



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION
350 West 1st Street
Los Angeles, CA 90012

April 6, 2020

Tel: 213-894-2975

Chambers of
VIRGINIA A. PHILLIPS
CHIEF JUDGE

By Electronic Mail

Chief Judge Sidney R. Thomas
Judicial Council of the Ninth Circuit
c/o Libby A. Smith, Circuit Executive
United States Courts for the Ninth Circuit
James R. Browning United States Courthouse
95 Seventh Street
San Francisco, CA 94103

RE: Central District of California's Request Under 18 U.S.C. § 3174
(Suspension of Speedy Trial Act Deadlines and Extension Under Judicial
Emergency) Due to the COVID-19 Pandemic

Dear Chief Judge Thomas,

On March 13, 2020, the President of the United States issued a proclamation declaring a National Emergency in response to the Coronavirus Disease-2019 ("COVID-19") pandemic pursuant to the National Emergencies Act (50 U.S.C. § 1601, *et seq.*). The Governor of the State of California has declared a state of emergency in response to the COVID-19 outbreak. The Centers for Disease Control and Prevention has recommended that throughout the United States, all gatherings should be limited to no more than 10 people. Local public health departments have recommended that large gatherings be avoided and that elderly and other vulnerable populations avoid person-to-person contact.

In response to the COVID-19 pandemic, the Central District of California has taken the following pertinent actions, in chronological order:

1. On March 17, 2020, the Central District of California issued Amended General Order No. 20-02 regarding the coronavirus public emergency in order to protect public health, reduce the size of public gatherings, and reduce unnecessary travel. In that Order, the Court found the COVID-19 pandemic created an emergency and set forth that jurors would not be called for service in civil or criminal jury trials until April 13, 2020. Amended General Order No. 20-02 set forth an initial period of exclusion under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) for one month, from March 13, 2020 through April 13, 2020.
2. On March 19, 2020, I issued Order of the Chief Judge No. 20-043 invoking the Court's Continuity of Operations Plan ("COOP") through at least May 1, 2020, during which time the Court's courthouses in all divisions are closed to the public, nearly all staff are required to work remotely, and only limited emergency matters may be heard.
3. Pursuant to the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and the Judicial Conference's finding that the COVID-19 pandemic constituted an emergency in the federal courts generally, I issued Order of the Chief Judge No. 20-043 on March 29, 2020. This Order permits certain criminal proceedings to be conducted by video and telephonic conference.
4. In consultation with our United States Attorney's Office, the Court determined grand jury proceedings cannot be conducted without seriously jeopardizing public health and safety, including the health and safety of grand jurors and witnesses. As a result, on March 31, 2020, I issued Order of the Chief Judge No. 20-044 suspending and continuing all regularly-scheduled grand jury proceedings to May 4, 2020.

Pursuant to 18 U.S.C. § 3174(a), I have consulted with the Court's Speedy Trial Planning Group and the Court's Executive Committee and hereby request suspension of the Speedy Trial Act's time limits. This suspension is necessary for several reasons.

The Central District of California is operating under limited capacity during the COVID-19 pandemic. The vast majority of our staff is working remotely and our courthouses are closed to the public. We are currently conducting only limited hearings and there are major limitations on the use of video and teleconference

technology. For example, the Metropolitan Detention Center in Los Angeles and the Santa Ana Jail have limited equipment for video and telephonic conferences. These facilities permit only one-hour sessions between 7:00 a.m. and 1:00 p.m. per matter. Further, defendants who are housed in other locations throughout our widespread district will need to be transported to the closest courthouse for video or telephonic conferencing. There are 52 District and Magistrate Judges in our District who at any given time need to use this equipment to conduct urgent hearings, and the limited amount of video and telephonic conference equipment available in our courthouses restricts our ability to conduct remote hearings.

When the Court regains full operations after the COVID-19 pandemic is over, we anticipate a significant backlog of trials. A suspension of the Speedy Trial Act's time periods is essential for cases filed within the next year.

Even apart from emergency created by the COVID-19 pandemic, the Court is operating with extremely limited resources. The Central District of California currently has ten District Judge vacancies, out of twenty-eight positions. All ten of our vacancies, the oldest of which has remained unfilled since 2014, have been declared judicial emergencies by the Judicial Conference of the United States. As a result of these vacancies, our District is currently handling 1059 weighted cases per active District Judge, which is almost double the national average of 535 weighted filings per judgeship. Moreover, seven more of our remaining active District Judges are eligible to take senior status or retire immediately. The number of our senior judges is also dwindling, as Judge Guilford retired in January and Judge Otero is retiring in a few days.

