



## Bureau of Justice Statistics Bulletin

# The Federal Civil Justice System

The Federal justice system handles both criminal and civil cases. Federal criminal cases are initiated by the government, involve violations of Federal criminal statutes, and are punishable by fines, correctional supervision, or, in some cases, forfeiture of property. In contrast, civil cases are disputes between conflicting parties and typically result in the award of monetary damages to compensate for losses suffered by an injured party.

The mere phrase "Federal case" suggests that a case is unusually important, and, in fact, the vast majority of civil cases (including, for example, contract and personal injury disputes among citizens of the same State, divorce petitions, and probate matters) are handled by State court systems.

The types of civil cases that can be brought in the Federal courts are specified in Article III of the United States Constitution. These include:

- Cases arising under the United States Constitution, Federal statutes, and treaties. (Examples include Federal civil rights claims, antitrust actions, and copyright and patent cases.)
- Disputes between citizens of different States, if, as required by Congress, the amount in controversy exceeds \$10,000. (Such "diversity of jurisdiction" cases include, for example, contract and personal injury cases involving citizens of different States.)
- Cases in which the United States is either plaintiff or defendant. (Examples include lawsuits brought by citizens against Federal programs and

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The Federal civil justice system handles cases with far-reaching impacts on American life. Antitrust actions, civil rights cases, copyright claims, citizen disputes with governmental agencies or private enterprises, and scores of other matters generate a civil justice caseload that far exceeds the volume of Federal criminal cases. Glimpses of Federal civil justice activities are found daily in the press: "Elderly seek broader interpretation of social security regulations," "Prisoners sue prison officials," and "High tech firm claims patent infringement." While these stories provide a vague image of the contours of the Federal civil justice system, they by no means reveal the full scope of civil case processing activity.

In recent years, civil justice has become a topic of growing public policy concern, as disputing parties have increasingly turned to this

system to seek remedies for a wide variety of controversies. Federal civil justice caseloads have grown substantially; jury judgments--notably those in liability lawsuits--have increased dramatically; and calls for tort law reform have come from many quarters.

The Bureau of Justice Statistics, recognizing the growing need for more comprehensive information on civil case processing, plans to produce a series of reports on the topic of Federal civil justice. This document is the first in the series and provides an overview of the structure and functions of the Federal civil justice system. Later reports will examine specific issues in the administration of civil justice.

We wish to thank the Administrative Office of the U.S. Courts and the Civil Division of the U.S. Department of Justice for their cooperation in the preparation of this report.

Steven R. Schlesinger  
Director

cases brought by Federal agencies to enforce regulations.)

### Federal civil caseload

The number of Federal civil cases has risen dramatically in recent years (table 1):

• A total of 254,828 civil cases were filed in U.S. District Courts in the 12 months ending June 30, 1986, six times

as many as the number of criminal cases filed in these courts (41,490).

• Civil case filings in U.S. District Courts almost doubled (an increase of 95%) between 1976 and 1986 and almost tripled (an increase of 192%) between 1970 and 1986. However, filings decreased 7% between 1985 and 1986.

