

**REPORT OF THE PROCEEDINGS  
OF THE JUDICIAL CONFERENCE  
OF THE UNITED STATES**

**March 10, 2015**

The Judicial Conference of the United States convened in Washington, D.C., on March 10, 2015, pursuant to the call of the Chief Justice of the United States issued under 28 U.S.C. § 331. Chief Judge William B. Traxler, Jr., Chair of the Executive Committee of the Judicial Conference, presided pursuant to a delegation from the Chief Justice, and the following members of the Conference were present:

First Circuit:

Chief Judge Sandra L. Lynch  
Judge Paul J. Barbadoro,  
District of New Hampshire

Second Circuit:

Chief Judge Robert A. Katzmann  
Judge William M. Skretny,  
Western District of New York

Third Circuit:

Chief Judge Theodore A. McKee  
Chief Judge Leonard P. Stark,  
District of Delaware

Fourth Circuit:

Chief Judge William B. Traxler, Jr.  
Judge Deborah K. Chasanow,  
District of Maryland

Fifth Circuit:

Chief Judge Carl E. Stewart  
Chief Judge Louis Guirola, Jr.,  
Southern District of Mississippi

Sixth Circuit:

Chief Judge Ransey Guy Cole, Jr.  
Chief Judge Paul Lewis Maloney,  
Western District of Michigan

Seventh Circuit:

Chief Judge Diane P. Wood  
Chief Judge Rubén Castillo,  
Northern District of Illinois

Eighth Circuit:

Chief Judge William Jay Riley  
Judge Karen E. Schreier,  
District of South Dakota

Ninth Circuit:

Chief Judge Sidney R. Thomas  
Judge Robert S. Lasnik,  
Western District of Washington

Tenth Circuit:

Chief Judge Mary Beck Briscoe  
Judge Dee V. Benson,  
District of Utah

Eleventh Circuit:

Chief Judge Ed Carnes  
Judge Federico A. Moreno,  
Southern District of Florida

District of Columbia Circuit:

Chief Judge Merrick B. Garland  
Chief Judge Richard W. Roberts,  
District of Columbia

Federal Circuit:

Chief Judge Sharon Prost

Court of International Trade:

Chief Judge Timothy C. Stanceu

The following Judicial Conference committee chairs also attended the Conference session: Circuit Judges Steven M. Colloton, Julia Smith Gibbons, Thomas M. Hardiman, Sandra Segal Ikuta, Diarmuid F. O’Scannlain, Reena Raggi, Anthony J. Scirica, D. Brooks Smith, Jeffrey S. Sutton, and Timothy M. Tymkovich; District Judges Nancy F. Atlas, Catherine C. Blake, David G. Campbell, Gary A. Fenner, Wm. Terrell Hodges, Irene M. Keeley, Royce C. Lamberth, Lawrence L. Piersol, Danny C. Reeves, Richard Seeborg, William K. Sessions III, Rodney W. Sippel, Rebecca Beach Smith, and Richard W. Story. Attending as the bankruptcy judge and magistrate judge observers, respectively, were Chief Bankruptcy Judge Brenda T. Rhoades and Magistrate Judge Alan J. Baverman. Margaret A. Wiegand of the Third Circuit represented the circuit executives.

James C. Duff, Director of the Administrative Office of the United States Courts, attended the session of the Conference, as did Jill C. Sayenga, Deputy Director; Robert K. Loesche, General Counsel; Sheryl L. Walter, Deputy General Counsel; Katherine H. Simon, Secretariat Officer, and Helen G. Bornstein, Senior Attorney, Judicial Conference Secretariat; Cordia A. Strom, Legislative Affairs Officer; and David A. Sellers, Public Affairs Officer. District Judge Jeremy D. Fogel, Director, and John S. Cooke, Deputy Director, Federal Judicial Center; and Chief District Judge Patti B. Saris, Chairman, and Kenneth P. Cohen, Staff Director, United States Sentencing Commission, were in attendance at the session of the Conference, as was Jeffrey P. Minear, Counselor to the Chief Justice.

Acting Deputy Attorney General Sally Quillian Yates addressed the Conference on matters of mutual interest to the judiciary and the Department of Justice.

## **REPORTS**

James C. Duff reported to the Conference on the judicial business of the courts and on matters relating to the Administrative Office (AO). Judge

Fogel spoke to the Conference about Federal Judicial Center (FJC) programs, and Chief Judge Saris reported on United States Sentencing Commission activities. Judge D. Brooks Smith, Chair of the Committee on Space and Facilities, presented a report on space reduction efforts.

## **ELECTION**

The Judicial Conference elected to the Board of the Federal Judicial Center, for a term of four years, Judge Curtis Lynn Collier, United States District Court for the Eastern District of Tennessee, and Judge Kimberly J. Mueller, United States District Court for the Eastern District of California, to succeed Judge James F. Holderman, Jr., United States District Court for the Northern District of Illinois, and Judge Kathryn H. Vratil, United States District Court for the District of Kansas.

