	53	28	81
C. Calif.	125	106	231
E. Calif.	45	24	69
N. Calif.	46	36	82
S. Calif.	44	13	57
Hawaii	9	7	16
Idaho	3	2	5
Montana	11	6	17
Nevada	9	15	24
Oregon	6	9	15
E. Wash.	2	3	5
W. Wash.	26	27	53
TOTALS	379 (58%)	279 (42%)	658

*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 ICMS 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). The BAP numbers exclude all such appeals.

MAGISTRATE JUDGE MATTERS

Magistrate judges assist district judges in a range of judicial matters, including presiding over preliminary proceedings and jurisdictional matters, some criminal and civil cases, various other criminal and civil hearings, and prisoner petitions. In the Ninth Circuit, 95 full-time and 11 part-time magistrate judges made significant contributions to the work of their courts in 2007.

The total number of matters disposed of by magistrate judges in the Ninth Circuit was 177,890 in 2007, a slight increase of 0.3 percent from 2006. Decreases were reported in 18 categories including criminal motions, down 41.5 percent, criminal evidentiary proceedings, down 40.1 percent, and civil evidentiary proceedings, down 29.4 percent. Increases were seen in 15 categories including evidentiary proceedings for prisoner petitions, which jumped 66.7 percent from 2006, Class A misdemeanors for trial jurisdiction cases were up 54.9 percent from the prior year, and civil motions with an increase of 14.5 percent from 2006.

Magistrate judges presided over 1,041 more initial appearances for preliminary proceedings, up 4.9 percent from the year before. They also reviewed 937 more civil motions, an increase of 6.1 percent from 2006. State habeas petitions were up 11.2 percent from the year before and accounted for 50.5 percent of all prisoner petitions.

New Magistrate Judges and Governance

Six new magistrate judges were sworn into office over the course of the year. They were Judge Gary S. Austin of the Eastern District of California, Judge Michelle Hamilton Burns of the District of Arizona, Judge Mark Clarke of the District of Oregon, Judge Alicia Rosenberg of the Central District of California, Judge Deborah M. Smith of the District of Alaska, and Judge Keith Strong of the District of Montana.

Magistrate Judge Anthony J. Battaglia of the Southern District of California serves as chair for the Magistrate Judges Executive Board. He succeeded Magistrate Judge J. Kelley Arnold of the Western District of Washington in October 2006. Judge Battaglia serves as an official observer at meetings of the Judicial Council



The Magistrate Judges Executive Board consists of: seated from left, Leslie E. Kobayashi, vice-chair, of Hawaii, Anthony J. Battaglia, chair, of Southern California, J. Kelley Arnold of Western Washington; middle row from left, James Larson of Northern California, Cynthia Imbrogno of the Eastern Washington, Joaquin V.E. Manibusan of Guam, and Ralph Zarefsky of Central California; and back row from left, Gregory G. Hollows of Eastern California, Karen L. Strombom of Western Washington, Robert A. McQuaid of Nevada, and Mikel H. Williams of Idaho. Not pictured: Judges Carolyn S. Ostby of Montana, John D. Roberts of Alaska, and Janice M. Stewart of Oregon.

of the Ninth Circuit. He also serves on the Committee on Criminal Rules of the Judicial Conference of the United States. Judge Battaglia's term as chair of the board expires in September 2008.

In 2007, the Magistrate Judges Executive Board fine tuned their charter to indicate that the term of new members shall begin at the Ninth Circuit Judicial Conference, before a board member's term expires. The full magistrate judges in his or her district shall select a replacement, and the outgoing member shall notify the chair of the selection before the circuit conference, and a member may designate a substitute magistrate judge to attend any meeting when a member is unable to attend.


The Magistrate Judges Executive Board also participated in the orientation of new magistrate judges after their May meeting in San Francisco with a program on settlement conferences. Judge Dennis Cavanaugh, chair of the Judicial Conference of the U.S. Committee on the Administration of the Magistrate Judges System, and Thomas Hnatowski, chief, Magistrate

