Welcome to the Federal Courts

Welcome to the U.S. Courthouse. This brochure should help you understand what you see and hear during your visit. You're encouraged to observe trials and other proceedings. If you attend a trial, please behave in a manner befitting the formality of the courtroom. Be quiet during the proceedings, and stand when the judge enters or leaves the courtroom. Exit quietly if the court is still in session when you leave, and comply with the federal court rules that forbid spectators to take pictures or make recordings in the court, and any other rules of the court.

Federal and State Courts

There are two major court systems in the United States:

1. *Federal*—Federal courts are established by the U.S. government. There are some 2,300 federal court judges, and about 2 million cases are brought each year in federal courts. Nearly 80% of these cases are bankruptcy filings.

2. *State*—State courts are established by a state, or by a county or city within the state. There are more than 30,000 state court judges, and there are nearly 50 million state court cases each year, not including traffic and parking violations. The cases individual citizens are most likely to be involved in—such as traffic violations, broken contracts, and family disputes—usually come before state courts.

Types of Federal Courts

Article III of the Constitution calls for a Supreme Court and whatever other federal courts Congress considers necessary. Congress has created federal trial and appellate courts under Article III:

1. *District courts*—Congress has divided the country into 94 federal judicial districts, each with its own U.S. district court. The district courts are the federal courts where cases are tried, witnesses testify, and juries serve. Each district court has a bankruptcy court.

2. *Courts of appeals*—Congress has grouped the districts into 12 regions, called circuits, each with a court of appeals. There is also a federal circuit, which reviews certain types of cases and covers the entire country. If a person loses a trial in a district court, that person can appeal the case to the court of appeals, which will review the case to see if the district court judge applied the law correctly. The map on the inside shows the geographical boundaries of the 94 districts and the 12 regional circuits (11 numbered circuits and the District of Columbia Circuit). The courts of appeals also review cases decided by some federal agencies, such as the National Labor Relations Board.

3. *The Supreme Court*—The Supreme Court of the United States in Washington, D.C., is the best known federal court. Cases from the court of appeals in each circuit and from the state supreme courts can be appealed to the Supreme Court, but the Supreme Court does not have to hear the cases it is asked to review and, in fact, agrees to hear only a very small percentage of them.

Federal Court Cases

• *Jurisdiction*—Jurisdiction refers to the kinds of cases a court is authorized to hear. Federal courts don't have the same broad jurisdiction that state courts have. Federal court jurisdiction is limited to the kinds of cases listed in the Constitution (Article III, Section 2). Usually, federal courts only hear cases involving the Constitution, laws passed by Congress, cases in which the United States is a party, cases involving foreign diplomats, and some special kinds of cases, such as incidents at sea and bankruptcy cases. Federal courts also hear cases that are based on state laws but involve parties from different states.

• *Civil cases*—Lawyers use the term "party" to describe a participant in a civil case. A party can be a person or a corporation, but, in either situation, a civil case involves a claim by one party (the plaintiff) that another party (the defendant) failed to carry out a legal duty, such as the duty not to harm others or the duty to honor the terms of a contract. If a court finds that a defendant failed to carry out a legal duty, it may order the defendant to pay compensation to the plaintiff to make up for the harm. Most federal court cases are civil cases, such as equal employment opportunity claims, claims for benefits under federal programs, and suits against companies that may have violated federal antitrust laws. Appeals to the courts of appeals for review of federal agency decisions are also federal civil cases.

• *Criminal cases*—In a criminal case, a party (the defendant) is accused of committing a crime—an action considered to be harmful to society as a whole, not just to a specific person. Most crimes concern matters that the Constitution leaves to the states, and thus, compared with the number of state criminal laws and cases, there are few federal criminal laws and cases. Federal criminal laws, for example, deal with robbing banks whose deposits are insured by a federal agency, importing drugs illegally into the country, or using the U.S. mails to swindle consumers.

Bringing a Case in Federal Court

For a court to decide a controversy, a person must bring it to court. Also, the controversy must involve a legal question—courts don't resolve every type of disagreement.

• *Civil cases*—A federal civil case begins when someone, or someone's lawyer, files a paper or electronic document with the clerk of the court that claims another party failed to fulfill a legal duty. In lawyers' language, the plaintiff files a complaint against the defendant. The defendant may then file an answer to the complaint.

• *Criminal cases*—A criminal case begins when the U.S. attorney (a lawyer for the executive branch of government) or an assistant puts before a federal grand jury evidence that indicates a specific person or organization committed a crime. If the grand jury agrees that there is enough evidence to show that the accused party probably committed the crime, it issues a formal accusation, called an indictment. The accused party—the defendant—is then brought before a judge for arraignment and is asked to plead "guilty" or "not guilty." If the defendant, who is usually accompanied by a lawyer, pleads guilty, a time is set for sentencing. If the defendant pleads not guilty, a time is set for trial.

