

1992

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JUDICIAL BUSINESS  
OF THE UNITED STATES COURTS

ANNUAL REPORT OF THE DIRECTOR  
L. RALPH MECHAM



Refer any questions  
to the Statistics Division  
at (202) 273-2290

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**Table 21  
Drug Dependent Clients  
Fiscal Years 1988 through 1992**

Type of Service	1988	1989	1990	1991	1992*
Contract	6,377	7,335	9,338	9,638	11,192
Non-Contract	5,870	7,254	7,926	6,572	7,960
Total	12,247	14,589	17,264	18,377	19,152

\* Twelve-month period ending June 30, 1992.

**Table 22  
Alcohol Dependent Clients  
Fiscal Years 1988 through 1992**

Type of Service	1988	1989	1990	1991	1992*
Contract	754	877	1,059	1,451	1,914
Non-Contract	2,444	2,380	2,721	2,597	2,753
Total	3,198	3,257	3,780	4,048	4,667

\* Twelve-month period ending June 30, 1992.

**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 for that circuit or applicable national court (Title 28 U.S.C. Section 372(c)). Such complaints are initially reviewed by the chief judge, 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, however, may 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 four 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 369 during the year ended September 30, 1992, a 4 percent increase over 1991. Of the 13 circuits and 2 national courts, 6 reported an increase in complaints filed; 8 reported a decrease in filings; and 1 remained at last year's level. The Sixth and Eighth Circuits, with 51 complaints each, reported the greatest number of complaints filed this year. The in-

crease in the Sixth Circuit was numerically significant, as complaints jumped from 33 in 1991 to 51 in 1992. The primary reason for these increases was the filing of multiple complaints by several prison inmates and litigants. The Ninth Circuit reported the next highest number of new complaints with 49; the level of filings in this Circuit in 1992 was stable compared with last year's total of 48 complaints filed. The Ninth Circuit consistently has one of the largest numbers of complaints because it has more judicial officers than any other circuit. Once again, no complaints were filed with the Court of International Trade. Table 23 summarizes judicial complaint activity from 1988 through 1992. Each individual complaint may involve multiple allegations against numerous judicial officers. The allegations most often identified were prejudice/bias, and abuse of judicial

power. The majority of allegations, however, were outside the jurisdiction of Title 28 U.S.C. Section 372(c) and were found to be directly related to the merits of the court's decision in the original case. Table 24 provides judicial complaint activity by circuit during 1992.

The number of complaints terminated dropped 8 percent in 1992 to 350. 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 September 30, 1992, there were 101 complaints pending, an increase of 23 percent over last year. The Sixth Circuit had the largest number of pending complaints on September 30, 1992.

As in prior years, the majority of complaints (189 or 54 percent) were concluded by the chief judges. They dismissed 182

**Table 23**  
**Judicial Complaints Filed, Concluded, and Pending**

	Year Ended June 30				Year Ended September 30		% Change(2) 1992/1991
	1988	1989	1990(1)	1991(1)	1991	1992	
Filed	214	315	328	361	354	369	4.2
Concluded	225	277	319	314	379	350	-7.7
<b>By Chief Judges</b>	182	219	212	217	266	189	-28.9
Dismissed	173	205	203	201	255	182	-28.6
Corrective Action Taken	4	8	5	11	7	6	-
Withdrawn	5	6	4	5	4	1	-
<b>By Judicial Councils</b>	43	58	107	97	113	161	42.5
<b>After Review of Chief Judge's Dismissal (3)</b>							
Dismissed	37	56	107	97	113	158	39.8
Action Taken	-	-	-	-	-	-	-
Referred to Judicial Conference	-	-	-	-	-	-	-
<b>After Referral by Investigative Committee</b>							
Dismissed	2	-	-	-	-	2	-
Action Taken	3	2	-	-	-	1	-
Referred to Judicial Conference	1	-	-	-	-	-	-
Pending	40	78	87	134	82	101	23.2

(1) Revised

(2) Percent not calculated on fewer than 10 cases.

(3) Petition for review of a chief judge's dismissal of a complaint.