10 Matters Disposed of by Ninth Circuit Magistrate Judges Period: 12 Months Ending September 30, 2007

Activity	2006	2007	Percent Change 2006-2007
Total Matters	177,419	177,890	0.3%
Preliminary Proceedings	81,919	80,158	-2.1%
Search Warrants	8,219	7,730	-5.9%
Arrest Warrants/Summonses	6,064	5,529	-8.8%
Initial Appearances	23,546	24,587	4.4%
Preliminary Examinations	5,448	5,693	4.5%
Arraignments	14,174	13,987	-1.3%
Detention Hearings	13,746	13,642	-0.8%
Bail Reviews/Nebbia Hearings	3,664	2,900	-20.9%
Other ⁵	7,058	6,090	-13.7%
Trial Jurisdiction Cases	20,414	21,617	5.9%
Class A Misdemeanors	1,139	1,764	54.9%
Petty Offenses	19,275	19,853	3.0%
Civil Consent Cases	2,884	2,459	-14.7%
Without Trial	2,819	2,398	-14.9%
Jury Trial	42	37	-11.9%
Nonjury Trial	23	24	4.3%
Additional Duties			
Criminal	27,368	28,159	2.9%
Motions 636(b)(1)(A) ¹	11,283	11,968	6.1%
Motions 636(b)(1)(B)	1,107	648	-41.5%
Evidentiary Proceedings	274	164	-40.1%
Pretrial Conferences ²	2,488	2,621	5.3%
Probation Revocation and Supervised Release Hearings	1,191	1,034	-13.2%
Guilty Pleas	6,685	6,771	1.3%
Other ³	4,340	4,953	14.1%
Civil	28,996	29,544	1.9%
Settlement Conferences	3,426	3,193	-6.8%
Other Pretrial Conferences ²	4,215	4,048	-4.0%
Motions 636(b)(1)(A) ¹	15,239	16,176	6.1%
Motions 636(b)(1)(B)	999	1,144	14.5%
Evidentiary Proceedings	34	24	-29.4%
Social Security	919	735	-20.0%
Special Masterships	96	107	11.5%
Other ⁴	4,068	4,117	1.2%
Prisoner Petitions	5,590	5,723	2.4%
State Habeas	2,600	2,892	11.2%
Federal Habeas	430	359	-16.5%
Civil Rights	2,515	2,397	-4.7%
Evidentiary Proceedings	45	75	66.7%
Miscellaneous Matters⁶	10,248	10,230	-0.2%

Judges Division attended the May meeting. The new members of the board in 2007 include Magistrate Judges David K. Duncan of Phoenix, Stephen J. Hillman of Los Angeles, and Deborah M. Smith of Anchorage.

Educational Programs

At the 2007 Ninth Circuit Judicial Conference in Honolulu, Hawaii, the Magistrate Judges Education program featured a panel of judges, lawyers, and an information technology expert who discussed issues on electronic discovery. Judge Anthony J. Battaglia moderated the panel which consisted of Magistrate Judge Leslie Kobayashi of Honolulu, Magistrate Judge Louisa Porter of San Diego, attorneys Maria Acker and Jeffrey Portnoy, and IT expert Adam Bendell. The panel focused on practical implementation of eDiscovery rules to help judges and lawyers recognize which aspects of the rules may present ambiguities in context and how to avoid such ambiguities in advanced. 

1 Before 2000, category included contested motions only. Beginning in 2000, uncontested motions were added.

2 Before 2000, category did not include status conferences. Beginning in 2000, status conferences were added.

3 Category includes writs, mental competency hearings, and motion hearings.

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

5 Category includes material witness hearings and attorney appointment hearings.

6 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 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.

FEDERAL PUBLIC DEFENDERS

Federal public defenders and community defenders in nine of 14 judicial districts of the Ninth Circuit saw their workloads increase in fiscal year 2007 (ending September 30, 2007). A big jump in the number of new cases opened in Arizona along with modest growth in three other districts resulted in a net caseload increase for the circuit.

Ninth Circuit defenders opened 28,676 new cases in FY2007, up 11.2 percent from the prior fiscal year. They closed 28,253 cases, up 9.5 percent from FY2006. The Ninth Circuit's share of the national caseload was 28.8 percent for cases opened and 28.5 percent for cases closed, up from 26.3 for FY2006.

In Arizona, one of two border courts in the circuit, new cases opened in FY2007 totaled 10,121, up 24.7 percent from 8,116 new cases the prior fiscal year. Of the new cases, 64.4 percent were criminal in nature, many of them involving illegal immigration. The circuit's other border court, the Southern District of California, opened 4,980 new cases, up 14.2 percent from the 4,361 opened in FY2006.

the prior fiscal year; Eastern District of California, 1,983 cases, down 5.1 percent from 2,089 cases in FY2006; and Alaska, 277 cases, down 3.5 percent from 287 cases the prior fiscal year.

