
**1991
Annual
Report
of the
Director**

*Activities of the
Administrative Office*

*Judicial Business of the
United States Courts*

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Administrative Office of the United States Courts**

REPORT OF COMPLAINTS AND ACTION TAKEN UNDER TITLE 28 U.S.C. SECTION 372(c)

Any person alleging that a judge of the United States, a bankruptcy judge, or a magistrate judge has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts, or that such officer cannot discharge all the duties of the office because of physical or mental disability, may file a complaint with the clerk of the court of appeals or national court (Title 28 U.S.C. Section 372(c)). Such complaints are initially reviewed by the chief judge of the court, who may dismiss the complaint if it is not in compliance with the filing provisions of Section 372(c); is directly related to the merits of a judicial decision; or is frivolous. Chief judges may also conclude the proceeding if corrective action has been taken or if action is no longer necessary because of intervening events. Otherwise, they shall appoint a special committee to investigate the allegations in the complaint on behalf of the judicial council. The judicial councils (and the national courts) are granted power to take appropriate action, except that in no circumstances may they order the removal from office of a judge appointed to serve during good behavior under Article III of the Constitution.

The disposition of complaints is not judicially reviewable on appeal (as provided by Section 372(c)(10)). The complainant or the judicial officer may, however, petition the judicial council for review of any order of a chief judge dismissing a complaint. Petitions may also be made to the Judicial Conference for review of judicial council orders issued after a special committee investigation. The Conference is permitted to act on such petitions directly or to establish a standing committee to take final action on its behalf. Under this authority, the Chief Justice has appointed the Judicial Conference Committee to Review Circuit Council Conduct and Disability Orders, consisting of three judges, who act for the Conference in its review responsibility under Section 372(c)(10).

The number of complaints filed against judicial officers rose to 359 in 1991, representing a 13 percent increase over 1990. Of the 13 circuits and 2 national courts affected, 8 reported an increase in complaints filed; 6 reported a decrease in filings; and 1 remained at last year's level. The Third and Ninth Circuits, with 52 complaints each, reported the greatest number of complaints filed this year. The increase in the Third Circuit was significant, as complaints jumped from 20 in 1990 to 52 in 1991. The primary reason for this increase was the filing of multiple complaints by several pro se litigants. The large number of filings in the Ninth Circuit, which was consistent with last year's total of 49 complaints filed, occurred primarily because the Ninth Circuit has more judicial officers than any other circuit. Once again, no complaints were filed with the Court of International Trade. **Table 22** summarizes judicial complaint activity from 1987 through 1991. Each individual complaint may involve multiple allegations against numerous judicial officers. The allegations most often identified were abuse of judicial power, bias and "other" conduct that was detrimental to the effective and expeditious administration of justice. The majority of allegations, however, were outside the jurisdiction of Title 28 U.S.C. Section 372(c) because they were found to be directly related to the merits of the court's decision in the original case. **Table 23** provides judicial complaint activity by circuit during 1991.

The number of complaints terminated dropped slightly in 1991 to 306, representing a decrease of 4 percent. Due to the moderate increase in filings combined with a decrease in complaints terminated, there was a significant increase in the number of pending complaints. As of June 30, 1991, there were 135 complaints pending, an increase of 65 percent over last year. The Tenth, Second, and Ninth Circuits had the largest number of pending complaints on June 30.

Table 22
Judicial Complaints Filed, Terminated, and Pending
1987 through 1991

	1987	1988**	1989**	1990**	1991	Percent Change* 1991 over 1990
Total Complaints Filed	237	213	315	318	359	12.9
Terminated	244	224	277	319	306	-4.1
By Chief Judges	208	182	219	212	210	-0.9
Dismissed	198	173	205	203	195	-3.9
Corrective Action Taken	8	4	8	5	10	-
Withdrawn	2	5	6	4	5	-
By Judicial Councils	36	42	58	107	96	-10.3
Dismissed	35	37	56	107	96	-10.3
Action Taken	-	4	2	-	-	-
Referred to Judicial Conference	1	1	-	-	-	-
Pending on June 30	51	40	78	82	135	64.6

*Percent not calculated on fewer than 10 cases.
**Revised.