# The Federal Civil Justice System

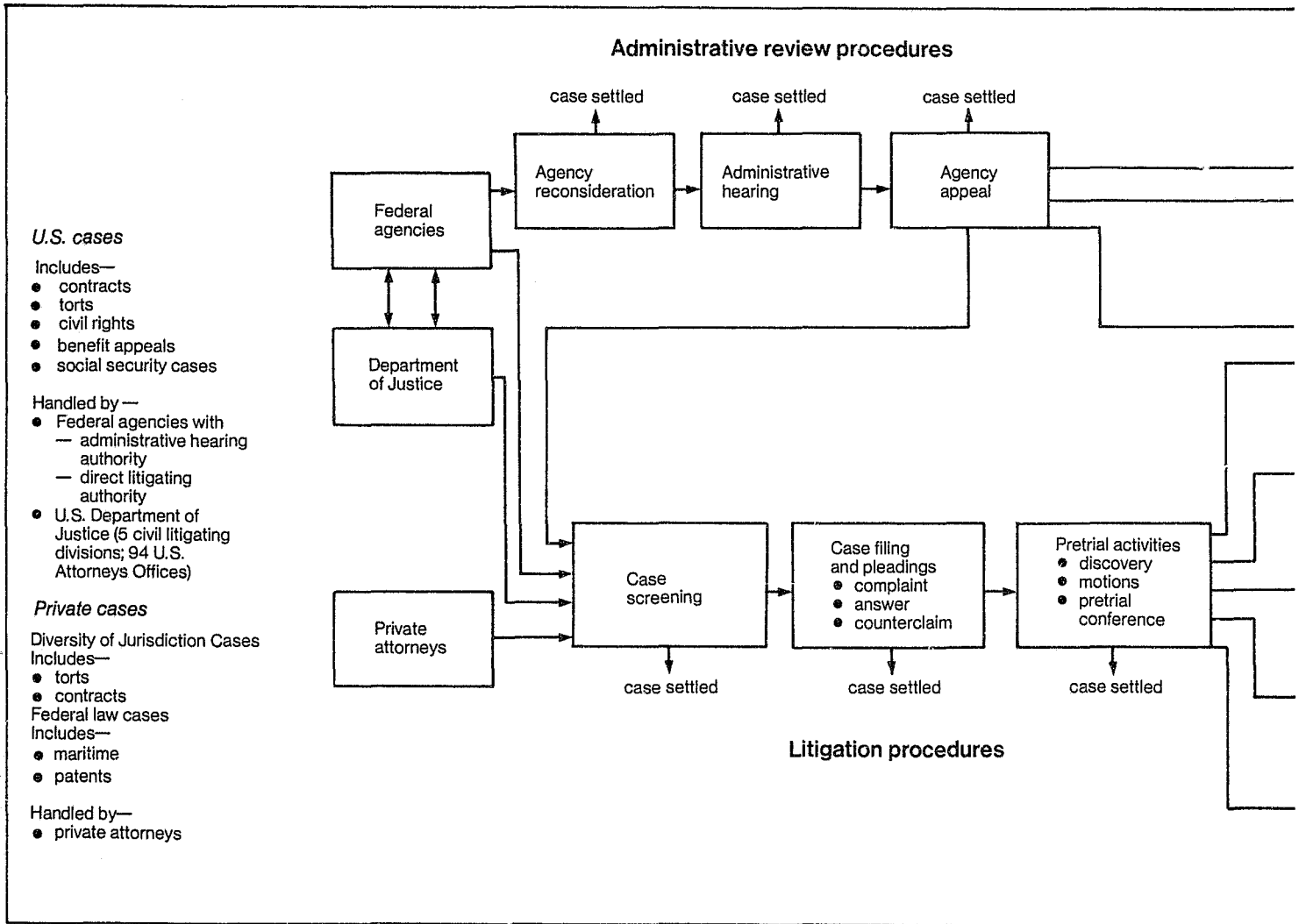


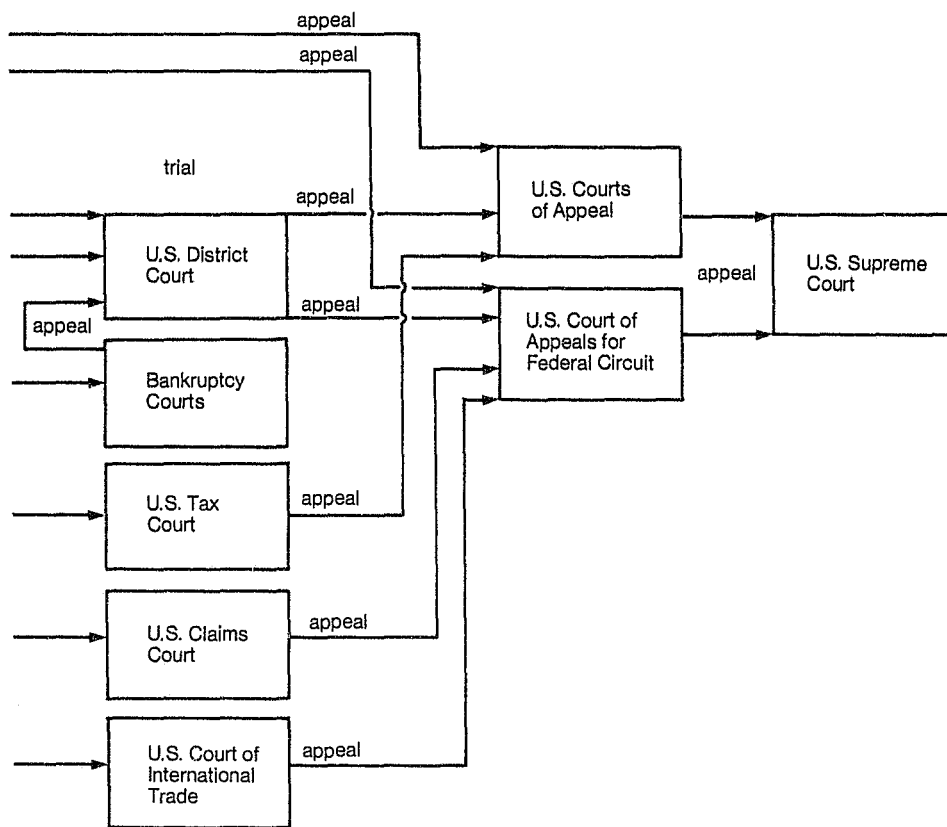
Figure 1

## Administrative review procedures

- Federal agency administrative procedures are determined by the Administrative Procedure Act or other statutes.
- Hearing officials may be administrative law judges (ALJ's) or other statutorily designated officials.
- DOJ litigating divisions and U.S. Attorneys may become involved where case is appealed to District or Appeals Court.
- Appeals of administrative law judges' decisions to the District Court may be "on the record" or de novo, depending upon the relevant statutes.

## Litigation procedures

- U.S. actions may be prosecuted or defended by five DOJ litigating divisions (civil, tax, antitrust, civil rights, lands), U.S. Attorneys, any Federal agency, or jointly by a Federal agency and a DOJ litigating division.



### Adjudicative resources

- Administrative hearings
- 1,121 Administrative law judges
  - 391,000 cases
- Trial Courts
- U.S. District Courts
    - 94 courts
    - 575 judges
    - 467 magistrates (including 177 part-time)
    - 254,828 civil cases
    - 91,830 U.S. cases
    - 162,998 private cases
  - Bankruptcy Courts
    - 242 judges
    - 477,856 cases
  - U.S. Tax Court
    - 28 judges
    - 15 special trial judges
    - 48,398 cases
  - U.S. Claims Court
    - 16 judges
    - 813 cases
  - U.S. Court of International Trade
    - 9 judges
    - 1,828 cases
- Appeals Courts
- U.S. Court of Appeals
    - 12 courts
    - 156 judges
    - 24,291 civil cases
  - U.S. Court of Appeals for Federal Circuit
    - 12 judges
    - 1,163 civil cases
  - U.S. Supreme Court
    - 9 justices
    - 4,413 cases

### Data sources

- Data on the U.S. District Courts, Bankruptcy Courts, and U.S. Courts of Appeal were obtained from the Administrative Office of the U.S. Courts and are for the year ending June 30, 1986.
- Data on the U.S. Tax Court, U.S. Claims Court, and the U.S. Court of International Trade were obtained from the statistical offices of those courts and are for the year ending September 30, 1986.
- Data on the U.S. Supreme Court were obtained from that court and are for the term ending in 1986. The figure is for cases filed and does not include carry-over cases.