Circuit caseloads have varied over the last six years with increases reported in 2002, 2004, 2006, and 2007, and decreases in 2003 and 2005.

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 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

11 Federal Defender Organizations - Cases Opened, Closed and Pending Period: 12 Months Ending September 30, 2007

Cases	Fiscal Year					Percent Change 2006-2007
	2003	2004	2005	2006	2007	
Opened	23,539	24,543	23,157	25,779	28,676	11.2%
Closed	23,247	24,215	22,979	25,795	28,253	9.5%
Pending	7,944	8,287	8,460	8,471	8,880	4.8%

Also reporting increases were the District of Guam, 202 cases, up 33.8 percent; the District of Montana, 678 cases, up 15.7 percent; the Northern District of California with 934 cases, up 14.6 percent; the Western District of Washington, 2,130 cases, up 11.9 percent; the Eastern District of Washington, 812 cases, up 6.7 percent; the Central District of California, 3,227 cases, up 1.5 percent; and the District of Oregon, 1,554 cases, up 0.4 percent.

Decreases in new cases were reported by five districts. The largest decreases were soon in the districts of Nevada, 997 cases, down 12.9 percent from 1,145 cases the prior fiscal year; Hawaii, 481 cases, down 6.8 percent from 516 cases in FY2006; Idaho, 300 cases, down 6.3 percent from 320 cases

agencies staffed by employees of the judiciary. 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.


Pending and Closed Cases

The pending caseload of Ninth Circuit public and community defenders was 8,880 cases for FY2007, up 4.8 percent the prior fiscal year.

continued

Appointment and Reappointment

By statute, judges of the circuit 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.

The U.S. Court of Appeals for the Ninth Circuit appointed Sean Kennedy on January 16, 2007, for his four-year term as federal public defender for the Central District of California, John Gornman was reappointed on November 16, 2007, to a second term as federal public defender for the District of Guam. He has served as the FPD in Guam since 2003. 

12 Federal Defender Organizations - Summary of Representations by District Period: 12 Months Period Ending September 30, 2007

District	Opened Sept. 30, 2006	Opened Sept. 30, 2007	Change 2006-2007	Closed Sept. 30, 2007	Pending Sept. 30, 2007
Alaska	287	277	-3.5%	263	118
Arizona	8,116	10,121	24.7%	10,126	1,177
C. Calif.	3,180	3,227	1.5%	3,208	1,380
E. Calif.	2,089	1,983	-5.1%	2,009	819
N. Calif.	815	934	14.6%	951	375
*S. Calif.	4,361	4,980	14.2%	4,607	1,646
Guam	151	202	33.8%	193	42
Hawaii	516	481	-6.8%	460	449
*Idaho	320	300	-6.3%	303	137
*Montana	586	678	15.7%	650	281
Nevada	1,145	997	-12.9%	1,065	635
Oregon	1,548	1,554	0.4%	1,519	934
*E. Wash.	761	812	6.7%	870	282
W. Wash.	1,904	2,130	11.9%	2,029	605
Circuit Total	25,779	28,676	11.2%	28,253	8,880
National Total	97,413	99,503	2.1%	98,974	36,682
Circuit Total as % of National Total	26.5%	28.8%	2.4%	28.5%	24.2%

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

PROBATION OFFICES

Probation Offices in the Ninth Circuit prepare pre-sentence investigation reports on convicted offenders, and supervise offenders placed on probation, supervised release, parole, and conditional release.

As pre-sentence investigators, probation officers conduct an independent investigation of the offense conduct, identify applicable guidelines and policy statements, calculate the defendant's offense level and criminal history category, report the resulting sentencing range, and identify factors relevant to the appropriate sentence.

13 Ninth Circuit Federal Probation System Persons Under Post-Conviction Supervision Period: 12 Months Period Ending September 30, 2007

Persons Under Supervision	2006	2007	Change 2006-2007
From Courts	4,467	4,235	-5.2%
From Institutions	14,922	15,694	5.2%
Total	19,389	19,929	2.8%

In the area of supervision, probation officers establish supervision plans and make use of numerous programs to facilitate an offender's successful supervision, and to ensure the safety of the community by monitoring noncompliance of offenders and reporting any violations to the proper authorities. In the Ninth Circuit, probation officers perform their duties in a variety of setting, from courthouses in large metropolitan areas to one-person offices in rural areas. Probation officers in the Ninth Circuit exemplify the highest ideals and standards in community corrections and are recognized nationally for delivering the highest quality services.