## **EXECUTIVE COMMITTEE**

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### **RESOLUTIONS**

Outgoing Committee Chairs. The Judicial Conference approved a recommendation of the Executive Committee to adopt the following resolution recognizing the substantial contributions made by two Judicial Conference committee chairs whose terms of service ended in 2015.

The Judicial Conference of the United States recognizes with appreciation, respect, and admiration the following judicial officers:

**HONORABLE ROBERT A. KATZMANN**  
Committee on the Judicial Branch

**HONORABLE JOEL A. PISANO**  
Committee on the Administration of the  
Magistrate Judges System

Appointed as committee chairs by the Chief Justice of the United States, these outstanding jurists have played a vital role in the administration of the federal court system. These judges served with distinction as leaders of their Judicial Conference

committees while, at the same time, continuing to perform their duties as judges in their own courts. They have set a standard of skilled leadership and earned our deep respect and sincere gratitude for their innumerable contributions. We acknowledge with appreciation their commitment and dedicated service to the Judicial Conference and to the entire federal judiciary.

Director of the Administrative Office. On recommendation of the Executive Committee, the Judicial Conference approved a resolution in recognition of Judge John D. Bates' service as the Director of the Administrative Office from 2013-2014.

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## **FISCAL YEAR 2015 FINAL FINANCIAL PLANS**

At its February 2015 meeting, the Executive Committee approved final financial plans for fiscal year 2015 for the Salaries and Expenses (S&E), Defender Services, Court Security, and Fees of Jurors and Commissioners accounts, which reflect the enacted appropriations contained in the Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, and updated requirements, carryforward balances, and estimated fee collections. The final plan for the S&E account funds approximately 95 percent of courts' formula requirements and is sufficient for most court units to maintain on-board staffing levels and to hire additional staff, as needed, to address caseload and other workload needs. The approved final plans for the Defender Services, Court Security, and Fees of Jurors and Commissioners accounts include funding adequate to meet program requirements.

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## **MISCELLANEOUS ACTIONS**

The Executive Committee —

- Endorsed the Chief Justice's selection of James C. Duff as the new Director of the Administrative Office.
- Reviewed the determinations of Conference committees as to whether the judiciary should pursue in the 114<sup>th</sup> Congress, or defer pursuit of, Conference-approved legislative proposals within those committees' jurisdictions. This review occurs biennially, at the beginning of each new Congress.

- Clarified that while data collection for the cameras in the courtroom pilot project will conclude on July 18, 2015, participating courts may continue to record proceedings and post them on [uscourts.gov](http://uscourts.gov) until the Judicial Conference considers recommendations regarding the pilot, which may occur at its March 2016 session.

## **COMMITTEE ON AUDITS AND ADMINISTRATIVE OFFICE ACCOUNTABILITY**

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### **COMMITTEE ACTIVITIES**

The Committee on Audits and Administrative Office Accountability reported that an independent audit firm briefed the Committee on the progress of an audit of the judiciary's appropriations and of a pilot in which volunteer court units and federal defender organizations undergo a risk-based, rather than standard, cyclical audit. The firm also briefed the Committee on audits of registry investments, retirement trust funds, the Public Access to Court Electronic Records (PACER) program, and the Central Violations Bureau. The Committee concurred with a recommendation of the Committee on Criminal Law that the Judicial Conference extend its longstanding opposition to an inspector general for the federal judiciary to legislation that would create an inspector general for the probation and pretrial services system (*see infra*, "Inspector General Legislation," p. 12).

## **COMMITTEE ON THE ADMINISTRATION OF THE BANKRUPTCY SYSTEM**

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### **BANKRUPTCY JUDGESHIPS**

The Judicial Conference conducts a biennial survey to evaluate requests for additional bankruptcy judgeships and transmits its recommendations to Congress, which establishes the number of bankruptcy judgeships in each judicial district (28 U.S.C. § 152(b)(2)). Based on the results of the 2014 biennial survey of additional judgeship needs, the Committee on the Administration of the Bankruptcy System recommended that the Judicial Conference ask Congress to authorize 6 additional permanent judgeships and convert 16 existing temporary judgeships to permanent status

as set forth below (“P” denotes permanent; “T/P” denotes conversion of temporary to permanent):

|                          |            |
|--------------------------|------------|
| Puerto Rico              | 2 T/P      |
| Delaware                 | 2 P, 5 T/P |
| Maryland                 | 2 T/P      |
| North Carolina (Eastern) | 1 T/P      |
| Virginia (Eastern)       | 1 T/P      |
| Michigan (Eastern)       | 2 P, 1 T/P |
| Tennessee (Western)      | 1 T/P      |
| Nevada                   | 1 T/P      |
| Florida (Middle)         | 2 P        |
| Florida (Southern)       | 2 T/P      |

The Conference adopted the Committee’s recommendation.