- Data on the number of administrative law judges were obtained in August 1986 from the U.S. Office of Personnel Management. Data on the number of administrative law hearings were obtained from the Administrative Conference of the United States. The Administrative Conference conducted a survey of such hearings, and findings are reported in Lubbers, J., "Federal Agency Adjudications," *Federal Bar News and Journal*, vol. 31 (November 1984). The survey findings are the most current available data on administrative law caseloads and apply only to hearings conducted pursuant to the Administrative Procedure Act.

| Year | Number of cases filed |          |
|------|-----------------------|----------|
|      | Civil                 | Criminal |
| 1970 | 87,321                | 39,959   |
| 1971 | 93,396                | 43,157   |
| 1972 | 96,173                | 49,054   |
| 1973 | 98,560                | 42,434   |
| 1974 | 103,530               | 39,754   |
| 1975 | 117,320               | 43,282   |
| 1976 | 130,597               | 41,020   |
| 1977 | 130,567               | 41,464   |
| 1978 | 138,770               | 35,983   |
| 1979 | 154,666               | 32,688   |
| 1980 | 168,789               | 28,921   |
| 1981 | 180,576               | 31,287   |
| 1982 | 206,193               | 32,682   |
| 1983 | 241,842               | 35,872   |
| 1984 | 261,485               | 36,845   |
| 1985 | 273,670               | 39,500   |
| 1986 | 254,828               | 41,490   |

Source: Administrative Office of the U.S. Courts, Annual Report of the Director, 1970-86, Table C-1, D-1.

#### Nature of Federal civil cases

The nature of civil cases filed in U.S. District Courts varies widely (table 2). In the 12 months preceding June 30, 1986:

- The United States was either a plaintiff or defendant in 36% of the civil cases filed. These are usually referred to as U.S. cases. The remaining cases are referred to as private party litigation; these include cases between private individuals and those in which a State is a party.<sup>1</sup>
- Contract cases accounted for 35% of the total caseload and 53% of the cases in which the United States was either plaintiff or defendant.
- Tort (including personal injury) cases accounted for 22% of all private party cases and 4% of all U.S. cases.
- Civil rights actions (not including prisoner petitions) accounted for 11% of private party cases and 2% of U.S. cases.
- Petitions by State prisoners (including prisoner civil rights actions) accounted for 18% of all District Court litigation in which the Federal government was not a party; petitions by Federal prisoners accounted for 5% of cases in which the United States was a party.