The District's problems are further amplified because no new permanent judgeship has been created in the Central District since 1990. In that thirty-year time period, the population of the District has grown by almost thirty percent. In March 2019, the Judicial Conference of the United States recommended that nine new judgeships be created in the Central District and that our temporary judgeship be converted to a permanent judgeship; yet, no action has been taken. If Congress heeded the recommendation of the Judicial Conference, the Central District would have a total of 37 judgeships compared to the 18 active District Judges we have doing that same amount of work right now.

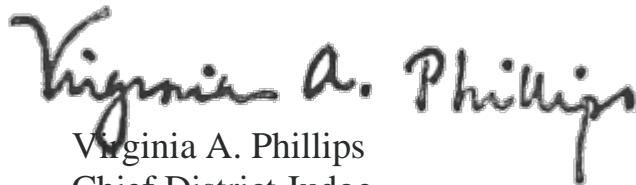
Visiting judges have provided the Court with some needed and very appreciated assistance, but their impact has been limited. For example, there is not enough courtroom and chambers space available for visiting judges in the division most in need of assistance. The Eastern Division currently has the caseload to

sustain two additional Article III Judges, but neither chambers nor courtroom space exists to accommodate two more District Judges. Moreover, providing support staff such as courtroom deputy clerks to visiting judges is difficult to accommodate, especially on law and motion days and for lengthy trials. There are fewer relief courtroom deputy clerks to support visiting judges throughout the Central District as a result of recent changes in the Clerk's Office staffing formula and anticipated budgetary reductions.

Based on the impact of the COVID-19 pandemic on the already severely diminished resources of the Central District, the Court respectfully requests the Judicial Council extend the time limits under 18 U.S.C. § 3161(c) for a period of time not to exceed one year.

Thank you for your consideration.

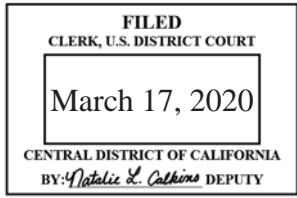
Sincerely,

A handwritten signature in black ink that reads "Virginia A. Phillips". The signature is written in a cursive, flowing style.

Virginia A. Phillips
Chief District Judge

Attachments (Amended General Order No. 20-02; Orders of the Chief Judge Nos. 20-043 and 20-044; 2021 Biennial Survey of Article III Judgeships Response; Central District of California's Caseload Profile)

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

IN RE:)
CORONAVIRUS PUBLIC) AMENDED
EMERGENCY) GENERAL ORDER NO. 20-02
ORDER CONCERNING JURY TRIALS)
AND OTHER PROCEEDINGS)

WHEREAS, the Governor of the State of California has declared a public health emergency throughout the State in response to the spread of COVID-19, also known as “Coronavirus;” and

WHEREAS, the Centers for Disease Control and Prevention and other public health authorities have advised the taking of precautions to reduce the possibility of exposure to the virus and slow the spread of the disease;

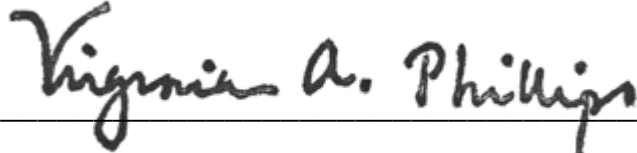
With the concurrence of a majority of all of the District Judges of the Court, in order to protect public health, and in order to reduce the size of public gatherings and reduce unnecessary travel, the Court orders as follows:

- 1. The United States Courthouses in Los Angeles, Santa Ana, and Riverside will remain open for business, subject to the following limitations.

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2. Effective immediately, the Court will not call in jurors for service in civil or criminal jury trials until April 13, 2020 or otherwise ordered by the Court. The Court may issue other orders concerning future continuances as necessary and appropriate.
3. All courtroom proceedings and filing deadlines will remain in place unless otherwise ordered by the presiding Judge.
4. The time period of any continuance granted by a District Judge of this Court and entered as a result of this order shall be excluded under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A), as the Court finds that the ends of justice served by taking that action outweigh the interests of the parties and the public in a speedy trial. Absent further order of the Court or any individual judge, the period of exclusion shall be from March 13, 2020, to April 13, 2020. The Court may extend the period of exclusion as circumstances may warrant.
5. Individual judges may continue to hold hearings, conferences, and bench trials in the exercise of their discretion, consistent with this Order.
6. Criminal matters before Magistrate Judges, such as initial appearances, arraignments, detention hearings, and the issuance of search warrants, shall continue to take place in the ordinary course.
7. Grand juries shall continue to meet pending further order of the Court.

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2 8. The Clerk's Office, Probation and Pretrial Services Office, the
3 Bankruptcy Court, and all other Court services shall remain open pending
4 further order of the Court.

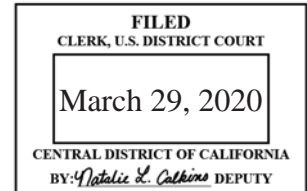
5 IT IS SO ORDERED.