As in prior years, the overwhelming majority of complaints (210 or 69 percent) were concluded by the chief judges. They dismissed 195 complaints, ruling that 162 were directly related to the merits of a judicial proceeding, 18 were not in conformance with the statute, and 15 were frivolous. Appropriate action had already been taken in ten complaints, and five complaints were withdrawn.

The other 96 complaints were acted upon by the judicial councils of the circuits. All complaints came to the circuit councils by way of a petition for review by the complainant or judicial officer; none were forwarded by special investigating committees. The judicial councils dismissed all 96 complaints.

Table 23
 Report of Complaints Filed and Action Taken Under Authority of Title 28 U.S.C. Section 372(c)
 1991

Summary of Activity	Total	Circuits													National Courts	
		Fed	DC	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	CC	CIT
Complaints Pending on July 1, 1990*.....	82	2	0	2	7	5	4	3	5	0	15	8	23	8	0	0
Complaints Filed.....	359	1	3	11	48	52	32	26	41	16	31	52	13	31	2	0
Officials Complained About**																
Judges																
Circuit.....	120	1	3	24	12	10	3	7	11	1	22	4	14	8	0	0
District.....	252	0	3	7	28	24	24	18	30	15	26	46	7	24	0	0
National Courts.....	2	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0
Bankruptcy Judges.....	32	0	0	1	3	6	0	3	0	0	2	11	5	1	0	0
Magistrate Judges.....	78	0	0	1	4	10	12	9	17	1	6	9	3	6	0	0
Nature of Allegations**																
Mental Disability.....	3	0	0	0	2	0	0	1	0	0	0	0	0	0	0	0
Physical Disability.....	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0
Demeanor.....	29	0	0	0	0	0	0	0	0	0	2	2	1	24	0	0
Abuse of Judicial Power.....	81	0	0	0	18	0	13	10	1	9	11	15	1	3	0	0
Prejudice/Bias.....	98	0	0	5	3	4	18	20	6	3	20	7	2	10	0	0
Conflict of Interest.....	16	0	0	0	3	0	1	3	0	1	3	3	0	2	0	0
Bribery/Corruption.....	28	0	0	0	5	0	3	1	0	3	4	11	0	1	0	0
Undue Decisional Delay.....	27	0	0	0	4	0	3	3	1	0	7	7	0	2	0	0
Incompetence/Neglect.....	27	0	0	0	10	0	1	1	0	1	3	9	0	2	0	0
Other.....	101	3	2	2	7	41	2	4	29	3	0	2	1	5	0	0

Table 23
Report of Complaints Filed and Action Taken Under Authority of Title 28 U.S.C. Section 372(c)
1991 (Continued)

Summary of Activity	Total	Circuits													National Courts	
		Fed	DC	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	CC	CIT
Complaints Concluded.....	306	3	2	8	30	41	30	28	40	15	41	35	3	30	0	0
Action By Chief Judges																
Complaint Dismissed																
Not in Conformity With Statute.....	18	1	0	0	1	1	2	2	1	2	0	7	0	1	0	0
Directly Related to Decision																
or Procedural Ruling.....	162	1	0	4	6	34	19	21	19	12	21	15	0	10	0	0
Frivolous.....	15	1	1	0	0	1	5	0	0	1	1	5	0	0	0	0
Appropriate Action Already Taken.....	10	0	0	0	0	1	0	4	1	0	0	4	0	0	0	0
Complaint Withdrawn.....	5	0	0	0	1	0	3	0	1	0	0	0	0	0	0	0
Subtotal.....	210	3	1	4	8	37	29	27	22	15	22	31	0	11	0	0
Action By Judicial Councils																
Directed Chief District Judge to																
Take Action (Magistrate Judges only).....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Certified Disability.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Requested Voluntary Retirement.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Ordered Temporary Suspension																
of Case Assignments.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Privately Censured.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Publicly Censured.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Ordered Other Appropriate Action.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Dismissed the Complaint.....	96	0	1	4	22	4	1	1	18	0	19	4	3	19	0	0
Referred Complaint to Judicial																
Conference.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal.....	96	0	1	4	22	4	1	1	18	0	19	4	3	19	0	0
Complaints Pending on June 30, 1991.....	135	0	1	5	25	16	6	1	6	1	5	25	33	9	2	0

CC - U.S. Claims Court

CIT - Court of International Trade

*Revised.

**Each complaint may involve multiple allegations against numerous judicial officers.