The number and distribution of Federal civil cases, do not, however, fully reflect the nature or extent of the workload associated with civil case processing. This is because some types of civil cases may involve multiple defendants located in different jurisdic-

<sup>1</sup>The U.S. Department of Justice also participated as a third party in some private party litigation, thus increasing the total DOJ workload associated with civil cases.

|   | Number of cases filed |         |         |
|---|-----------------------|---------|---------|
|   | 1980                  | 1985    | 1986    |
| Total civil cases                                 | 168,789               | 273,670 | 254,828 |
| <b>Cases where U.S. is plaintiff or defendant</b> | 63,628                | 117,488 | 91,830  |
| Contract  | 24,063                | 65,647  | 48,257  |
| Land condemnation                                 | 4,621                 | 608     | 423     |
| Other real property                               | 3,660                 | 5,679   | 6,278   |
| Tort  | 4,438                 | 3,116   | 3,351   |
| Antitrust   | 39                    | 30      | 39      |
| Civil rights <sup>a</sup>                         | 1,459                 | 2,081   | 2,256   |
| Prisoner petitions <sup>b</sup>                   | 3,713                 | 6,262   | 4,432   |
| Forfeitures/penalties                             | 3,019                 | 4,908   | 3,480   |
| Labor   | 2,241                 | 1,202   | 1,239   |
| Social security                                   | 9,043                 | 19,771  | 14,407  |
| Tax   | 3,254                 | 2,990   | 2,779   |
| Other   | 4,078                 | 5,194   | 4,889   |
| <b>Private party litigation</b>                   | 105,161               | 156,182 | 162,998 |
| Contract  | 24,989                | 36,995  | 40,095  |
| Real property                                     | 2,786                 | 3,831   | 3,973   |
| FELA <sup>c</sup>                                 | 1,990                 | 2,186   | 2,534   |
| Personal injury                                   |                       |         |         |
| Marine  | 4,875                 | 4,320   | 4,052   |
| Motor vehicle                                     | 5,752                 | 6,871   | 7,016   |
| Other   | 10,878                | 21,448  | 21,676  |
| Other torts                                       | 4,606                 | 3,652   | 3,697   |
| Antitrust   | 1,457                 | 1,052   | 838     |
| Civil rights <sup>a</sup>                         | 11,485                | 17,472  | 17,872  |
| Commerce  | 1,031                 | 794     | 823     |
| Prisoner petitions <sup>b</sup>                   | 19,574                | 27,206  | 29,333  |
| Copyright/patent/trademark                        | 3,774                 | 5,398   | 5,643   |
| Labor   | 6,399                 | 10,547  | 11,600  |
| Other   | 5,565                 | 14,410  | 13,846  |

<sup>a</sup>Does not include prisoner petitions involving civil rights actions.  
<sup>b</sup>Includes habeas corpus, civil rights, mandamus, and other actions by prisoners.  
<sup>c</sup>Federal Employers Liability Act.  
Source: Administrative Office of the U.S. Courts, Annual Report of the Director, 1980, 1985, 1986, Table C-3.

dictions and a large number of separate claims, claimants, attorneys, and factual conditions. This is particularly true in tort actions involving, for example, asbestos and toxic wastes.

|  | 1970 | 1980 | 1985 | 1986 |
|--|------|------|------|------|
| U.S. Supreme Court   | 9    | 9    | 9    | 9    |
| U.S. Courts of Appeal                                      | 97   | 132  | 156  | 156  |
| U.S. Court of Appeals for the Federal Circuit <sup>a</sup> |      |      | 12   | 12   |
| U.S. District Courts Judges <sup>b</sup>                   | 401  | 516  | 575  | 575  |
| Magistrates <sup>c</sup>                                   | 518  | 488  | 467  | 467  |
| U.S. Bankruptcy Courts <sup>d</sup>                        |      | 240  | 232  | 242  |
| U.S. Tax Court   | 22   | 22   | 27   | 28   |
| U.S. Claims Court <sup>e</sup>                             |      |      | 16   | 16   |
| U.S. Court of International Trade                          | 9    | 9    | 9    | 9    |

<sup>a</sup>Established in 1984.  
<sup>b</sup>Does not include senior judges.  
<sup>c</sup>Includes both full-time and part-time magistrates. Number of part-time magistrates decreased from 449 in 1970 to 177 in 1986.  
<sup>d</sup>Established in 1978.  
<sup>e</sup>Established in 1982.  
Source: Administrative Office of the U.S. Courts and related court offices.