Offenders Under Supervision

The number of persons under post-conviction supervision in the Ninth Circuit increased from the prior fiscal year. At the close of fiscal year 2007 (ending September 30, 2007), districts reported 19,929 persons under supervision, up 2.8 percent from 19,389 in FY2006. The Ninth Circuit accounted for 17.1 percent of the national total of 116,221 persons under supervision.

Among persons under supervision in the Ninth Circuit, 4,235 were on probation from the courts, while 15,333 were on supervised release from institutions. Another 355 persons were on parole and six in the custody of the Bureau of Prisons.

The Central District of California with 5,609 cases and the District of Arizona with 3,137 cases had the most persons under supervision.

The Southern District of California reported the greatest increase in supervision percentage-wise, up 7 percent with 1,914 cases. The District of Nevada followed with 1,193 cases, up 6.2 percent from 1,123 cases the prior fiscal year.

Nine of 15 judicial districts in the Ninth Circuit reported decreases in the number of persons under supervision. The District of the Northern Mariana Islands reported 39 cases, down 23.5 percent, followed by the District of Idaho with 407 cases, down 7.3 percent. The District of Oregon with 1,070 cases, was down 4.2 percent, while the District of Guam with 161 cases, declined 4.2 percent from the prior fiscal year.

Drug offenses continue to account for the majority of cases under supervision both in the Ninth Circuit and nationally. In FY2007, 7,758 persons were under supervision in the Ninth Circuit for drug violations, an increase of 3.9 percent from 7,465 in FY2006. Drug cases accounted for 38.9 percent of offenders under supervision in the circuit. The next largest category was property violations with 4,977 persons under supervision or 25 percent of the total. This category includes data previously reported as burglary, larceny, embezzlement, fraud, auto theft, forgery and counterfeiting, and postal laws.

Cases Revoked

For FY2007, 2,773 Ninth Circuit cases were revoked and closed after post-conviction supervision, down 1.6 percent from FY2006. Of the revocations, 267 were from courts and 2,506 from institutions. Nationwide, total cases revoked and closed was 13,717 cases, up 1.7 percent FY2006. The Ninth Circuit has 20.2 percent of all cases revoked nationally.

Early Terminations

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. In general, when the


conditions of supervision have been met and the offender does not pose a foreseeable risk to public safety or any individual third party, the probation officer may request the sentencing judge to consider early termination.

During FY2007, 1,366 cases were terminated early by judges in the Ninth Circuit. The District of Arizona led with 333 cases or 24.4 percent of the total early terminations. The Northern District of California was second with 199 cases or 14.6 percent, followed by the Central District of California with 188 cases or 13.8 percent. The circuit average was 7.2 percent, a slight increase from 6.7 percent in 2006.

Of Note

- Supervising Probation Officer Eric Odegard and Senior Probation Officer Mike Pentangelo from the District of Alaska were selected to receive the 2007 Director's Award for Extraordinary Actions for their efforts in successfully

tracking down an offender under their supervision who fled the state of Alaska and had previously expressed thoughts of suicide. The award recognizes "judiciary employees who have responded in an outstanding manner to emergencies and other critical situations." Senior Probation Officer Pentangelo has since relocated to the Northern District of Illinois Probation Office.

- Jonnivonn B. DeGuzman, Nam Q. Huynh, and Dzung B. Pham, from the U.S. Probation Office in the Central District of California, received the 2007 Director's Award for Excellence in Court Operations (Court Technology) for developing a kiosk-based reporting for defendants and offenders' supervising officers especially those who work in remote locations. This award recognizes employees for "developing, identifying, and/or deploying information management technologies and applications that meet critical court requirements." 

14 Ninth Circuit Federal Probation System Persons Under Post-Conviction Supervision by District as of September 30, 2007

From Courts		Referred by Institutions			2006 Total Cases	2007 Total Cases	Change 2006-2007
District	Probation ¹	Supervised Release	Parole ²	BOP Custody ³			
Alaska	85	217	2	0	309	304	-1.6%
Arizona	701	2,389	44	3	2,988	3,137	5.0%
C. Calif.	1,191	4,323	95	0	5,286	5,609	6.1%
E. Calif.	336	1,191	27	0	1,484	1,554	4.7%
N. Calif.	362	941	33	0	1,384	1,336	-3.5%
S. Calif.	200	1,692	22	0	1,789	1,914	7.0%
Hawaii	139	657	8	0	786	804	2.3%
Idaho	110	293	3	1	439	407	-7.3%
Montana	155	471	3	0	654	629	-3.8%
Nevada	311	821	61	0	1,123	1,193	6.2%
Oregon	230	810	30	0	1,117	1,070	-4.2%
E. Wash	55	377	2	0	449	434	-3.3%
W. Wash.	294	1,022	22	0	1,362	1,338	-1.8%
Guam	55	102	3	1	168	161	-4.2%
NMI	11	27	0	1	51	39	-23.5%
Circuit Total	4,235	15,333	355	6	19,389	19,929	2.8%