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**GUIDANCE FOR PROTECTION OF TAX INFORMATION**

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (Pub. L. No. 109-8) expanded the list of tax documents a debtor must file under 11 U.S.C. § 521 and requires that courts make those documents available to any party in interest in accordance with procedures adopted by the Director of the Administrative Office that safeguard the confidentiality of the information. In September 2005, the Judicial Conference endorsed the Director’s interim guidance for filing tax information that balanced the disclosure requirements of 11 U.S.C. § 521 with the need to protect sensitive financial and personal information from unrestricted dissemination (JCUS-SEP 05, p.13). At this session, the Committee recommended, and the Conference approved, amendments to clarify and finalize the guidance, which is codified in the *Guide to Judiciary Policy*, Vol. 4, Ch. 8, § 830. The Conference also authorized the Bankruptcy Committee to make non-substantive, technical, and conforming changes to the guidance, as needed.

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**LEGISLATION**

As part of the biennial review of Conference-approved legislative positions that the Executive Committee asks each committee to perform at the beginning of a new Congress (*see supra*, “Miscellaneous Actions,” p. 5), committees are asked not only which positions should be pursued in a new

Congress, but also whether any positions not being pursued should be rescinded. As part of the biennial review for the 114<sup>th</sup> Congress, the Committee considered several legislative positions relating to the bankruptcy administrator and U.S. trustee programs and recommended that the following two positions be rescinded:

- a. to seek legislation to permit judicial districts to opt out of the United States trustee system and into the bankruptcy administrator program (JCUS-MAR 90, pp. 12-13); and
- b. to seek legislation to transfer the U.S. trustee program from the Department of Justice to the judiciary (JCUS-SEP 90, p. 61; JCUS-SEP 95, p. 53; JCUS-SEP 98, p. 55).

The Conference adopted the Committee's recommendations.

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## COMMITTEE ACTIVITIES

The Committee on the Administration of the Bankruptcy System reported that it is continuing to review and provide oversight of bankruptcy judgeship resources and that it discussed the urgent situation regarding 29 temporary bankruptcy judgeships. Those judgeships will lapse on May 25, 2017 unless action is taken by Congress to convert them to permanent status or extend their lapse dates. The Committee concurred with the Court Administration and Case Management Committee's proposed guidance on fee exemptions for the United States (*see infra*, "Miscellaneous Fee Exemption," pp. 9-10), and the determination not to consider imposing a new fee on repeat bankruptcy filers, but will request that the Court Administration and Case Management Committee reconsider the decision not to amend Item 11 of the Bankruptcy Court Miscellaneous Fee Schedule to clarify the bankruptcy court's discretion to waive the reopening fee in certain chapter 11 cases.

## COMMITTEE ON THE BUDGET

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### COMMITTEE ACTIVITIES

The Committee on the Budget reported that the fiscal year 2016 appropriations cycle is likely to be challenging because of the flat, non-defense discretionary spending cap as well as continued congressional

interest in deficit reduction. Therefore, the judiciary must continue to make cost containment a top priority. The Committee also reported that congressional outreach will be particularly important in the upcoming appropriations cycle because of membership changes in the 114<sup>th</sup> Congress on the House and Senate Appropriations Committees and their Financial Services and General Government appropriations subcommittees. The Committee recommended that a local outreach campaign in coordination with the Judicial Branch Committee be resumed in the spring of 2015 to educate new members of Congress about the judiciary and its role in the administration of justice.

## **COMMITTEE ON CODES OF CONDUCT**

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### **COMMITTEE ACTIVITIES**

The Committee on Codes of Conduct reported that since its last report to the Judicial Conference in September 2014, it received 28 new written inquiries and issued 30 written advisory responses. During this period, the average response time for such requests was 16 days. In addition, the Committee chair responded to 59 informal inquiries, individual Committee members responded to 127 informal inquiries, and Committee counsel responded to 534 informal inquiries, for a total of 720 informal inquiries.

## **COMMITTEE ON COURT ADMINISTRATION AND CASE MANAGEMENT**

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### **MISCELLANEOUS FEE EXEMPTION**

The Judicial Conference prescribes miscellaneous fees for the appellate, district, and bankruptcy courts, the Court of Federal Claims, and the Judicial Panel on Multidistrict Litigation, as well as for electronic public access to court records.<sup>1</sup> Each fee schedule includes certain fee exemptions

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<sup>1</sup>The miscellaneous fee schedule for the courts of appeals is authorized by 28 U.S.C. § 1913; the district courts by 28 U.S.C. § 1914(b); the bankruptcy courts by 28 U.S.C. § 1930(b); the Court of Federal Claims by 28 U.S.C. § 1926(a); and the Judicial Panel on Multidistrict Litigation by 28 U.S.C. § 1932. The Electronic Public Access Fee Schedule is authorized in Pub. L. No. 107-347 (Dec. 17, 2002), and is reproduced in the notes following each of the above statutory sections.

for the “United States.” To provide guidance on how to apply this exemption, and to ensure consistency in its application, the Committee on Court Administration and Case Management recommended, and the Judicial Conference approved, a national policy for inclusion in the *Guide to Judiciary Policy*, Vol. 4, Ch. 6 (Fees), to clarify—

- a. that the exemption for the “United States” contained in the court miscellaneous fee schedules applies exclusively to any department, agency, or instrumentality in the executive or legislative branches of the United States Government (USG), any independent federal agency or wholly owned USG corporation, and Federal Reserve banks and branches;
- b. that the exemption is not available for private individuals or entities solely because of contractual relationships with federal government entities; and
- c. that entities seeking to receive this (or any) fee exemption bear the burden of establishing that they are entitled to the exemption.