#### District Court judges

U.S. District Court judges hear both criminal and civil cases. The number of authorized judgeships increased 43% between 1970 and 1986 and 11% between 1980 and 1986 (table 3). During the same periods, the number of civil cases filed increased 192% and 51%, respectively. Since 1970, the number of U.S. Magistrates decreased from 518 to 476. However, during this period the number of magistrates serving full-time increased substantially.

#### Settlement of Federal civil cases

A vast number of civil cases are settled by the parties prior to case filing or court disposition. In some disputes, for example, individuals may simply decide not "to make a Federal case" out of a particular issue, due to priorities, costs, and available litigating resources. In some of these instances, the threat of filing a case is used simply to provide leverage to gain a settlement. Such cases, and the workload associated with them, are not, of course, reflected in the data describing the number of cases filed.

Once the decision is made to file a case, complex strategies are initiated involving pretrial discovery and motions. At any point in this process, a settlement may be reached by the parties and the case withdrawn from the court docket.

#### The Federal civil justice system

The Federal civil justice system includes a complex array of courts, administrative law forums, and personnel. Figure 1 provides an overview of the major types of Federal civil case processing and, of necessity, simplifies the relationships between different processing stages. As shown, the Federal

agency reconsideration, the case can then be filed for an administrative law hearing.

### Administrative law hearings and appeals

Administrative law hearings conducted under the Administrative Procedure Act result in a written record that presents the facts of the case, relevant law, and the basis for the administrative law judge's decision.

As set forth in relevant statutes, administrative hearing decisions are generally subject to appeals within the Federal agency that conducted the hearing. Some agencies have an appeals council; in other agencies, a judicial officer or the agency administrator handles appeals. Cases that are not resolved following the internal agency appeal can be appealed to the courts. Several avenues of appeal are possible, depending upon the provisions of the statute authorizing the hearing: appeals to the U.S. Court of Appeals, which makes a decision after reviewing the written record of the case; similar appeals on the record to the U.S. District Court; appeals to the Court of Appeals for the Federal Circuit; and de novo appeals to the District Court. In the latter two cases, the matter is tried again without respect to the outcome of the preceding administrative law hearing.

### Federal civil case processing

The Federal Rules of Civil Procedure govern civil litigation procedures. Although cases can follow a wide variety of paths depending upon the nature of the action, major elements of Federal civil case processing generally include:

#### Pretrial administrative review

Federal civil actions are frequently initiated by an administrative review procedure conducted either by an administrative law judge or a hearing officer named pursuant to specific agency legislation. Agencies differ in the extent of their independent litigation authority, and the Department of Justice may become involved in such cases when administrative rulings are appealed to the District or Appeal Courts.

#### Case filing

A Federal case begins when the plaintiff files a complaint in the relevant Federal court. The defendant has the opportunity to file an answer to the plaintiff's complaint, setting out areas of disagreement regarding either

the applicable laws or facts that are asserted by the plaintiff.

Defendants often file counterclaims with their answer alleging that the plaintiff has wronged the defendant and seeking a remedy for the wrong under Federal civil law. The plaintiff, in turn, may then file an answer to the counterclaim.

#### Pretrial activities

Pretrial activities (such as discovery, motions, and pretrial conferences) are designed to narrow the issues in contention and to facilitate a settlement before trial, if possible. Pretrial activities also represent important elements in civil litigation strategies.

**Discovery.** The aim of the discovery process is to obtain information relevant to the case from the opposing party. The Rules of Federal Procedure govern the discovery process. Discovery procedures include:

- interrogatories (written questions that the opposing party is required to answer in writing);
- depositions (oral inquiries in the presence of an attorney, which are later transcribed);
- requests for production of documents;
- requests for admissions (typically taking the form of yes or no questions regarding issues and facts relevant to a case).

**Motions.** Motions request the court to rule on a specific legal or procedural issue. Motions may precede discovery activities or occur during or after discovery. Typical motions include:

- motions to dismiss (requesting dismissal of the case for a variety of reasons specified in the Federal Rules of Civil Procedure, for example, alleging that the court does not have jurisdiction over the particular matter);
- motions for summary judgment (seeking judgment on the pleadings without recourse to a complete trial, for example, alleging that the plaintiff has failed to establish the basis for a legal action);
- motions related to discovery (seeking, for example, to compel an opposing party to cooperate in discovery or to protect the party filing the motion from an opponent's discovery activities).