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8 CHIEF UNITED STATES DISTRICT JUDGE

9 *Date of Approval by the Court:* March 13, 2020

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11 *Date of Filing by the Clerk:* March 17, 2020



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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 IN RE:)

ORDER OF THE CHIEF JUDGE
20-043

11)
12 CORONAVIRUS PUBLIC)
13 EMERGENCY)

14 USE OF VIDEO AND TELEPHONIC)
15 CONFERENCE TECHNOLOGY IN)
CERTAIN CRIMINAL PROCEEDINGS)

16 WHEREAS on March 13, 2020, the President of the United States issued a
17 proclamation declaring a National Emergency in response to the Coronavirus Disease-
18 2019 (“COVID-19”) pandemic pursuant to the National Emergencies Act (50 U.S.C. §
19 1601, *et seq.*);

20 WHEREAS on March 27, 2020, Congress passed the Coronavirus Aid, Relief,
21 and Economic Security Act (“CARES Act”), which authorized the Judicial
22 Conference of the United States to provide authority to Chief District Judges to
23 permit the conduct of certain criminal proceedings by video or telephonic conference;

24 WHEREAS the President signed the CARES Act into law on March 27, 2020;

25 WHEREAS on March 29, 2020, the Judicial Conference of the United States
26 made the appropriate findings as required under the CARES Act, finding specifically
27 that “emergency conditions due to the national emergency declared by the President
28 under the National Emergencies Act (50 U.S.C. § 1601, *et seq.*) with respect to the

1 Coronavirus Disease 2019 (COVID-19) have materially affected and will
2 materially affect the functioning of the federal courts generally;”

3 Acting pursuant to § 15002(b) of the CARES Act and the authority
4 granted by the Judicial Conference of the United States, I make the following
5 findings and order:

6 1. I find that emergency conditions due to the COVID-19 virus outbreak
7 will materially affect the functioning of the courts within the Central District of
8 California. Thus, pursuant to the authority granted under § 15002(b)(1) of the CARES
9 Act, I hereby authorize judges in the Central District of California, with the consent of
10 the defendant or the juvenile after consultation with counsel, to use video
11 conferencing, or telephonic conferencing if video conferencing is not reasonably
12 available for use, for the following events:

13 (A) Detention hearings under section 3142 of title 18, United States Code.

14 (B) Initial appearances under Rule 5 of the Federal Rules of Criminal
15 Procedure.

16 (C) Preliminary hearings under Rule 5.1 of the Federal Rules of Criminal
17 Procedure.

18 (D) Waivers of indictment under Rule 7(b) 24 of the Federal Rules of
19 Criminal Procedure.

20 (E) Arraignments under Rule 10 of the Federal Rules of Criminal
21 Procedure.

22 (F) Probation and supervised release revocation proceedings under Rule
23 32.1 of the Federal Rules of Criminal Procedure.

24 (G) Pretrial release revocation proceedings under section 3148 of title 18,
25 United States Code.

26 (H) Appearances under Rule 40 of the Federal Rules of Criminal
27

1 Procedure.

2 (I) Misdemeanor pleas and sentencings as described in Rule 43(b)(2) of
3 the Federal Rules of Criminal Procedure.

4 (J) Proceedings under chapter 403 of title 18, United States Code
5 (commonly known as the “Federal Juvenile Delinquency Act”), except
6 for contested transfer hearings and juvenile delinquency adjudication
7 or trial proceedings.

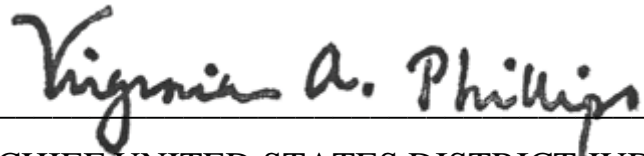
8 2. Pursuant to § 15002(b)(2) of the CARES Act, I further specifically
9 find that felony pleas under Rule 11 of the Federal Rules of Criminal Procedure
10 and felony sentencings under Rule 32 of the Federal Rules of Criminal Procedure
11 cannot be conducted in person without seriously jeopardizing public health and
12 safety. As a result, if judges in individual cases find, for specific reasons, that
13 felony pleas or sentencings in those cases cannot be further delayed without
14 serious harm to the interests of justice, judges may, with the consent of the
15 defendant or the juvenile after consultation with counsel, conduct those
16 proceedings by video conference, or by telephonic conference if video
17 conferencing is not reasonably available. This authority extends to equivalent plea,
18 sentencing or disposition proceedings under 18 U.S.C. 403 (commonly referred to
19 as the “Federal Juvenile Delinquency Act.”).