Federal agencies or programs that are funded from judiciary appropriations are subject to a separate exemption and are not covered by this guidance.

## **CJRA REPORT ON PENDING CIVIL CASES**

The Civil Justice Reform Act (CJRA) requires the Director of the Administrative Office to prepare semi-annual reports showing, among other things, civil cases pending more than three years and civil motions pending more than six months, by judicial officer, and authorizes the Director to establish standards for such reporting (28 U.S.C. §§ 476, 481). The Department of Justice (DOJ) asked the Committee to consider an amendment to the reporting instructions for *qui tam* cases brought under the False Claims Act (31 U.S.C. §§ 3729-3733). Currently such cases are considered pending on the date the complaint is filed. However, *qui tam* cases are initially sealed and not served on the defendant while the government investigates the complaint and determines whether to intervene, and this process can be lengthy. The DOJ asked that the pending date be changed to the date that the complaint is unsealed and served on the defendant so that CJRA reporting requirements do not enter into the decision of when to unseal the matter. On recommendation of the Committee, the Conference agreed to amend the

CJRA reporting instructions to provide that the pending date for *qui tam* cases brought under the False Claims Act be the date on which the case is first unsealed by the court.

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## RESIDENCY REQUIREMENT FOR DISTRICT COURT CLERKS

The Committee was asked for its views on a proposal to amend 28 U.S.C. § 751(c) to provide for a limited exception to the requirement that the clerk of a district court reside in the district to which he or she is appointed. Noting that the workforce is becoming increasingly mobile and that technological advances are significantly changing the way business is conducted, the Committee agreed that limited exceptions to the residency requirement for district clerks may be warranted. The Committee recommended that the Conference support an amendment to 28 U.S.C. § 751(c) to allow a waiver of the clerk of court residency requirement if the clerk demonstrates to the court that the court's operations will not be impeded by the location of the clerk's residence and obtains approval from the court. The Conference adopted the Committee's recommendation.

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## COMMITTEE ACTIVITIES

The Committee on Court Administration and Case Management reported on its continuing efforts to establish national procedures for protecting cooperation information contained in court filings. The Committee asked its Privacy Subcommittee to work with the Criminal Law and Defenders Services Committees, as well as the Federal Judicial Center, to survey federal defenders, Criminal Justice Act panel attorneys, federal prosecutors, chief probation officers, and judges to better determine the extent to which convicted inmates are threatened or harmed as a result of cooperating with the government. The Committee also considered the consequences of online access to personal and sensitive medical information contained in judicial opinions in Social Security disability appeals and referred the matter to its Privacy Subcommittee. In addition, the Committee asked its Records Subcommittee to develop guidance for judges to consider when determining whether to grant a motion to destroy a court-ordered wiretap application, order, or recording.

## **COMMITTEE ON CRIMINAL LAW**

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### **INSPECTOR GENERAL LEGISLATION**

Legislation introduced in 113<sup>th</sup> Congress, the Federal Probation System Reform Act (H.R. 3669), would have established an inspector general for the federal probation and pretrial services system. The Judicial Conference has a longstanding position strongly opposing the creation of an inspector general in the judicial branch (JCUS-MAR 96, p. 7). Although the inspector general proposed in H.R. 3669 would oversee only the probation and pretrial services system and not the judiciary as a whole, the Committee on Criminal Law concluded that the same concerns that were expressed in 1996—that an inspector general would threaten the independence of federal judicial decision-making and be duplicative of the judiciary’s already rigorous and effective system for audit, review, and investigation—would still apply. On recommendation of the Committee, the Judicial Conference agreed, based on its historic opposition to an inspector general for the federal judiciary, to oppose the Federal Probation System Reform Act (H.R. 3669, 113<sup>th</sup> Cong.), or similar legislation, that would create an inspector general for the probation and pretrial services system, on the grounds that such legislation fails to adequately protect judicial independence and would wastefully duplicate existing oversight functions in the judicial branch.

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### **CONSOLIDATION OF PROBATION AND PRETRIAL SERVICES OFFICES**

In March 2005, in the context of considering whether savings could be achieved by consolidating any remaining separate probation and pretrial services offices, the Judicial Conference reaffirmed the policy that the form of organization for providing pretrial services should be determined by individual district courts and their respective circuit councils, but that districts that had not considered the issue of consolidation of their separate offices should do so when a chief probation or pretrial services officer retired or is transferred and consolidation may serve as a means to achieve additional economies and efficiencies without compromising the mission of pretrial services (JCUS MAR-05, pp. 14-15). At this session, to raise awareness among chief judges about the importance of scrutinizing costs associated with maintaining separate offices, on recommendation of the Committee, the Conference agreed to modify its March 2005 policy to further require that the chief judge of any district court that decides to maintain separate probation and pretrial services

offices upon the vacancy of one of the chief positions must submit a report to the chief judge of the circuit, explaining the court's decision, and provide a copy of the report to the Director of the Administrative Office.