1 Includes judge and magistrate judge probation

2 Includes parole, special parole, mandatory release, and military parole.

3 BOP (Bureau of Prisons)

PRETRIAL SERVICES OFFICES

United States pretrial services offices within the Ninth Circuit serve two vital roles for the courts: the provision of bail reports that contain important information for making detention and release decisions, and the monitoring and supervision of defendants released pending trial. In addition, pretrial services officers recommend eligibility for and supervision of diversion programs in each district.

The primary mission of pretrial services is to assist the federal courts in the fair administration of justice, to protect the community, and to bring about a long-term positive change in individuals who are under supervision. Offices in the Ninth Circuit continued to effectively achieve these goals in 2007 by working diligently to maintain very low levels of nonappearance and re-arrests of released defendants. This was accomplished by professionally trained and experienced officers utilizing contracted substance abuse, mental health and residential treatment programs, and the enhanced use of both conventional and state-of-the-art technology.

15 Ninth Circuit Pretrial Services - Cases Activated Period: 12 Months Period Ending September 30, 2007

Caseload Measure	2006	2007	Change 2006-2007
*Reports	22,549	23,569	4.5%
Interviews	9,111	9,983	9.6%
Cases Activated	22,750	24,326	6.9%

*Includes prebail reports with and without recommendation, and includes types of reports categorized in previous periods as "other reports."

Pretrial services in the Ninth Circuit ranked first nationally in case activations for 2007. Case activations totaled 24,326 for 2007, up 6.9 percent from 2006. New case activations nationwide totaled 95,980, up 1.1 percent from the previous year. The Ninth Circuit accounted for 25.3 percent of the 2007 national total, up slightly from 24.3 percent in 2006.

Pretrial services offices in 10 of 15 judicial districts reported more new cases in 2007 than the prior year. The Southern District of California, a border court with a heavy immigration caseload, saw an increase of 20.4 percent to 6,159 cases, compared to 5,115 cases the year before. Also reporting increases were the Central District of California, 2,542 new cases, up 18.6 percent from 8,462 activations in 2006, and the District of Arizona, 8,771 new cases, up 3.7 percent from 8,462 activations the year before.

Decreases in total cases activated were reported by several districts. The District of Nevada had 686 new cases in 2007, down 19.1 percent from 848 cases opened the previous year, followed by the District of Hawaii with 379 new cases, a decrease of 12.5 percent from 433 cases opened in 2006, and the District of Oregon with 813 new cases in 2007, down 6.2 percent from 867 cases opened the prior year.

Pretrial Bail Interviews, Supervised Defendants

The number of interviews conducted by officers of pretrial defendants in the circuit increased in 2007. Interviews numbered 9,983, up 9.6 percent from 9,111 reports in 2006. Prebail written reports increased to 23,569 from 21,958, while postbail reports decreased to 494 from 591 year before. Pretrial services officers made recommendations to the court in 97.4 percent of cases with interviews, compared to the national average of 91.3 percent. Detention was recommended in 61.1 percent of all cases in 2007, a decrease of 1.2 percent from 2006. In comparison, offices of the United States attorneys in the circuit recommended detention in 63 percent of the cases, a slight decrease from 63.7 percent in 2006.

During 2007, a total of 5,778 defendants in the Ninth Circuit were released from custody to pretrial services supervision, down 4.0 percent from 2006. Of these, 4,569 were released on standard pretrial services supervision, a decrease of 5.8 percent from 2006; 1,027 were supervised on a courtesy basis from another district or circuit, up 1.8 percent; and 182 were on pretrial diversion caseloads, an increase of 13 percent.

continued

Nonappearance and Re-Arrest Rates Remain Low

While pretrial service officers continuously look for ways to reduce unnecessary detentions, the rate of bail revocations due to nonappearance and/or re-arrest of supervised defendants continued to be significantly low. In 2007, the rate of nonappearance in the circuit was just 0.5 percent. In 2007, the 15 district courts of the Ninth Circuit revoked the bail of 240 defendants who absconded from supervision.