**Pretrial conferences.** A judge may also compel opposing parties to participate in a pretrial conference to discuss issues of the case and possibly to seek a resolution prior to trial. Such conferences may be presided over by judges or magistrates. Even if a settlement cannot be reached, the conference often narrows the issues in the dispute and

may result in the parties stipulating agreement on certain relevant aspects of the law or facts.

#### Trials

Slightly less than 5% of civil cases terminated in U.S. District Court in the 12 months preceding June 30, 1986, reached trial. The remainder were settled by the parties with no court action (49%) or before trial (47%). The Federal Rules of Civil Procedure specify trial procedures. Trials can be held with or without a jury (a bench trial) depending upon the desires of the parties to the dispute and the court involved. Following the trial, parties may appeal the case to an appropriate appeals court.

### The Federal court system

#### Trial courts

Trial courts include the U.S. District Court and specialized courts dealing with, for example, bankruptcy, tax, and international trade.

● **U.S. District Court.** The bulk of civil cases filed in 1986 were filed directly in U.S. District Court. The 94 District Courts had 575 judges in 1986. District Court judges are appointed for life and are assisted by U.S. magistrates. Cases are appealable to the U.S. Courts of Appeal.

● **Bankruptcy Court.** A total of 477,856 bankruptcy petitions were filed in Bankruptcy Court in the 12 months preceding June 30, 1986.<sup>4</sup> Decisions are appealable initially to the U.S. District Court and then to U.S. Courts of Appeal. These courts, established as an adjunct to U.S. District Courts, had authorization in 1986 for 242 bankruptcy judges who serve 14-year terms.

● **U.S. Tax Court.** A total of 48,398 cases were filed in U.S. Tax Court in the 12 months preceding September 30, 1986.<sup>5</sup> The court handles disputes between taxpayers and the Internal Revenue Service. The court had authorization for 28 judges and 15 special trial judges in 1986 who serve for 15-year terms.

● **U.S. Claims Court.** A total of 813 cases were filed in U.S. Claims Court in the 12 months preceding September 30, 1986.<sup>6</sup> The court has nationwide juris-

<sup>4</sup>Administrative Office of the U.S. Courts, *Annual Report of the Director*, 1986, table F-1.

<sup>5</sup>Analysis of Cases Closed by Docket, October 1, 1985-September 30, 1986. Caseload Data for the U.S. Tax court, U.S. Claim Court, and U.S. Court of International Trade are only available for the annual periods ending September 30, 1986.

<sup>6</sup>Report of U.S. Claims Court for Year Ending September 30, 1986.

civil caseload includes both U.S. cases (in which the United States is a plaintiff or defendant) and private cases. Cases enter the system either directly in U.S. District Court or after an administrative review, under the provisions of the Administrative Procedure Act, the Contract Disputes Act, the Federal Tort Claims Act, and other similar statutes.

#### U.S. cases

The United States was either plaintiff or defendant in approximately 36% of all civil cases filed in U.S. District Courts in the 12 months preceding June 30, 1986.

The Federal government was plaintiff, for example, in tax suits, civil rights cases, and contract actions. The United States was defendant in such matters as tort cases (seeking damages for losses allegedly caused by government actions) and cases involving the administration of Federal laws and regulations.

Federal litigation is handled by attorneys from the U.S. Department of Justice and by lawyers attached to other Federal agencies. The United States Code (28 USC 516) indicates that "Except as otherwise authorized by law, the conduct of litigation in which the United States, an agency, or officer is a party . . . is reserved to officers of the Department of Justice, under the direction of the Attorney General."

In fact, Congress has authorized a variety of agencies to share responsibility for litigation in varying degrees with the Attorney General. Some agencies, commissions, and corporations have broad grants of independent litigating authority (for example, the National Labor Relations Board and the Federal Home Loan Bank Board). Other agencies have been granted litigating authority for more limited purposes related to specified regulatory or programmatic functions. Still others have the authority to litigate independently if the Attorney General does not provide legal representation (for example, the Consumer Product Safety Commission, the Environmental Protection Agency, and the Federal Trade Commission). Finally, many agencies have litigating authority granted by Congress but subject to the direction and control of the Attorney General. The agencies with some level of litigating authority typically develop memoranda of agreement with the Department of Justice to specify which organization will handle each type of matter.

#### Department of Justice litigation activities

The U.S. Department of Justice has broad powers to conduct litigation on behalf of the United States. Civil cases are handled by the Justice Department's civil litigating divisions and by U.S. Attorneys' offices across the United States.