**Table 24**  
**Report of Complaints Filed and Action Taken Under Authority of Title 28 U.S.C. Section 372(c) 1992**

Summary of Activity	Circuit													National Courts		
	Total	Fed	DC	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	FC	CIT
Complaints Pending on September 30, 1991*	82	-	-	1	10	4	3	5	7	-	3	22	13	12	2	-
<b>Complaints Filed</b>	<b>369</b>	<b>15</b>	<b>10</b>	<b>18</b>	<b>34</b>	<b>39</b>	<b>21</b>	<b>36</b>	<b>51</b>	<b>7</b>	<b>51</b>	<b>49</b>	<b>16</b>	<b>22</b>	-	-
Complaint Type																
Written by Complainant	369	15	10	18	34	39	21	36	51	7	51	49	16	22	-	-
On Order of Chief Judge	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Officials Complained About**																
Judges																
Circuit	178	17	-	9	8	17	3	4	14	2	45	54	4	1	-	-
District	252	-	11	17	21	14	15	26	41	6	38	41	9	13	-	-
National Courts	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Bankruptcy Judges	28	-	-	4	2	1	2	8	3	-	1	3	3	1	-	-
Magistrate Judges	82	-	-	3	3	7	6	8	15	4	17	7	4	8	-	-
Nature of Allegations**																
Mental Disability	28	-	8	2	5	-	2	1	-	-	6	2	2	-	-	-
Physical Disability	1	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-
Demeanor	29	-	-	-	10	-	-	-	-	-	-	6	1	12	-	-
Abuse of Judicial Power	125	-	1	4	28	1	10	15	3	3	21	29	10	-	-	-
Prejudice/Bias	141	-	-	5	25	1	13	25	6	1	15	21	9	20	-	-
Conflict of Interest	13	-	-	-	1	2	-	4	-	1	-	2	1	2	-	-
Bribery/Corruption	31	-	-	-	3	2	-	3	-	1	7	14	1	-	-	-
Undue Decisional Delay	31	-	3	1	3	2	2	3	3	-	6	6	1	1	-	-
Incompetence/Neglect	26	-	-	-	2	-	2	8	-	-	1	13	-	-	-	-
Other	126	15	7	-	27	19	-	4	23	4	2	9	16	-	-	-
<b>Complaints Concluded</b>	<b>350</b>	<b>15</b>	<b>8</b>	<b>8</b>	<b>42</b>	<b>28</b>	<b>22</b>	<b>40</b>	<b>32</b>	<b>7</b>	<b>50</b>	<b>54</b>	<b>23</b>	<b>21</b>	-	-
<u>Action By Chief Judges</u>																
Complaint Dismissed																
Not in Conformity With Statute																
Directly Related to Decision																
or Procedural Ruling	157	11	-	6	7	12	15	28	7	3	22	27	7	12	-	-
Frivolous	14	-	-	-	-	-	-	2	2	1	6	3	-	-	-	-
Appropriate Action Already Taken	6	-	-	-	-	1	-	-	-	1	-	4	-	-	-	-
Action No Longer Necessary																
Because of Intervening Events	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Complaint Withdrawn	1	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-
Subtotal	189	11	-	6	8	15	16	31	10	6	29	37	8	12	-	-
<u>Action By Judicial Councils</u>																
Directed Chief District Judge to																
Take Action (Magistrate Judges																
only)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Certified Disability.	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Requested Voluntary Retirement-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Ordered Temporary Suspension	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
of Case Assignments	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Privately Censured	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Publicly Censured	1	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-
Ordered Other Appropriate																
Action	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Dismissed the Complaint	160	4	8	2	34	13	6	8	22	1	21	17	15	9	-	-
Referred Complaint to Judicial																
Conference	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Subtotal	161	4	8	2	34	13	6	9	22	1	21	17	15	9	-	-
<b>Complaints Pending on September 30, 1992</b>	<b>101</b>	<b>-</b>	<b>2</b>	<b>11</b>	<b>2</b>	<b>15</b>	<b>2</b>	<b>1</b>	<b>26</b>	<b>-</b>	<b>4</b>	<b>17</b>	<b>6</b>	<b>13</b>	<b>2</b>	<b>-</b>

FC - U.S. Court of Federal Claims

CIT - U.S. Court of International Trade

\* Revised

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

complaints, ruling that 157 were directly related to the merits of a judicial proceeding, 14 were frivolous, and 11 were not in conformance with the statute. Appropriate action had already been taken in six complaints, and one complaint was withdrawn.

The other 161 complaints were acted upon by the judicial councils of the circuits. All but three complaints came to the circuit councils by way of a petition for review by the complainant or judicial officer; three were forwarded by special investigative committees. The judicial councils dismissed 158 petitions for review of a chief judge's dismissal. Two additional petitions were dismissed after referral by special investigative committees. In the remaining case, the judicial council ordered that a judicial officer be publicly censured.

The Judicial Conference Committee to Review Circuit Council Conduct and Disability Orders under Section 372(c)(10) acted upon one petition previously reviewed by the Fifth Circuit Judicial Council under Section 372(c)(6). The Committee found the petition for review to be without merit and, therefore, dismissed it.

## **REPORT OF FEES AND EXPENSES UNDER THE EQUAL ACCESS TO JUSTICE ACT**

### **The Equal Access To Justice Act**

The Equal Access to Justice Act (EAJA) lessens the financial burden on private parties who prevail against the U.S. Government in agency adversary adjudications or non-tort civil actions by authorizing the award of attorney fees and expert witness fees. The EAJA also covers outlays for any study, analysis, engineering report, test, or project necessary in building a case. To be eligible for such an award, the party must prevail and meet certain financial requirements of the statute. Even when the private party prevails against the U.S. Govern-

ment and is determined to be financially eligible, requests for attorney fees and other expenses can be denied if the U.S. can demonstrate that its position was substantially justified. Applications for fees may also be denied if the court finds that the private litigant used delaying tactics or if special circumstances exist which would make an award unjust. This is the eleventh report submitted by the Director in accordance with Title 28, U.S.C. Section 2412(d)(5).

### **Summary and Analysis of 1992 Data**

Reversing a 3 year downward trend, the number of decisions on equal access applications in the federal courts increased slightly in 1992 compared to 1991. There were 273 dispositions in 1992, 3 percent higher than the 1991 figure. Approximately 92 percent (251) of the applications were decided in the U.S. district courts. Three districts [New Jersey (58); Arkansas, Western (24); and Oregon (27)] accounted for 43 percent of all decisions. The U.S. courts of appeals ruled on 11 equal access applications, while the Court of Federal Claims disposed of 11 applications. **Table 25** summarizes equal access activity since 1988 and **Table 26** summarizes activity in 1992.

The vast majority of equal access applications were filed against the Department of Health and Human Services (252 or 92 percent). As in past years, nearly all of these cases involved the determination of disability benefits under the Social Security Act. The number of disputes over disability benefits declined from 1988 through 1991 but increased slightly this year. Fourteen other agencies were involved in at least one equal access decision in 1992.

As in prior years, most of the actions concluded this year (234 applications or 85 percent) were original applications under Title 28 U.S.C. Section 2412 (d)(1)(A), after judgment against the U.S. Govern-