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NEWS RELEASE

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Eastern District of California Needs New Judgeships to Stem Docket Overload

SAN FRANCISCO – Innovative use of visiting judges and a new prisoner mediation program are helping a beleaguered California federal court contend with the nation’s heaviest caseload. But judiciary officials say the tide cannot be turned until Congress acts to provide the United States District Court for the Eastern District of California with additional judgeships.

The Eastern District of California has been receiving extraordinary assistance from sister courts in the Ninth Circuit for more than a year. All told, 72 federal trial judges from courts throughout the West along with 16 circuit judges from the U.S. Court of Appeals for the Ninth Circuit have taken Eastern District cases to their own chambers. So far, they have resolved more than 530 cases which might otherwise still be awaiting action on the court’s crowded docket. In addition, a number of judges have traveled to the Eastern District to provide firsthand assistance.

The unprecedented effort also includes using judges from around the circuit to mediate prisoner civil rights cases; recruiting attorneys for pro bono representations of prisoners; and coordination with the California State Attorney General to identify cases for mediation.

Despite notable successes, new case filings continue to outpace case terminations in the Eastern District, resulting in an overload that will persist until the caseload can be shared among an adequate number of resident district judges.

“This effort only underscores the desperate need for judicial vacancies to be filled promptly. We are confident that Congress will act soon to authorize the four permanent and one temporary additional judgeships now embodied in pending legislation,” observed Ninth Circuit Chief Judge Alex Kozinski.

Judge Kozinski lauded California Senators Dianne Feinstein and Barbara Boxer for their co-sponsorship of S. 1653, a national judgeship bill. Senator Feinstein also has introduced S. 193, also co-sponsored by Senator Boxer, which would provide the Eastern District with one temporary judgeship.

With courthouses in Sacramento and Fresno, the Eastern District serves some 6.7 million people and takes in slightly more than half of the state geographically. It is home to 19 state and federal prisons, whose inmates are the source of an inordinate number of court filings. The court is authorized six judgeships, one of which has been vacant since December 2008. Five senior judges (who are eligible to retire, but continue working) carry nearly full caseloads as well.

Since 2005, the Eastern District has had the heaviest caseload of any federal court in the United States. Each of the court's five active judges currently carry a weighted caseload of 1,097 cases, more than double the national weighted average of 480 cases.

S. 1653, the Federal Judgeship Act of 2009, now pending in Congress, would provide the Eastern District with four additional permanent judgeships and one temporary judgeship with a term of 10 years, extendable to 14 years. They would be the district's first new judgeships since 1990. A temporary judgeship granted that year expired in 2004 due to lack of congressional action.

A Senate subcommittee heard testimony on the judgeship bill September 30, 2009, in Washington, D.C. Witnesses included Eastern District Judge Lawrence J. O'Neill, who delivered an urgent plea for the new judgeships promised his court. Judge O'Neill described his court as being in crisis and he and his colleagues as working at the edge of exhaustion.

Many of the visiting judges assisting the Eastern District have disposed of multiple cases. They include Chief Judge Vaughn R. Walker of the Northern District of California, 21 cases; Chief Judge Robert S. Lasnik of the Western District of Washington, 22 cases; and Chief Judge B. Lynn Winmill of the District of Idaho, 19 cases. Circuit Judges Alfred T. Goodwin and Milan D. Smith have each completed 10 cases. Senior Circuit Judge Arthur L. Alarcón previously had taken on 200 prisoner cases from the Eastern District.

The Eastern District has expanded its mediation program for prisoner civil rights cases, using district court and magistrate judges from around the circuit, as well as its own judges. The local bar is helping find pro bono attorneys to represent inmates in civil rights cases or for the limited purpose of representing inmates at a settlement conference. The California State Attorney General and his assistants are helping to identify appropriate prisoner cases for mediation, while state correctional division attorneys have received mediation training from the Ninth Circuit.

"The size of our circuit has allowed us to temporarily rally support to a court in need. I am proud and grateful to our judges and staff who have come forward and generously given of their time and effort," Chief Judge Kozinski said. "But this cannot be a permanent solution."

Judge Kozinski noted the contributions of Chief Judge Emeritus J. Clifford Wallace, who chairs the Eastern District of California Resource Committee, and Eastern District Chief Judge Anthony W. Ishii of the Eastern District, along with his colleagues and staff for their dedication during the unprecedented effort.