Grand jury indictments are used mainly for felonies, the more serious crimes. For misdemeanors, the less serious crimes, and for some felonies, the U.S. attorney issues an information, which takes the place of an indictment.

Pretrial Activity

• *Civil cases*—Judges conduct pretrial conferences before trials to identify the issues for trial and to avoid wasting time during the trial on uncontested or irrelevant issues. Through pretrial "discovery," the lawyers examine each other's documents and interview each other's witnesses. This pretrial activity often leads to settlement of the case before trial.

• *Criminal cases*—Lawyers for criminal defendants conduct thorough investigations before trial, frequently focusing on whether the government can use certain items of evidence. Resolution of these evidentiary issues before the trial can result either in the government's dropping the charges or in the defendant's deciding to plead guilty.

The Trial

Although there is an absolute right to trial in both civil and criminal cases, over 90% of all civil cases never come to trial, and approximately 80% of criminal defendants plead guilty and are sentenced without a trial. Trials are often emotionally and financially draining. In a civil case a person may not wish to exercise the right to trial, or the court may grant a summary judgment to either party or decide to dismiss the case before a trial is held. Civil cases often settle before trial and criminal defendants often agree to plead guilty rather than risk a longer sentence if they are found guilty in a trial.

• *The jury*—The group of people seated in a boxed-in area on one side of the courtroom is the trial jury (or petit jury). For federal criminal cases, there are usually 12 jurors, but for federal civil cases the number varies between 6 and 12. Prospective jurors are selected at random from lists of registered voters in the district or lists of licensed drivers. Before each trial, prospective jurors answer questions to help the judge and lawyers determine whether the jurors can be impartial in deciding the particular case. If the judge or lawyer believes that a juror cannot decide the case impartially (for example, because the juror knows one of the parties), he or she will then "strike" the prospective juror for cause. This means the prospective juror cannot sit on the jury. In addition to challenges for cause, the lawyers have the right to reject a certain number of jurors from the panel without giving any justification. Lawyers may not, however, reject jurors on the basis of race or gender.

• *The judge*—The President appoints federal appellate and district judges, with the approval of the Senate (Constitution, Article II, Section 2). Federal judges are said to have life tenure because they can hold office for as long as they wish (Constitution, Article III, Section 1), subject to removal by Congress through a rarely used process called impeachment and conviction for "treason, bribery, or other high crimes and misdemeanors" (Constitution, Article II, Section 4). Article III of the Constitution also prohibits the lowering of the salaries of federal judges. These two constitutional protections—life tenure and unreduced salary—allow federal judges to make legal rulings, even unpopular ones, without fear of losing their jobs or having their salaries cut.

Bankruptcy judges and magistrate judges assist the district judges by conducting some of the proceedings in federal courts. Bankruptcy judges hear almost all bankruptcy cases. Magistrate judges prepare the district judges' cases for trial and conduct trials in non-felony criminal cases and in civil cases when both parties agree to a hearing before a magistrate judge. Bankruptcy judges and magistrate judges do not have life tenure, but serve for an appointed term.

• *Role of judge and jury*—If the parties choose a jury trial, the jury must determine the facts over which the parties disagree. If the parties decide to leave the fact-finding task to the judge, the trial is called a bench trial. In either kind of trial, the judge rules on what legal standards apply and whether any of the evidence that the parties want to use is illegal or improper. The judge also presides over the proceedings and sees that order is maintained. In a jury trial, the judge gives instructions to the jury, explaining the relevant law, how the law applies to the case being tried, and what questions the jury must decide.

• *The lawyers*—During a trial, the lawyers for each party are either sitting at the counsel tables or speaking to the judge, a witness, or the jury. In criminal cases, the lawyer who prosecutes the claim is the U.S. attorney (or an assistant). The U.S. attorney for each judicial district is selected by the President, with the approval of the Senate.

The judge appoints lawyers to represent criminal defendants who can't afford to hire a lawyer. Criminal defendants or parties in a civil case occasionally present their cases themselves, without the help of a lawyer.

• *The parties*—The parties may or may not be present at the counsel tables with their lawyers. Defendants in criminal cases have a constitutional right to be present. Parties in civil cases may be present if they wish.