Violations

In 2007, cases in release status numbered 15,676. Of these, 1,726 cases had violations reported to the court. They included 73 violations for felony re-arrest, 76 for misdemeanor re-arrest, 95 for other re-arrest violations, and 80 for failure to appear. Technical violations, which include positive urine screens, violation of electronic monitoring conditions, possession of contraband, and failure to report to officer, accounted for the remainder of the 1,228 reported violations.



16 Pretrial Workload Chart Period: 12 Months Ending September 20, 2007

Defendant Contact			Written Reports					
District	Interviewed	*Not Interviewed	**Prebail	Postbail & Other	No Reports Made	Total Cases Activated 2006	Total Cases Activated 2007	Change 2006-2007
Alaska	82	137	216	0	3	200	219	9.5%
Arizona	1,330	7,441	8,736	22	13	8,462	8,771	3.7%
C. Calif.	1,553	989	2,536	6	0	2,143	2,542	18.6%
E. Calif.	497	633	1,111	18	1	1,118	1,130	1.1%
N. Calif.	359	509	545	319	4	906	868	-4.2%
S. Calif.	3,788	2,371	6,092	58	9	5,115	6,159	20.4%
Hawaii	309	70	379	0	0	433	379	-12.5%
Idaho	349	10	351	0	8	290	359	23.8%
Montana	255	271	510	5	11	496	526	6.0%
Nevada	377	309	683	3	0	848	686	-19.1%
Oregon	293	520	801	1	11	867	813	-6.2%
E. Wash.	189	273	237	41	184	453	462	2.0%
W. Wash.	475	785	1,229	18	13	1,303	1,260	-3.3%
Guam	100	25	116	3	6	93	125	34.4%
NMI	27	0	27	0	0	23	27	17.4%
Circuit Total	9,983	14,343	23,569	494	263	22,750	24,326	6.9%
National Total	64,232	31,748	89,202	4,312	2,466	94,978	95,980	1.1%
Circuit % of National	15.5%	45.2%	26.4%	11.5%	10.7%	24.0%	25.3%	1.4%

*Includes cases in which interviews were refused, includes defendants not available for interview, and transfer-received cases in which defendants were interviewed in other districts.

**Includes prebail reports with and without recommendation, and includes types of reports categorized in previous periods as "other reports."

DISTRICT CASELOADS

Ninth Circuit

- 1 Alaska
- 2 Arizona
- 3 Central California
- 4 Eastern California
- 5 Northern California
- 6 Southern California
- 7 Guam
- 8 Hawaii
- 9 Idaho
- 10 Montana
- 11 Nevada
- 12 N. Mariana Islands
- 13 Oregon
- 14 Eastern Washington
- 15 Western Washington



DISTRICT CASELOADS



17 District of Alaska

Caseload Measure	2006	2007	Change 2006-2007	Per Judgeship Unweighted 2007
District Court				
Filings	525	522	-0.6%	174
Terminations	526	502	-4.6%	167
*Pending	542	562	3.7%	187
Bankruptcy Court				
Filings	622	697	12.1%	349
Terminations	1,607	780	-51.5%	390
*Pending	1,165	1,082	-7.1%	541

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

Authorized Judgeships	
District	3
Bankruptcy	2
Magistrate	
Full time	2
Part-time	4

*Total pending cases revised for 2006.



18 District of Arizona

Caseload Measure	2006	2007	Change 2006-2007	Per Judgeship Unweighted 2007
District Court				
Filings	7,396	7,656	3.5%	589
Terminations	9,231	8,258	-10.5%	635
*Pending	6,234	5,632	-9.7%	433
Bankruptcy Court				
Filings	7,793	10,920	40.1%	1,560
Terminations	25,445	13,576	-46.6%	1,939
*Pending	20,426	17,769	-13.0%	2,538

Authorized places of holding court: Flagstaff, Phoenix, Prescott, Tucson, Yuma

Authorized Judgeships	
**District	13
Bankruptcy	7
Magistrate	
Full time	12
Part-time	0

*Total pending cases revised for 2006.