20 3. This authorization is effective for ninety (90) days unless earlier
21 terminated. If the emergency persists longer than ninety (90) days, I will review
22 the situation for possible extension of authority pursuant to the provisions of the
23 CARES Act. Notwithstanding the foregoing, pursuant to the provisions of the
24 CARES Act, this authority shall terminate on the last day of the covered
25 emergency period or the date on which the Judicial Conference of the United
26 States finds that emergency conditions due to the national emergency declared by
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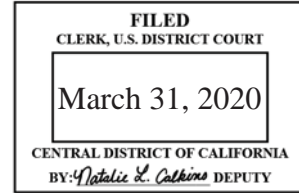
1 the President under the National Emergencies Act with respect to the COVID-19
2 virus outbreak no longer materially affect the functioning of either the Federal
3 courts generally or the courts within the Central District of California.
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5 IT IS SO ORDERED.
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7 Date: March 29, 2020

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10 CHIEF UNITED STATES DISTRICT JUDGE
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9 UNITED STATES DISTRICT COURT
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

11 IN RE:
12 CORONAVIRUS PUBLIC
13 EMERGENCY
14 SUSPENSION OF GRAND JURIES
15

ORDER OF THE CHIEF JUDGE
20-044

16 WHEREAS on March 13, 2020, the President of the United States issued a
17 proclamation declaring a National Emergency in response to the Coronavirus Disease-
18 2019 (“COVID-19”) pandemic pursuant to the National Emergencies Act (50 U.S.C.
19 § 1601, *et seq.*);

20 WHEREAS, the Governor of the State of California has declared a state of
21 emergency in response to the COVID-19 outbreak;

22 WHEREAS, the Centers for Disease Control and Prevention has recommended
23 that throughout the United States, all gatherings should be limited to no more than 10
24 people;

25 WHEREAS, local public health departments have recommended that large
26 gatherings be avoided, that elderly and other vulnerable populations avoid person-to-
27 person contact, and that employers allow employees to work remotely to the extent
28 practical;

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2 WHEREAS, to date, thousands of people within the Central District of
3 California have been confirmed to be infected with COVID-19 and the number of
4 those infected continues to rise, causing an emergency pandemic;

5 WHEREAS, the Court has issued General Orders No. 20-02 and 20-03, and
6 Orders of the Chief Judge No. 20-042 and 20-043, in response to the COVID-19 public
7 emergency, suspending jury selection and jury trials through April 13, 2020; finding that
8 any continuance mandated by the Court's orders is excludable from the Speedy Trial Act
9 under 18 U.S.C. § 3161(h)(7)(A); activating the Court's Continuity of Operations Plan;
10 and implementing other temporary emergency procedures;

11 WHEREAS, since the Court took action to implement those emergency
12 procedures, COVID-19 has continued to spread among the population of the Central
13 District of California;

14 WHEREAS, for the reasons previously set forth in those orders, grand jury
15 proceedings cannot be conducted without seriously jeopardizing public health and safety,
16 including the health and safety of grand jurors;

17 WHEREAS, an order suspending and continuing grand jury proceedings will not
18 prejudice matters for which a complaint has issued but a grand jury has not had the
19 opportunity to determine whether to return an indictment. *See* 18 U.S.C. §§ 3161(b) (if
20 no grand jury has been in session in the district during the 30-day period following a
21 defendant's arrest or service of a summons, the period of time for presenting the case to
22 the grand jury shall automatically be extended an additional 30 days beyond the ordinary
23 indictment deadline), 3161(h)(7)(A) (any period of delay shall be excluded under the
24 Speedy Trial Act if, after "set[ting] forth, in the record of the case, . . . its reasons for
25 finding that the ends of justice served by the granting of such continuance outweigh the
26 best interests of the public and the defendant in a speedy trial," a court grants a
27 continuance of the indictment deadline based on the "ends of justice");
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2021 BIENNIAL SURVEY OF JUDGESHIP NEEDS

U.S. DISTRICT COURTS APPLICATION

Please complete the form even if your court is not requesting additional Article III judgeships, conversion of an existing temporary judgeship to permanent status, or extension of a temporary judgeship. Space provided for answers will expand as needed.

- If your court is **not** requesting any change to the current number of authorized judgeships, you need only complete Question 1 below.
- If your court is requesting additional judgeships or conversion/extension of a temporary judgeship, please skip Question 1 and complete the remainder of the survey.

