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2009 Year-End Report on the Federal Judiciary

Chief Justice Warren Burger began the tradition of a yearly report on the federal judiciary in 1970, in remarks he presented to the American Bar Association. He instituted that practice to discuss the problems that federal courts face in administering justice. In the past few years, I have adhered to the tradition that Chief Justice Burger initiated and have provided my perspective on the most critical needs of the judiciary. Many of those needs remain to be addressed. This year, however, when the political branches are faced with so many difficult issues, and when so many of our fellow citizens have been touched by hardship, the public might welcome a year-end report limited to what is essential: The courts are operating soundly, and the nation's dedicated federal judges are conscientiously discharging their duties. I am privileged and honored to be in a position to thank the judges and court staff throughout the land for their devoted service to the cause of justice.

Best wishes in the New Year.

Appendix

Workload of the Courts

The Supreme Court of the United States

The total number of cases filed in the Supreme Court decreased from 8,241 filings in the 2007 Term to 7,738 filings in the 2008 Term—a decrease of 6.1%. The number of cases filed in the Court’s *in forma pauperis* docket decreased from 6,627 filings in the 2007 Term to 6,142 filings in the 2008 Term—a 7.3% decrease. The number of cases filed in the Court’s paid docket decreased from 1,614 filings in the 2007 Term to 1,596 filings in the 2008 Term—a 1.1% decrease. During the 2008 Term, 87 cases were argued and 83 were disposed of in 74 signed opinions, compared to 75 cases argued and 72 disposed of in 67 signed opinions in the 2007 Term. One case from the 2008 Term was reargued later that Term.

The Federal Courts of Appeals

In 2009, filings in the regional courts of appeals declined 6% to 57,740. Filings of criminal appeals, bankruptcy appeals, and original proceedings rose, but reductions occurred in filings of civil appeals and appeals of administrative agency decisions. Overall, the decline stemmed mainly from a drop in administrative agency appeals involving the Board of Immigration Appeals.

The Federal District Courts

Civil filings in the U.S. district courts rose 3%, increasing by 9,140 cases to 276,397. Filings of diversity-of-citizenship cases and cases involving federal questions (i.e., actions under the Constitution, laws, or treaties of the United States in which the United States is not a party in the case) grew as the courts received more cases related to asbestos, civil rights, consumer credit, contract actions, and foreclosures. Filings of cases in which the United States was a party fell 2% to 43,144, as filings related to student loans and prisoner petitions declined.

Diversity-of-citizenship filings climbed 10% (up 8,752 cases), primarily as a result of a national increase in personal injury cases related to asbestos. Most of the asbestos filings took place in the Eastern District of Pennsylvania. Federal-question filings rose 1% to 136,041. Filings of cases involving consumer credit, such as those filed under the Fair Credit Reporting Act, increased 53% (up 2,143 cases), fueled in part by the current economic downturn, particularly in the nation's most populous districts.

Criminal case filings (including transfers) rose 8% to 76,655, and the number of defendants climbed 6% to 97,982, surpassing the previous record for the number of defendants, 92,714, set in 2003. The number of criminal cases reached its highest level since 1932, the year before ratification of the

Twenty-first Amendment, which repealed prohibition. In that year, 92,174 criminal cases were filed.

Increases occurred in cases related to immigration, fraud, marijuana trafficking, and sex offenses. Filings in other offense categories with significant numbers—non-marijuana drugs and firearms-and-explosives—declined. Immigration filings climbed to record levels, as cases jumped 21% to 25,804, and the number of defendants rose 19% to 26,961. This growth resulted mostly from filings addressing either improper reentry by aliens or fraud or misuse of a visa or entry permit. The charge of improper reentry by an alien accounted for 80% of all immigration cases and 77% of all immigration defendants. The vast majority of immigration cases—88%—were filed in the five southwestern border districts.

The Bankruptcy Courts

In 2009, a total of 1,402,816 bankruptcy petitions were filed in the U.S. courts, an increase of 35% over the 1,042,806 filed in 2008. The 2009 total represents the greatest number of bankruptcy filings since 2005, when many debtors rushed to file petitions before October 17, 2005, the date on which the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) took effect. In 2009, the number of bankruptcy filings

exceeded 2008 totals in 93 of the 94 districts, and nine districts experienced increases of 60% or more.

Bankruptcy filings rose by 45% under Chapter 7, 68% under Chapter 11, 47% under Chapter 12, and 13% under Chapter 13. Business petitions climbed by 52%, and non-business petitions increased by 34%.

The Federal Probation and Pretrial Services System

On September 30, 2009, the number of persons under post-conviction supervision was 124,183, an increase of nearly 3% over the total one year earlier. Persons serving terms of supervised release after leaving correctional institutions rose more than 4% this year and accounted for 80% of all persons under supervision. Cases opened in the pretrial services system, including pretrial diversion cases, grew by nearly 6% to 105,294.