- Civil Division. The Civil Division handles a broad array of civil cases including cases relating to Federal programs, tort claims, commercial litigation, consumer matters, and immigration litigation.
- Civil Rights Division. The Civil Rights Division enforces the Nation's laws relating to civil rights, voting rights, equal credit opportunity, and the rights of institutionalized persons.
- Tax Division. Division attorneys represent the Federal government in a wide range of civil and criminal tax-related suits; civil cases account for approximately 90% of the division's caseload.
- Land and Natural Resources Division. This division represents the United States in cases relating to public lands and natural resources, Indian lands and native claims, wildlife and fishery resources, and environmental quality.
- Antitrust Division. The major activity of the Antitrust Division is the enforcement of Federal antitrust laws.
- United States Attorneys. There are 94 U.S. Attorneys' offices currently in operation—one for each U.S. District Court. Guidelines have been developed that govern the routine delegation of civil cases to U.S. Attorneys from the Justice Department litigating divisions. For example, cases involving less than \$200,000 are typically delegated to U.S. Attorneys' offices. In addition, larger U.S. Attorneys' offices frequently develop expertise in certain areas and may receive more complex and difficult cases from the Department of Justice litigating divisions. Some U.S. Attorneys' offices, for example, handle complex environmental cases not routinely delegated to other U.S. Attorneys' offices.

#### Private litigation

Approximately 64% of the civil cases filed in U.S. District Courts in the 12 months preceding June 30, 1986, were private cases—that is, both the plaintiff and defendant were private parties. The major classes of private Federal civil cases include actions under Federal statutes (for example, civil rights, copyright, labor, maritime) and cases

involving citizens from different States ("diversity of jurisdiction" cases). The latter are primarily contract and tort cases.

Tort cases are typically handled by the plaintiff's attorney on a contingent fee basis that provides the attorney with a flat percentage (typically 30-50%) of the client's award, if any. This system, which may yield compensation disproportionate to the work or risk involved in a given case, has proven to be a controversial method of ensuring that plaintiffs who cannot afford hourly legal fees can nonetheless obtain access to the civil justice system.

#### Administrative review

Federal administrative and regulatory agencies affect many aspects of American life. Such agencies as the Consumer Product Safety Commission, the Environmental Protection Agency, and the Social Security Administration of the Department of Health and Human Services develop and enforce regulations and administer Federal benefit programs. Disputes over the interpretation and implementation of programs administered by these agencies are often reviewed initially in adjudicative hearings presided over by administrative law judges.<sup>2</sup>

Other Federal civil disputes, involving, for example, contracts and torts, are required by statute to be initiated with an administrative hearing procedure conducted by a statutorily authorized hearing officer or board.<sup>3</sup>

The Federal government can be either the plaintiff or defendant in an administrative hearing. In general, when cases involve agencies' programs, the citizen bringing a claim must first seek agency reconsideration of the contested decision—for example, a refusal of Social Security disability benefits. If the citizen continues to disagree with the agency's action following the

<sup>2</sup> Approximately 30 agencies have administrative law judges (ALJ's) assigned to them. The ALJ's process cases using procedures set out in the Administrative Procedure Act. Candidates for administrative law judge positions must be attorneys with at least 7 years of relevant experience. These judges are assigned to specific Federal agencies, but their hiring, salaries, and conditions of employment are determined, for the most part, independently by the Office of Personnel Management so that they may exercise their judgment free of pressure from their host agency.

<sup>3</sup> Three hundred and forty-two attorney examiners who are not administrative law judges hold hearings in government. See Morse, J., "The Administrative Law Judge—A New Direction for the Corps?" *Federal Bar News and Journal*, Vol. 30 (July 1983). They include hearing officers for the Merit Systems Protection Board, administrative judges serving on the Boards of Contract Appeals for ten agencies, Department of Justice Immigration judges, members of the Board of Veterans Appeals, and others.

diction and handles all claims for money damages against the United States that exceed \$10,000, except tort cases (where the U.S. District Courts have exclusive jurisdiction) and tax refund claims (where the U.S. District Courts have concurrent jurisdiction). This court had authorization for 16 judges in 1986 who serve 15-year terms. Typical cases include claims by Federal employees for back pay for alleged illegal dismissal, suits by Federal contractors for breach of contract, and claims against such agencies as the Army Corps of Engineers for damages to property.

• U.S. Court of International Trade. A total of 1,828 cases were filed in the U.S. Court of International Trade in the 12 months preceding September 30, 1986.<sup>7</sup> This court deals with cases involving international trade and customs duties. The court is located in New York City and had nine judges in 1986 who are appointed for life.