District Central District of California

Indicate the number of additional permanent judgeships and/or conversion or extension of temporary judgeships your court is requesting (**include any requested in prior surveys that you believe are still required**):

| | |
|-----------|--|
| <u>15</u> | Permanent judgeships |
| <u>1</u> | Conversion of temporary judgeship to permanent |
| <u>0</u> | Extension of temporary judgeship |

1. If your court is not requesting any change to its current number of authorized judgeships, please indicate what factors, if any, influenced your decision (e.g., weighted filings are below the general standard of 430 per judgeship with an additional judgeship or below the standard of 500 per judgeship for small courts, or significant contributions provided by senior judges).
Not applicable.
2. If your court is requesting a change to its current number of authorized judgeships, please explain all factors that justify your request.
See attached pages.
3. If the caseload of your court could support a request for more judgeships than your court is requesting (based solely on the application of the general standard of 430 weighted filings per judgeship with an additional judgeship or the standard of 500 weighted filings per judgeship for small courts), please identify which factors influenced the court's decision to request fewer additional judgeships than a straight application of the Conference standard would allow.

2021 BIENNIAL SURVEY OF JUDGESHIP NEEDS

U.S. DISTRICT COURTS APPLICATION

Not applicable.

4. Have judgeship vacancies, either current or past, had an impact on your court's request?
 Yes No

If yes, please explain how.

Vacant judgeships have had a tremendous impact upon workload and pending caseload. However, the request for additional judgeships is based on weighted caseload. We currently have 9 vacant district judge positions, some of which have been vacant for more than 5 years.

5. Please provide the following information about magistrate judges in your district:

- a. Are magistrate judges on the district-wide wheel for the direct assignment of civil cases?
 Yes No

If yes, what percentage of a full draw does each magistrate judge receive?

Between 6 percent and 30 percent because the number of civil cases assigned to each magistrate judge can vary.

Does the direct assignment of civil cases vary by court division? Yes No

If yes, please specify how.

[Click here to enter response.](#)

- b. Are any special types of cases routinely referred to magistrate judges for disposition? Yes No

If yes, please specify.

Pro se civil rights and Bivens cases, non-capital habeas corpus petitions and social security appeals are referred to the magistrate judges.

- c. Do magistrate judges regularly participate in other alternative dispute resolution (ADR) proceedings in addition to settlement conferences? Yes No

- d. Are magistrate judges routinely assigned pretrial duties in civil cases? Yes No

If yes, what types of duties and in what types of cases?

With limited exceptions, all discovery matters in civil cases are assigned to a magistrate judge. Magistrate judges also participate in the Patent Pilot Program by volunteering to handle all referred discovery-related matters in Patent Pilot Program cases. There are currently nine magistrate judges in the program.

2021 BIENNIAL SURVEY OF JUDGESHIP NEEDS

U.S. DISTRICT COURTS APPLICATION

If applicable, do these assignments vary by court division? Yes No

If yes, please specify how.

[Click here to enter response.](#)

- e. Are magistrate judges routinely assigned pretrial duties in felony cases? Yes No

If yes, what types of duties and in what types of cases?

Magistrate judges handle all the initial appearances, post-indictment arraignments, arrest and search warrants, pen registers, and initial bail or detention determinations. Four magistrate judges assist district judges on a voluntary basis with the Conviction and Sentence Alternatives (CASA) Program, a post-guilty plea diversion program. Three magistrate judges assist in the Court's Substance Abuse Treatment and Reentry (STAR) Program.

If applicable, do these assignments vary by court division? Yes No

If yes, please specify how.

[Click here to enter response.](#)

- g. Please indicate why the need for additional judicial resources cannot be met by the authorization of additional magistrate judges rather than Article III judges?

Additional magistrate judge positions would only alleviate the increase in the magistrate judges' existing workload. Additional magistrate judge positions would not alleviate the increased workload that only Article III judges can statutorily and/or most efficiently perform.

- h. Has the court considered a change in the utilization of magistrate judges as a possible alternative to requesting additional Article III judgeships?

The Court has endeavored to maximize the utilization of magistrate judges within the constraints of the law and the realities of the current culture among the bar of this District. Additional magistrate judges would not be effective in addressing the substantial workload of the Article III judges beyond the District's existing programs. The magistrate judges are receiving consents in civil cases, but it remains a modest number of cases.

6. Please provide the following information about senior judges in your district:

- a. How many senior judges regularly take cases? 7

Of those judges, please indicate the number that take:

- | | |
|-----------------------|---|
| 1) a partial caseload | 7 |
| 2) a full caseload | 0 |

2021 BIENNIAL SURVEY OF JUDGESHIP NEEDS

U.S. DISTRICT COURTS APPLICATION

- b. Do any of the senior judges limit the types of cases they will take? Yes No

If yes, please indicate which case types.

Most of the senior judges are assigned civil cases only. However, senior judges also volunteer to assist district judges with their civil and criminal caseloads, including upcoming trials.

- c. Do any of the senior judges routinely provide assistance to other courts? Yes No

- d. Do you anticipate any change in the number or contribution (either an increase or decrease) of senior judges over the next two years? Yes No

If yes, please explain.