**Includes one authorized temporary judgeship.



19 Central District of California

Caseload Measure	2006	2007	Change 2006-2007	Per Judgeship Unweighted 2007
District Court				
Filings	12,470	13,617	9.2%	486
Terminations	12,791	12,900	0.9%	461
*Pending	11,617	12,334	6.2%	441
Bankruptcy Court				
Filings	17,802	34,028	91.1%	1,418
Terminations	60,618	29,330	-51.6%	1,222
*Pending	21,311	26,009	22.0%	1,084

Authorized places of holding court: Los Angeles, Riverside, Santa Ana

Authorized Judgeships

**District	28
***Bankruptcy	24
Magistrate	
Full time	23
Part-time	1

*Total pending cases revised for 2006.

**Includes one authorized temporary judgeship.

***Includes three authorized temporary judgeships.



20 Eastern District of California

Caseload Measure	2006	2007	Change 2006-2007	Per Judgeship Unweighted 2007
District Court				
Filings	5,707	5,420	-5.0%	903
Terminations	4,897	4,948	1.0%	825
*Pending	7,569	8,041	6.2%	1,340
Bankruptcy Court				
Filings	9,323	18,052	93.6%	2,579
Terminations	31,273	15,130	-51.6%	2,161
*Pending	13,452	16,374	21.7%	2,339

Authorized places of holding court: Bakersfield, Fresno, Redding, Sacramento, South Lake Tahoe, Yosemite

Authorized Judgeships

District	6
**Bankruptcy	7
Magistrate	
Full time	10
Part-time	0

*Total pending cases revised for 2006.

**Includes one authorized temporary judgeship.

DISTRICT CASELOADS



21 Northern District of California

Caseload Measure	2006	2007	Change 2006-2007	Per Judgeship Unweighted 2007
District Court				
Filings	8,784	7,404	-15.7%	529
Terminations	6,828	6,633	-2.9%	474
*Pending	8,488	9,259	9.1%	661
Bankruptcy Court				
Filings	7,742	12,599	62.7%	1,400
Terminations	17,402	11,264	-35.3%	1,252
*Pending	17,024	18,359	7.8%	2,040

*Total pending cases revised for 2006.

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

Authorized Judgeships

District	14
Bankruptcy	9
Magistrate	
Full time	10
Part-time	1



22 Southern District of California

Caseload Measure	2006	2007	Change 2006-2007	Per Judgeship Unweighted 2007
District Court				
Filings	5,777	6,197	7.3%	477
Terminations	5,440	6,673	22.7%	513
*Pending	4,505	4,029	-10.6%	310
Bankruptcy Court				
Filings	4,338	7,936	82.9%	1,984
Terminations	9,563	7,089	-25.9%	1,772
*Pending	5,507	6,354	15.4%	1,589

*Total pending cases revised for 2006.

Authorized places of holding court: El Centro, San Diego

Authorized Judgeships

District	13
Bankruptcy	4
Magistrate	
Full time	10
Part-time	0



23 District of Guam

Caseload Measure	2006	2007	Change 2006-2007	Per Judgeship Unweighted 2007
District Court				
Filings	168	152	-9.5%	152
Terminations	115	139	20.9%	139
*Pending	153	166	8.5%	166
Bankruptcy Court				
Filings	114	133	16.7%	385
Terminations	251	207	-17.5%	271
Pending	190	116	-38.9%	327

Authorized places of holding court: Hagatna

Authorized Judgeships	
District	1
Bankruptcy	0
Magistrate	
Full time	1
Part-time	0

The Guam district judge also handles all bankruptcy cases.

*Total pending cases revised for 2006



24 District of Hawaii

Caseload Measure	2006	2007	Change 2006-2007	Per Judgeship Unweighted 2007
District Court				
Filings	1,041	1,067	2.5%	267
Terminations	1,146	1,217	6.2%	304
*Pending	1,189	1,039	-12.6%	260
Bankruptcy Court				
Filings	965	1,386	43.6%	1,386
Terminations	2,809	1,539	-45.2%	1,539
*Pending	1,448	1,295	-10.6%	1,295

Authorized places of holding court: Honolulu

Authorized Judgeships	
**District	4
Bankruptcy	1
Magistrate	
Full time	3
Part-time	1

*Total pending cases revised for 2006.

**Includes one authorized temporary judgeship.

DISTRICT CASELOADS



25 District of Idaho

Caseload Measure	2006	2007	Change 2006-2007	Per Judgeship Unweighted 2007
District Court				
Filings	760	811	6.7%	406
Terminations	809	837	3.5%	419
*Pending	849	823	-3.1%	412
Bankruptcy Court				
Filings	2,931	3,838	30.9%	1,919
Terminations	7,809	4,855	-37.8%	2,428
*Pending	5,830	4,813	-17.4%	2,407

Authorized places of holding court: Boise, Coeur d'Alene, Moscow, Pocatello

Authorized Judgeships	
District	2
Bankruptcy	2
Magistrate	
Full time	2
Part-time	0

*Total pending cases revised for 2006.