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## COMMITTEE ACTIVITIES

The Committee on Criminal Law reported that Committee chair, Judge Irene M. Keeley, appeared before the Charles Colson Task Force on Federal Corrections to share the judiciary's views on federal sentencing and corrections policies that impact prison overcrowding and the administration of the federal criminal justice system, including the Conference's longstanding opposition to mandatory minimum sentences, concerns about the over-federalization of crimes, and the continued need for resources for probation and pretrial services operations. In connection with its December 2014 meeting, the Committee toured the Probation and Pretrial Services National Training Academy, located in North Charleston, South Carolina. In order to eliminate the backlog in training that resulted from sequestration of appropriations mandated by the Budget Control Act of 2011, AO staff developed an abbreviated curriculum that will be used for the new officer programs offered in 2015. The Committee supports the temporary change in the curriculum and expects that the academy will return to its full curriculum in 2016.

## COMMITTEE ON DEFENDER SERVICES

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### COMMITTEE ACTIVITIES

The Committee on Defender Services reported that it was updated on the current status of the first work measurement study of federal defender organizations. The Committee also received a status update on the upcoming comprehensive, impartial review of the Criminal Justice Act program which will examine the effectiveness of current policies and governance structures and their impact on the appointment and compensation of counsel, quality of representation, program administration, and adequacy of funding. The Committee provided recommendations to the Judicial Resources Committee on how policies adopted by the Judicial Conference regarding the use of volunteers in the courts (*see* JCUS-SEP 14, pp. 22-24) could be tailored to apply to federal defender organizations without adversely affecting the defense function.

## **COMMITTEE ON FEDERAL-STATE JURISDICTION**

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### **TRANSFERS TO THE UNITED STATES TAX COURT**

Section 1631 of title 28, United States Code, authorizes a federal court, as defined in 28 U.S.C. § 610, to cure a lack of subject matter jurisdiction by transferring a pending action or appeal to another such federal court that does have jurisdiction over the matter. Without this transfer option, litigants who have timely filed claims in the wrong court may face a dismissal of their action and may be time barred from refileing in the proper forum. The United States Tax Court is not one of those courts identified in 28 U.S.C. § 610 and therefore cases misfiled in other courts cannot be transferred to the Tax Court under section 1631. On recommendation of the Committee, the Judicial Conference agreed to support, in concept, a United States Tax Court proposal to amend 28 U.S.C. § 1631 to authorize transfer to the Tax Court of cases within its jurisdiction that are initially filed in the wrong forum.

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### **COMMITTEE ACTIVITIES**

The Committee on Federal-State Jurisdiction reported that it considered regulatory reform legislation that would amend the Administrative Procedure Act by adding numerous requirements to the agency rulemaking process and changing the statutory rules governing judicial review of administrative action. In addition, a representative of the Department of Justice gave a presentation on recent executive action on immigration. The Committee also engaged in a discussion of past initiatives and current efforts to facilitate cooperation between the federal and state courts, including an update on the activities of state-federal judicial councils.

## **COMMITTEE ON FINANCIAL DISCLOSURE**

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### **FILING REQUIREMENTS FOR JUDGES**

In September 2003, the Judicial Conference agreed to seek a separate financial disclosure statute for judges that would make the financial disclosure reporting requirements for judicial officers more consistent with the narrowly focused role of the judiciary and with judges' recusal obligations under 28 U.S.C. § 455 (JCUS-SEP 03, pp. 24-25). Since these amendments were proposed more than a decade ago, the judiciary has had an opportunity to

implement and refine the financial disclosure reporting and redaction processes, and the Committee now believes that a separate financial disclosure statute for judges is not necessary. On recommendation of the Committee, the Judicial Conference agreed to rescind its September 2003 position to seek legislation creating separate financial reporting requirements for judges.

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## **COMMITTEE ACTIVITIES**

The Committee on Financial Disclosure reported on the status of its comprehensive assessment of the future needs of the electronic financial disclosure report preparation and filing system, as well as initiatives to improve compliance by delinquent filers and filers having difficulty with the reporting requirements. The Committee also approved clarifications to the filing instructions and other guidance documents. As of December 22, 2014, for calendar year 2013, the Committee had received 4,446 financial disclosure reports and certifications (out of a total of 4,482 required) including 1,307 annual reports from Supreme Court justices and Article III judges; 354 annual reports from bankruptcy judges; 556 annual reports from magistrate judges; 1,809 annual reports from judicial employees; and 420 reports from nominee, initial, and final filers.

## **COMMITTEE ON INFORMATION TECHNOLOGY**

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### **COMMITTEE ACTIVITIES**

The Committee on Information Technology reported that it received a preliminary analysis and recommendations for an enterprise messaging system from an ad hoc task force comprised of judiciary representatives and asked for refined cost estimates, including migration options. It also reaffirmed its goal of offering national hosting services at no cost to courts wanting to use them, but noted that courts should not be compelled to use the services. Members received updates on a number of key information technology initiatives and discussed a proposed revision to the courtroom technologies formula. In addition, the Committee referred to its security subcommittee concerns regarding the “single sign-on” initiative and business needs regarding system access for judicial interns and externs.