The average age of the senior judges in the Central District of California is 78. Recently, an increasing number of senior judges have left the Court for various endeavors. Due to age, health, and personal reasons, it is anticipated that senior judge assistance cannot be seen as a permanent source of judicial assistance. One senior judge recently retired in January 2020 and another senior judge will retire in April 2020. In addition, there are nine active judges who are currently eligible to take senior status.

- e. Have you requested fewer additional judgeships because of the contributions of senior judges? Yes No

7. During fiscal year 2019, did any visiting judges provide assistance to your court:

- a. from within the circuit Yes No

- b. from outside the circuit Yes No

- c. If yes to either 7a or 7b:

1) for what purpose did you seek assistance (e.g., specific types of cases, temporary influx in filings, reduce backlog);

Visiting judges provided assistance to the Court in the following ways: 1) specific types of cases; and 2) follow-up work for cases previously assigned.

2) what types of cases were handled by the visiting judges;

Civil cases:

Patent; personal injury product liability; and a habeas petition.

Criminal cases:

Drugs; RICO; bank robbery; firearms; child pornography; identity theft; and false statements in bankruptcy.

2021 BIENNIAL SURVEY OF JUDGESHIP NEEDS

U.S. DISTRICT COURTS APPLICATION

3) how were the visiting judges used (please check all that apply); and

- Motions Pretrial Conferences Settlement Procedures
 Civil Trials Sentencing Hearings Arraignment Hearings
 Criminal Trials Plea Proceedings
 Others: Supervised release hearings

4) what factors, if any, restricted the use of visiting judges (e.g., lack of space, insufficient support staff)?

There is not enough courtroom and chambers space available for visiting judges in the division most in need of assistance. The Eastern Division currently has the caseload to sustain two additional Article III judges, but neither chambers nor courtroom space exists to accommodate two more district judges.

Providing support staff such as courtroom deputy clerks to visiting judges would have been difficult to accommodate, especially on law and motion days and for lengthy trials. There are fewer relief courtroom deputy clerks to support visiting judges throughout the district. The number of relief courtroom deputy positions has been reduced substantially as a result of recent changes in the Clerk's Office staffing formula and anticipated budgetary reductions.

d. If no to either 7a or 7b above:

1) what factors prevented the use of visiting judge to relieve workload problems; and

Refer to the court's response to question 7(c)(4).

2) what would facilitate your court's use of visiting judges?

Having additional courtroom and chambers space in the Eastern Division and funding for relief courtroom deputy positions would facilitate the court's use of visiting judges.

8. During fiscal year 2019, did any of your court's **active** judges provide visiting judge assistance:

a. to other courts within the circuit Yes No

b. to other courts outside the circuit Yes No

c. If yes to either 8a or 8b above, please explain the purpose of that assistance (e.g., specific types of cases, temporary influx in filings, recusal situation).

2021 BIENNIAL SURVEY OF JUDGESHIP NEEDS

U.S. DISTRICT COURTS APPLICATION

One active judge was assigned to a specific type of case brought under the Clean Water Act and Safe Drinking Water Act in the Northern Mariana Islands. Another judge had previously taken ten civil cases from the Eastern District of California to assist with their backlog; during fiscal year 2019, there was one case remaining before the judge.

9. a. What types of alternative dispute resolution (ADR) techniques does your court use?

The Central District of California offers litigants three ADR options: 1) a settlement conference with a magistrate judge; 2) a mediation with a neutral selected from the Court's Mediation Panel; and 3) private mediation. The Central District referred approximately 4,208 cases to one of these three ADR options in 2019.

In addition, the Central District established a Prisoner Settlement Program with General Order 09-09, effective January 1, 2010. This program provides for the referral of certain prisoner civil rights cases for settlement proceedings at various California state prisons. In 2019, 76 hearings were conducted through this program, resulting in 23 settlements.

- b. What impact has ADR had on the workload of the judges in your court?

ADR has had a significant impact on the heavy workloads of the district judges. Of the 1,594 cases referred to the Court's Mediation Panel in 2019, 905 have already settled, partially settled, or been dismissed, and numerous upcoming mediations have been scheduled in the remaining cases. Members of the Court's Mediation Panel filed Mediation Reports for 522 cases in 2019, of which 276 cases were reported settled or partially settled. The magistrate judges also settled cases at settlement conferences, and private mediators settled additional cases at private mediations.

- c. Please estimate the number of cases assigned to ADR and disposed of without significant district judge involvement in 2019.

We track cases referred to the Mediation Panel and can explain how many cases referred to that ADR Procedure settled. We do not, however, track the extent of district judge involvement before the cases settle. Of the 1,594 cases referred to the Court's Mediation Panel in 2019, 905 have already settled, partially settled, or been dismissed.