26 District of Montana

Caseload Measure	2006	2007	Change 2006-2007	Per Judgeship Unweighted 2007
District Court				
Filings	1,022	1,056	3.3%	352
Terminations	1,137	1,101	-3.2%	367
*Pending	1,168	1,123	-3.9%	374
Bankruptcy Court				
Filings	1,845	1,879	1.8%	1,879
Terminations	3,381	2,406	-28.8%	2,406
*Pending	3,635	3,108	-14.5%	3,108

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

Authorized Judgeships	
District	3
Bankruptcy	1
Magistrate	
Full time	3
Part-time	1

*Total pending cases revised for 2006.



27 District of Nevada

Caseload Measure	2006	2007	Change 2006-2007	Per Judgeship Unweighted 2007
District Court				
Filings	2,840	2,836	-0.1%	405
Terminations	2,588	2,845	9.9%	406
*Pending	3,445	3,436	-0.3%	491
Bankruptcy Court				
Filings	5,517	10,953	98.5%	2,738
Terminations	16,226	12,017	-25.9%	3,004
*Pending	16,435	15,371	-6.5%	3,843

*Total pending cases revised for 2006.

**Includes one authorized temporary judgeship.

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

Authorized Judgeships	
District	7
**Bankruptcy	4
Magistrate	
Full time	6
Part-time	0



28 District of Northern Mariana Islands

Caseload Measure	2006	2007	Change 2006-2007	Per Judgeship Unweighted 2007
District Court				
Filings	68	61	-10.3%	61
Terminations	59	77	30.5%	77
*Pending	75	59	-21.3%	59
Bankruptcy Court				
Filings	17	17	0.0%	32
Terminations	38	24	-36.8%	12
*Pending	28	21	-25.0%	49

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

*Total pending cases revised for 2006

Authorized places of holding court: Saipan

Authorized Judgeships	
District	1
Bankruptcy	0
Magistrate	
Full time	0
Part-time	0

DISTRICT CASELOADS



29 District of Oregon

Caseload Measure	2006	2007	Change 2006-2007	Per Judgeship Unweighted 2007
District Court				
Filings	3,104	3,140	1.2%	523
Terminations	3,175	3,080	-3.0%	513
*Pending	3,104	3,221	3.8%	537
Bankruptcy Court				
Filings	7,585	9,386	23.7%	1,877
Terminations	18,904	10,940	-42.1%	2,188
*Pending	15,300	13,746	-10.2%	2,749

Authorized places of holding court: Coquille, Eugene, Klamath Falls, Medford, Pendleton, Portland

Authorized Judgeships	
District	6
Bankruptcy	5
Magistrate	
Full time	6
Part-time	1

*Total pending cases revised for 2006.



30 Eastern District of Washington

Caseload Measure	2006	2007	Change 2006-2007	Per Judgeship Unweighted 2007
District Court				
Filings	1,016	1,002	-1.4%	251
Terminations	1,111	945	-14.9%	236
*Pending	816	873	7.0%	218
Bankruptcy Court				
Filings	3,463	4,344	25.4%	2,172
Terminations	7,269	4,990	-31.4%	2,495
*Pending	5,968	5,322	-10.8%	2,661

Authorized places of holding court: Richland, Spokane, Walla Walla, Yakima

Authorized Judgeships	
District	4
Bankruptcy	2
Magistrate	
Full time	2
Part-time	0

*Total pending cases revised for 2006.



31 Western District of Washington

Caseload Measure	2006	2007	Change 2006-2007	Per Judgeship Unweighted 2007
District Court				
Filings	3,753	4,152	10.6%	593
Terminations	4,281	4,138	-3.3%	591
*Pending	3,591	3,605	0.4%	515
Bankruptcy Court				
Filings	8,448	11,224	32.9%	2,245
Terminations	20,819	11,566	-44.4%	2,313
*Pending	14,362	14,020	-2.4%	2,804

*Total pending cases revised for 2006.

Authorized places of holding court: Bellingham, Seattle, Tacoma

Authorized Judgeships	
District	7
Bankruptcy	5
Magistrate	
Full time	5
Part-time	2



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