## **COMMITTEE ON INTERCIRCUIT ASSIGNMENTS**

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### **COMMITTEE ACTIVITIES**

The Committee on Intercircuit Assignments reported that 131 intercircuit assignments were undertaken by 92 Article III judges from July 1, 2014, to December 31, 2014. The Committee also reviewed and concurred with two proposed intercircuit assignments of bankruptcy judges. The Committee continued to disseminate to chief district judges information about intercircuit assignments and aided courts requesting assistance by identifying and obtaining judges willing to take assignments. The Committee also reviewed the current intercircuit assignment profile of judges willing to undertake intercircuit assignments for possible revisions before distributing the 2014 biennial questionnaire to active and senior judges regarding their willingness to serve on intercircuit assignments.

## **COMMITTEE ON INTERNATIONAL JUDICIAL RELATIONS**

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### **COMMITTEE ACTIVITIES**

The Committee on International Judicial Relations reported on its involvement in rule of law and judicial reform activities throughout the world, highlighting activities in Africa, Europe and Eurasia, Latin America and the Caribbean, and East and South Asia. Briefing reports about international rule of law activities were provided by the Department of State, the Department of Justice, the United States Agency for International Development, the United States Patent and Trademark Office, the Open World Program, the Federal Judicial Center, the Administrative Office, and the International Association of Court Administrators. The Committee also reported on hosting foreign delegations of jurists and judicial personnel for briefings at the Administrative Office.

## **COMMITTEE ON THE JUDICIAL BRANCH**

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### **JUDICIAL COMPENSATION**

The Judicial Conference adopted a number of legislative positions over the last two decades to address a crisis in judicial compensation resulting from the denial to federal judges of many annual pay adjustments under the Ethics

Reform Act of 1989, Public Law No. 101-194. Due to recent decisions in *Beer v. United States*, 696 F.3d 1174 (Fed. Cir. 2012) cert. denied, 133 S. Ct. 1997 (2013), and *Barker v. United States*, No. 12-826 (Fed. Cl. filed Nov. 30, 2012), judicial salaries have been adjusted to the level they would have been if judges had received the pay adjustments under the Ethics Reform Act. In light of this development, the Committee recommended that the following six Judicial Conference legislative positions be rescinded, as their underlying objectives have been achieved through non-legislative means:

- a. an immediate and substantial increase in judicial salaries (JCUS-MAR 07, p. 4);
- b. a catch-up judicial salary increase equivalent to four previously denied cost-of-living adjustments (JCUS-MAR 01, pp. 23-24);
- c. delinkage of judicial and congressional compensation (JCUS-MAR 97, pp. 26, 41);
- d. automatic, annual cost-of-living adjustments to ensure that the real compensation of Article III judges is not diminished (JCUS-MAR 94, p. 20);
- e. repeal of Section 140 of Public Law No. 97-92 (JCUS-MAR 98, pp. 17-18); and
- f. revitalization of a federal salary-fixing entity similar to the former Commission on Executive, Legislative and Judicial Salaries (popularly known as the Quadrennial Commission) (JCUS-MAR 98, pp. 17-18).

The Conference adopted the Committee's recommendation.

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## **JUDGES' TRAVEL**

On recommendation of the Committee, the Judicial Conference adopted amendments to sections 220.10.20 and 220.30.10(c) of the Travel Regulations for United States Justices and Judges, *Guide to Judiciary Policy*, Vol. 19, Ch. 2, to more accurately describe judicial meetings for which travel is authorized and may be reimbursed, as well as non-substantive amendments to clarify several other provisions in the regulations.

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## COMMITTEE ACTIVITIES

The Committee on the Judicial Branch reported that it participated in the second Judicial-Congressional Dialogue, an initiative that began earlier in 2014, with the goal of increasing understanding between the legislative and judicial branches. The Committee also received an update on court participation in the first national coordination of naturalization ceremonies on Constitution Day and Citizenship Day, September 17, 2014, and received a visit from Justice Anthony Kennedy, who discussed the Kennedy Learning Center and the importance of civics education.

## COMMITTEE ON JUDICIAL CONDUCT AND DISABILITY

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### COMMITTEE ACTIVITIES

The Committee on Judicial Conduct and Disability reported that it discussed and considered complaint-related matters under the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-364. The Committee also reviewed complaint-related orders issued in 2014 by chief judges and circuit judicial councils. The Committee and its staff have continued to address inquiries regarding the Act and the Rules for Judicial-Conduct and Judicial-Disability Proceedings (2008) and to give other assistance as needed to chief judges and circuit judicial councils. In addition, the Committee discussed proposed amendments to the Rules, including public comments and testimony provided at a public hearing on October 30, 2014.