2021 BIENNIAL SURVEY OF JUDGESHIP NEEDS

U.S. DISTRICT COURTS APPLICATION

This request represents the views of the majority of the active members of the court.

Chief Judge responding: Virginia A. Phillips

Print Name

Virginia A Phillips

Signature

Date: 3/4/2020 Telephone Number: (213) 894-2975

Please e-mail your signed, dated response as a Portable Document Format (PDF) file to Article III Judges - Judicial Services Office/DCA/AO/USCOURTS by **March 6, 2020. You may also send your response by fax to (202) 502-1888.**

2021 BIENNIAL SURVEY OF JUDGESHIP NEEDS

U.S. DISTRICT COURTS APPLICATION

ATTACHMENT: ANSWER TO QUESTION NO. 2:

At its March 2019 session, the JCUS approved nine additional permanent judgeships and the conversion of a temporary judgeship to a permanent position for the Central District of California. Based on the district court case weights, the JCUS additional judgeship calculations now support a request of fifteen additional judgeships. Other factors that justify the request for additional judgeship positions and the conversion of one temporary judgeship that has a lapse date of April 27, 2021 are outlined below:

- A. Weighted filings currently stand at 681 per judgeship. During the last five years, weighted filings rose each year from 537 to 681 per judgeship. With fifteen additional judgeships requested by the court, weighted filings would be reduced to 443 per judgeship, slightly above the general standard of 430 weighted filings per judgeship.
- B. According to statistics maintained by the California Attorney General's Office, as of January 30, 2020 there were approximately 101 habeas petitions pending in California state court that were filed by defendants who were convicted and sentenced to death in one of the seven counties in the Central District of California, 62 of whom do not currently have a petition for habeas relief pending before this Court. Another 295 capital cases from these counties are shown as pending on direct appeal. We anticipate that most of the remaining defendants in these cases will likewise seek federal habeas relief from the Central District of California once all state appeals have been exhausted. This process may be accelerated by the requirements of Proposition 66, recently adopted by the voters of the State of California to expedite the handling of capital appeals and habeas proceedings in state court.
- C. The Central District of California has four pending multidistrict litigations, including the Ford Motor Co. DPS6 PowerShift Transmission Products Liability Litigation which comprises 69 percent of the assigned judge's current pending civil caseload. There were 1,008 pending actions in this MDL as of January 31, 2020.
- D. Over the last couple of years, the number of criminal cases the United States Attorney's Office for the Central District of California ("USAO") has filed has risen substantially over previous totals and the USAO expects continued increased productivity from their assistant U.S. attorneys ("AUSAs"). The number of AUSAs in the district is at an all-time high, as the Office will soon have approximately 220 AUSAs who prosecute criminal cases and 60 AUSAs who handle civil cases. The USAO has more than doubled the size of its Riverside branch in the Eastern Division from 6 criminal AUSAs to 16. One district judge assigned to the Eastern Division is not enough to preside over all of the criminal cases filed there. Overflow cases are assigned to the already overburdened district judges in Los Angeles and AUSAs must travel from 60 miles away to appear at those hearings. The USAO has continued to emphasize impactful fraud and public corruption cases, which usually lead to increased litigation, resulting in additional burdens on the court. The Central District of California has also seen a five-fold increase in the number of immigration filings initiated by plaintiffs. The USAO's civil division expects a continuation of the increase in immigration cases, particularly habeas cases where emergency relief to preclude removal is sought on an expedited basis frequently requiring involvement by the court

2021 BIENNIAL SURVEY OF JUDGESHIP NEEDS

U.S. DISTRICT COURTS APPLICATION

within 24 hours of the filing, including weekends.