#### Appeals courts

Appeals from the District Courts, the U.S. Tax Court, and specified administrative agency proceedings are taken to the U.S. Courts of Appeal. Twelve such courts exist nationwide, with a total of 156 authorized judges in 1986. A total of 34,292 appeals were filed in the Courts of Appeal during the 12 months preceding June 30, 1986. Of these, 24,291 were civil case appeals from the U.S. District Court, 5,134 were criminal appeals from the District Court, and 3,187 were appeals from administrative proceedings.<sup>8</sup> The remaining cases were bankruptcy appeals and original proceedings.

The U.S. Court of Appeals for the Federal Circuit is a separate court, with 12 authorized judgeships. It handles appeals from the U.S. Claims Court and the U.S. Court of International Trade and other selected matters. Appellate judges are appointed for life.

#### The Supreme Court

The United States Supreme Court handles appeals from the U.S. Courts of Appeal. The nine Justices receive and dispose of approximately 4,000 cases a year. In the vast majority of cases the Court rules that the subject matter of the case is not proper or of sufficient importance to justify review by the full Court. Approximately 150-200 cases are argued and decided annually.

<sup>7</sup>Annual Report of the Court of International Trade for Year Ending September 30, 1986.

<sup>8</sup>Administrative Office of the U.S. Courts, Annual Report of the Director, 1986, table B-6.

#### Key issues regarding Federal civil justice

More than ever before, the civil justice system has become the subject of lively public policy debate. In particular, concern focuses on the increased level of civil case filings, the time required for civil case processing, and the impact of increased litigation and higher judgments on insurability.

Many of the procedural reforms suggested in response to these problems may have a profound impact on Federal civil case processing. Limits on maximum judgments, limits on attorneys' fees, and the restoration of fault-based standards for liability, for example, were among the reforms recommended by the Attorney General's Tort Policy Working Group.<sup>9</sup>

In addition, for many types of civil cases, a variety of alternative dispute resolution mechanisms have been designed to encourage the settlement of cases prior to trial. For example:

- Ten Federal judicial districts are experimenting with court-ordered arbitration to expedite case processing. The arbitrators are attorneys, and parties to the dispute can receive a trial de novo in the District Court if they wish to reject the arbitration decision.
- Other Federal courts are experimenting with summary jury trials.<sup>10</sup> A brief version of the parties' best case is presented to a panel of six jurors. The jurors then deliberate and arrive at a non-binding judgment in the case. In some districts using this procedure, the attorneys in the case can interview the jurors after their deliberations to determine the reasons for their decisions.
- A number of jurisdictions are seeking to improve judicial skills in arranging for pretrial conferences and settlements. Conference meetings are also being moved to an earlier point in case processing.

- Disputants in some jurisdictions are experimenting with the use of mini-trials. In these procedures, which are not officially sponsored by the court, attorneys present a highly truncated version of their case to a hearing officer (typically a retired judge) in the presence of attorneys and other princi-

<sup>9</sup>Report of the Tort Policy Working Group on the Causes, Extent and Policy Implications of the Current Crisis in Insurance Availability and Affordability" (Washington, D.C.: U.S. Department of Justice, February 1986). A follow-up to the Report, entitled "An Update on the Liability Crisis," was released by the Tort Policy Working Group in March 1987.

<sup>10</sup>Northern District of Ohio and the Western District of Michigan.

pals who are authorized to agree to a settlement. A nonbinding recommendation is delivered by the hearing officer at the close of the presentation, and parties are encouraged to resolve the matter without further court intervention, giving consideration to this new evaluation of the case.

A number of national organizations are also encouraging the development of alternatives to litigation, including the American Bar Association's Standing Committee on Dispute Resolution and the Center for Public Resources, an organization comprised of general counsels from many Fortune 500 companies. These organizations view litigation alternatives as a cost-effective means for settling major corporate disputes, a substantial number of which would otherwise be handled as private litigation in the Federal court system.

#### Conclusion

The overview presented in this report is essentially a snapshot of an evolving system of civil justice. The expansion of administrative law forums and the emergence of many alternative forms of dispute resolution suggest that the Federal civil justice system will continue to adapt to the needs of a complex, highly mobile, and diverse American society.

This Bureau of Justice Statistics Bulletin was written by Daniel McGillis, Abt Associates, Inc. The project was supervised by Carol G. Kaplan, chief, Federal statistics and information policy branch, BJS. Frank D. Balog edited the bulletin. Marilyn Marbrook, publications chief, administered production, assisted by June I. Maynard, Jeanne Harris, and Arlene F. James.

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