## COMMITTEE ON JUDICIAL RESOURCES

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### ARTICLE III JUDGESHIPS

Additional Judgeships. The Committee on Judicial Resources considered requests and justifications for additional judgeships in the courts of appeals and the district courts as part of its 2015 biennial survey of judgeship needs. Based on its review, and after considering the views of the courts and the circuit judicial councils, the Committee recommended that the Judicial Conference request from Congress the addition of 5 permanent Article III judgeships for the courts of appeals and the addition of 68 permanent Article III judgeships and the conversion to permanent status of 9 existing

temporary Article III judgeships in the district courts. The Conference adopted the Committee's recommendations, agreeing to transmit the following request to Congress ("P" denotes permanent; "T/P" denotes conversion of temporary to permanent):

Courts of Appeals

Ninth Circuit 5P

District Courts

|                        |           |
|------------------------|-----------|
| New York-Eastern       | 2P        |
| New York-Southern      | 1P        |
| New York-Western       | 1P        |
| Delaware               | 1P        |
| New Jersey             | 2P        |
| North Carolina-Western | 1T/P      |
| Texas-Eastern          | 2P, 1T/P  |
| Texas-Southern         | 2P        |
| Texas-Western          | 4P        |
| Tennessee-Middle       | 1P        |
| Indiana-Southern       | 1P        |
| Wisconsin-Western      | 1P        |
| Minnesota              | 1P        |
| Missouri-Eastern       | 1T/P      |
| Arizona                | 4P, 1T/P  |
| California-Northern    | 5P        |
| California-Eastern     | 6P        |
| California-Central     | 13P, 1T/P |
| California-Southern    | 2P        |
| Idaho                  | 1P        |
| Nevada                 | 1P        |
| Washington-Western     | 1P        |
| Colorado               | 2P        |
| Kansas                 | 1T/P      |
| New Mexico             | 2P, 1T/P  |
| Alabama-Northern       | 1T/P      |
| Florida-Northern       | 1P        |
| Florida-Middle         | 6P        |
| Florida-Southern       | 3P, 1T/P  |
| Georgia-Northern       | 2P        |

Judgeship Vacancies. As part of the biennial survey of judgeship needs the Committee also reviewed workloads in district and appellate courts with low-weighted caseloads for the purpose of determining whether to recommend to the President and Senate that an existing or future judgeship vacancy not be filled. On recommendation of the Committee, the Conference agreed to recommend to the President and the Senate not filling the next judgeship vacancy in the District of Wyoming, based on low-weighted caseload in that district.

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## **COURT LAW CLERKS**

In March 2011, the Judicial Conference authorized a three-year test program to evaluate whether providing additional law clerks in courts with extremely heavy caseloads would expedite case resolution (JCUS-MAR 11, p. 23). At the conclusion of the study, in March 2014, the Conference evaluated the program and determined to extend the test for three years and expand it to include additional courts (JCUS-MAR 14, p. 21). At this session, the Committee recommended that the Judicial Conference approve a six-month extension of the second phase of the court law clerk test from March 31, 2017, to September 30, 2017, to avoid difficulties that might arise from concluding the program in the middle of a fiscal year and to ensure a more representative sampling period for data collection. The Conference adopted the Committee's recommendation.

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## **PARALEGAL POSITION**

The Judicial Conference establishes guidelines for the number and type of chambers staff active judges may hire to assist in carrying out their responsibilities. *See Guide to Judiciary Policy*, Vol. 12, § 615.50. The guidelines provide for both law clerks and secretaries, with an option for judges to substitute a law clerk for a secretary position in many instances. The Committee proposed amending the guidelines to provide a third staffing option, a paralegal position, to give judges greater flexibility in meeting their administrative and legal needs and to expand the pool of qualified candidates. On recommendation of the Committee, the Judicial Conference approved a job description and qualification standard for a paralegal position and associated changes to the chambers staffing allocation.

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## COMMITTEE ACTIVITIES

The Committee on Judicial Resources reported that it agreed to form a subcommittee to examine staffing resources for senior judges and that it would ask members from other Judicial Conference committees to serve as liaisons. The Committee declined to support a request from the Committee on the Administration of the Bankruptcy System, which was initiated by the AO's Bankruptcy Clerks Advisory Group, to recommend that the Conference reverse its decision of September 2012 to eliminate 162.1 full-time equivalent information technology positions from the bankruptcy clerks' offices in fiscal year 2016 (JCUS-SEP 12, pp. 22-23). It also declined a request for an exception to the four-year limit on term law clerk service to allow a term law clerk to serve an additional year<sup>2</sup> and a request for an exception to the policy which allows one career law clerk at the JSP-14 grade level per chambers. The Committee deferred until its December 2015 meeting consideration of requests for an additional staff position for four chief judges who are in districts that have four authorized judgeships, but have been recommended by the Judicial Conference for a fifth judgeship.

## COMMITTEE ON JUDICIAL SECURITY

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### COMMITTEE ACTIVITIES

The Committee on Judicial Security reported that it was updated on the implementation of the Facility Access Card (FAC) Program, the judiciary's version of Homeland Security Presidential Directive (HSPD)-12, which established a mandatory, government-wide standard for a secure and reliable form of identification (also known as "smart cards") for federal employees and contractors in the executive branch. In addition, the Committee and U.S. Marshals Service (USMS) leadership discussed a range of security topics including the status of the Home Intrusion Detection System (HIDS) program, which provides judges with a residential home alarm system, and the USMS's efforts to upgrade and replace physical access control systems in court facilities with outdated equipment.