- E. The Central District of California presently and historically ranks in the top three districts nationwide by number of patent case filings. Patent cases can be some of the most complex and resource-consuming cases on the docket. To enhance its efficiency in handling patent cases, the Court elected to participate in the Patent Pilot Program. During fiscal year 2019, six judges on the Court volunteered to participate, and five now handles approximately 61 percent of the Court's patent litigation (one participating patent pilot judge recently retired). Other judges, while not participating in the Patent Pilot Program, carry heavy patent caseloads. In addition, ten percent of patent case filings nationwide in fiscal year 2019 were filed in the Central District of California. Some say our position as a patent pilot program Court attracts patent cases to our District; as a result we are expecting an increase in patent filings over the next several years.
- F. In 2019, there were 1,777 non-prisoner pro se filings, comprising 11.6 percent of total civil filings. The percentage of non-prisoner pro se filings in the Central District of California has consistently been in this range and we have sought to address this challenge with Pro Se Clinics in all three of our divisions. With funding and time provided by volunteers, these clinics assist pro se litigants, and at times discourage frivolous pro se law suits. Sixty three percent of non-prisoner pro se filings in 2019 were civil rights and real property cases. Thirty percent of non-prisoner pro se filings were civil rights cases, often naming more than one or two defendants. Many of those cases contained factually and legally complex issues relating to allegations of false arrest, excessive force, entity liability, or other challenging constitutional issues such as First Amendment claims. This category of cases may raise important issues of constitutional dimensions, yet plaintiffs are not represented by counsel. Real property cases with pro se parties consisted of 33 percent of non-prisoner pro se filings.
- G. The population of the Central District of California is in excess of 19.5 million, over half of the population in California, and is estimated to grow by three percent by 2029 according to the Department of Finance for the State of California. The result of this population growth will be a continued increase in both civil and criminal case filings. The population in Riverside and San Bernardino counties has grown significantly, by 19 percent from 2010 to 2019. It is estimated that by 2029, the population in these counties combined will again increase by 19 percent.
- H. The Central District of California is very ethnically diverse. Forty six percent of the district's population is Hispanic, 13 percent is Asian/Pacific Islander, and 7 percent is Black/African American. Fifty percent of the population speaks a language other than English at home. During 2019, the Central District provided interpreters for 25 different languages for in-court proceedings. There were 2,206 in-court interpreter events in FY 2019. Significantly more time is required for hearings and trials when an interpreter is used. Thus, the Central District of California devoted substantial resources to the large number of court hearings and trials that require the services of interpreters.

CASELOAD PROFILE

U.S. District Court — 2019 Biennial Judgeship Survey

| CALIFORNIA CENTRAL | | 12-Month Periods Ending | | | | | | National Average | |
|--|--|-----------------------------|--------------|--------------|--------------|--------------|--------------|------------------|-------------------|
| | | Jun. 30 2015 | Jun. 30 2016 | Jun. 30 2017 | Jun. 30 2018 | Jun. 30 2019 | Sep. 30 2019 | | |
| Overall Caseload Statistics | Filings | 16,275 | 16,810 | 16,551 | 17,347 | 18,056 | 17,977 | | |
| | Terminations | 16,913 | 16,719 | 16,583 | 16,253 | 16,960 | 17,356 | | |
| | Pending | 12,453 | 12,539 | 12,488 | 13,597 | 14,682 | 14,764 | | |
| | Percent Change in Total Filings Current Year Over Earlier Year | 10.5 | 6.9 | 8.6 | 3.6 | -0.4 | | 1.8 | |
| Number of Judgeships | | 28 | 28 | 28 | 28 | 28 | 28 | | |
| Vacant Judgeship Months | | 11.6 | 25.1 | 48.9 | 68.7 | 85.8 | 94.7 | | |
| Senior Judges with Staff | | 6 | 7 | 6 | 7 | 7 | 9 | | |
| Actions per Judgeship | Filings | Total | 581 | 600 | 591 | 620 | 645 | 642 | 609 |
| | | Civil | 511 | 532 | 518 | 536 | 553 | 554 | 440 |
| | | Criminal | 38 | 40 | 41 | 50 | 60 | 57 | 128 |
| | | Supervised Release Hearings | 32 | 28 | 33 | 33 | 32 | 31 | 41 |
| | Pending Cases | | 445 | 448 | 446 | 486 | 524 | 527 | 675 |
| | Weighted Filings | | 537 | 566 | 567 | 618 | 669 | 681 | 535 |
| | Terminations | | 604 | 597 | 592 | 580 | 606 | 620 | 618 |
| | Trials Completed | | 14 | 10 | 13 | 11 | 12 | 11 | 17 |
| Median Time (Months) | From Filing to Disposition | Criminal Felony | 14.2 | 17.9 | 14.7 | 13.2 | 13.3 | 13.7 | 7.0 |
| | | Civil | 5.5 | 5.0 | 4.8 | 5.0 | 5.0 | 4.9 | 10.8 |
| | From Filing to Trial (Civil Only) | | 19.8 | 19.8 | 20.0 | 20.0 | 22.0 | 22.1 | 27.8 |
| Other | Number (and %) of Civil Cases Over 3 Years Old | | 573 | 556 | 540 | 552 | 612 | 604 | |
| | | | 5.8 | 5.7 | 5.5 | 5.2 | 5.5 | 5.4 | 15.8 ¹ |
| Felony Cases with 6 or More Defendants | | 14 | 21 | 9 | 15 | 32 | 32 | | |
| Trials | Total All Trials | | 396 | 277 | 365 | 307 | 328 | 315 | |
| | 10 - 19 Days | | 10 | 12 | 9 | 5 | 7 | 10 | |
| | 20 Days and Over | | 1 | 3 | 1 | 2 | 4 | 4 | |

¹ The national percentage of civil cases pending over three years represents the median value rather than the average.