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<sup>2</sup> A Judicial Conference member moved this information item to the discussion calendar; however, the objection was withdrawn on the Conference floor prior to discussion. No Conference action was required as the item was for information only.

## **COMMITTEE ON THE ADMINISTRATION OF THE MAGISTRATE JUDGES SYSTEM**

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### **CHANGES IN MAGISTRATE JUDGE POSITIONS**

After considering the recommendations of the Committee on the Administration of the Magistrate Judges System and the recommendations of the Administrative Office, and with the concurrence of the affected district courts and circuit judicial councils, the Judicial Conference agreed—

- a. in the District of New Jersey, to discontinue the part-time magistrate judge position at Atlantic City; and
- b. in the District of New Mexico, to—
  - (i) authorize the court to fill the magistrate judge position vacancy in Albuquerque that the Judicial Conference, at its September 2013 session, had not allowed to be filled (JCUS-SEP 13, p. 29);
  - (ii) increase the salary of the part-time magistrate judge position at Farmington from Level 7 (\$7,759 per annum) to Level 5 (\$31,060 per annum), effective January 1, 2015; and
  - (iii) decrease the salary of the part-time magistrate judge position at Roswell from Level 3 (\$62,128 per annum) to Level 4 (\$46,595 per annum), effective March 10, 2015.

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### **COMMITTEE ACTIVITIES**

The Committee on the Administration of the Magistrate Judges System reported that after full consideration of district-wide survey reports prepared by the Administrative Office, it determined not to recommend any changes in the number of authorized magistrate judge positions in nine district courts. Pursuant to Judicial Conference policy regarding the review of magistrate judge position vacancies (JCUS-SEP 04, p. 26), for the period between its June 2014 and December 2014 meetings, the Committee approved, through its chair, filling 25 magistrate judge position vacancies. At its December 2014 meeting, the full Committee considered and approved requests to fill two magistrate judge position vacancies. The Committee also considered requests

from 14 courts for the recall or extension of recall of 17 retired magistrate judges or staff for those judges and approved all requests, with the exception of staff for one judge.

## **COMMITTEE ON RULES OF PRACTICE AND PROCEDURE**

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### **CIVIL RULES 4(M) AND 84**

In September 2014, the Judicial Conference approved proposed amendments to Civil Rules 4(m) and 84 as part of a larger rules package and transmitted them, along with committee notes explaining their purpose and intent, to the Supreme Court for consideration in accordance with the Rules Enabling Act, 28 U.S.C. § 2071 et. seq. At this session, in response to a request from the Supreme Court, the Committee on Rules of Practice and Procedure recommended modest modifications to the committee notes accompanying the proposed amendments to Rules 4(m) and 84, noting that such modifications reflected the Committee's intent. The Judicial Conference adopted the Committee's recommendation.

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### **COMMITTEE ACTIVITIES**

The Committee on Rules of Practice and Procedure reported that it approved for publication a proposed amendment to Rule 1001 of the Federal Rules of Bankruptcy Procedure, the bankruptcy counterpart to Civil Rule 1. Presently pending before the Supreme Court is a proposed amendment to Civil Rule 1 that is intended to make clear that parties, as well as courts, have a responsibility to achieve the just, speedy, and inexpensive resolution of every action. The proposed amendment to Rule 1001 tracks the proposed amended language of Civil Rule 1. The proposed amendment to Rule 1001 is expected to be published for public comment in August 2015.

## **COMMITTEE ON SPACE AND FACILITIES**

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### **GENERAL SERVICES ADMINISTRATION FEASIBILITY STUDIES**

Asset management planning (AMP) is an objective methodology used by the judiciary to evaluate and place courthouse projects on the *Five-Year Courthouse Project Plan* (JCUS-MAR 06, p. 25). As part of the AMP process

each proposed project is evaluated for urgency of need and an “Urgency Evaluation Results List” is compiled to identify locations with the most urgent space needs. Based on the urgency scores for potential courthouse construction projects in Ft. Lauderdale, Florida and Huntsville, Alabama, the Committee on Space and Facilities recommended that the Judicial Conference approve General Services Administration (GSA) feasibility studies for those projects contingent on the approval of the circuit judicial council. Projects must have a completed GSA feasibility study prior to being placed on the *Five-Year Courthouse Project Plan*. The Conference approved the Committee’s recommendation.

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## COMMITTEE ACTIVITIES

The Committee on Space and Facilities reported that it was updated on the status of the judiciary’s GSA Service Validation Initiative, which is designed to improve the services that the judiciary receives from GSA. Five subject matter groups, comprised of judiciary and GSA experts, will make recommendations for the Committee to consider at its June 2015 meeting. The Committee was also updated on the status of the judiciary’s space reduction initiative and agreed that to the extent a circuit exceeds its pro-rata share of the national three percent space reduction target by the end of fiscal year 2018, any excess space released will be tracked and recognized by the Committee and credited to that circuit’s overall reduction quota.

## FUNDING

All of the foregoing recommendations that require the expenditure of funds for implementation were approved by the Judicial Conference subject to the availability of funds and to whatever priorities the Conference might establish for the use of available resources.

Chief Justice of the United States  
Presiding Officer