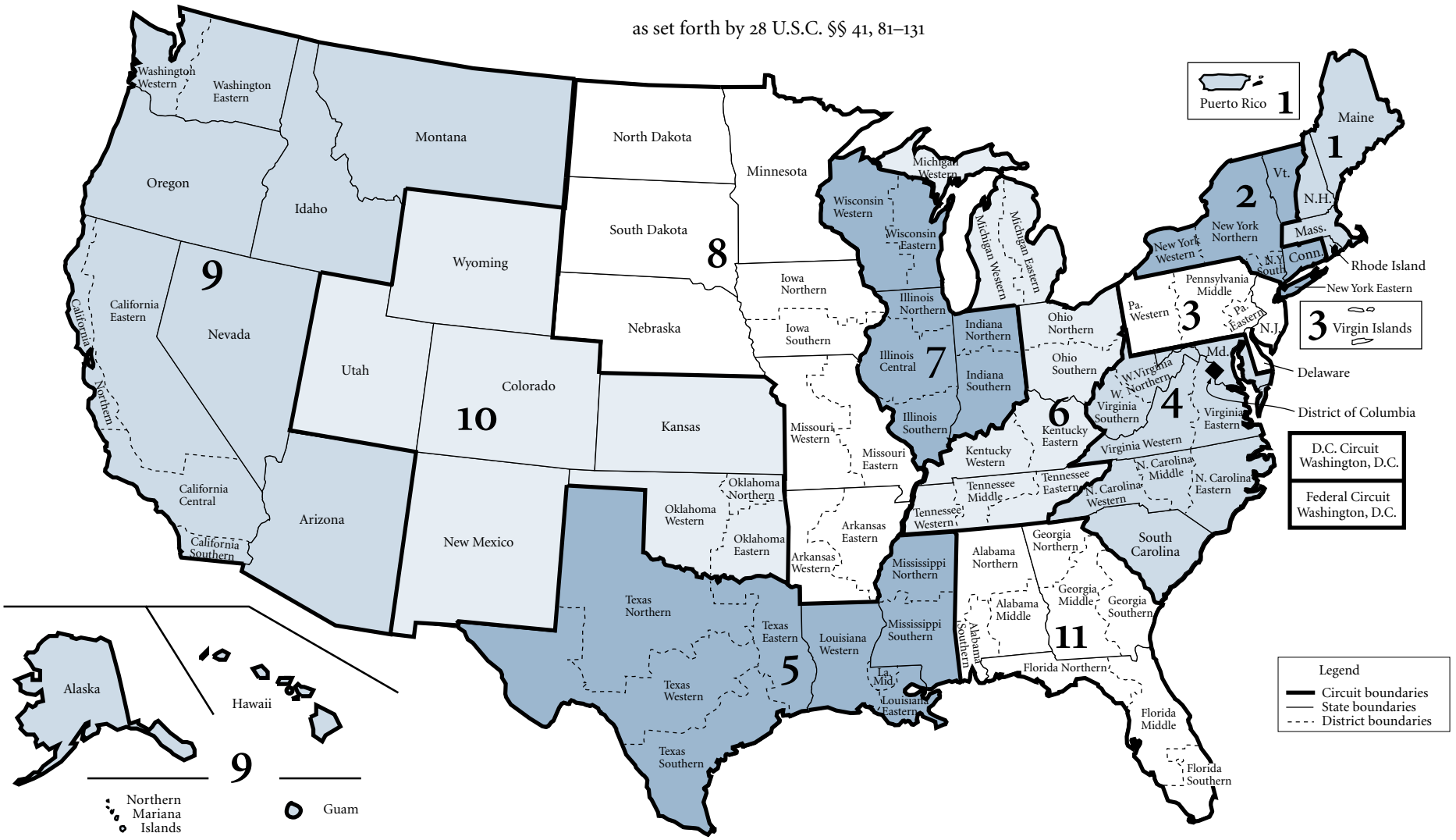
• *The witnesses*—Witnesses are individuals who testify under oath about the facts in dispute. When testifying, they sit at the witness stand, facing the courtroom. Because they are asked to testify by one party or the other, they are often referred to as plaintiff's witnesses or defense witnesses.

• *Court personnel*—A court reporter (or electronic recorder operator) is always present at a trial because federal law requires that a word-for-word record be made of every proceeding. A courtroom deputy clerk, usually seated near the judge, administers the oaths to the witnesses, marks the exhibits, and helps keep the trial running smoothly.

• *Adversary process*—Each side presents its most persuasive arguments, emphasizes the facts that support its case, and points out the flaws in its opponent's

Geographical Boundaries of U.S. Courts of Appeals and U.S. District Courts

as set forth by 28 U.S.C. §§ 41, 81–131



presentation. According to American judicial tradition, this "adversary process" is the most effective way to help the fact finder arrive at the truth. The jury (or judge, at a bench trial) relies on two types of evidence to decide the case: physical evidence, such as documents and photographs, and the testimony of witnesses.

• *Standards of proof*—In criminal cases, the defendant can be convicted only if the jury (or judge) believes that the government has proven guilt "beyond a reasonable doubt." A jury verdict must be unanimous, meaning that all twelve jurors must vote either "guilty" or "not guilty." The jurors (or judge) must be certain that the defendant committed the crime; they can have no "reasonable doubt" about it. If the jurors cannot agree, the judge declares a mistrial, which ends the trial. The case may, however, be presented to another jury.

In civil cases, the jury or judge decides for the plaintiff if a preponderance of the evidence shows that the defendant failed to perform a legal duty and violated the plaintiff's rights. A "preponderance of the evidence" means that more of the evidence favors the plaintiff's position than favors the defendant's.

• *Admission of evidence*—The federal courts have rules for determining what evidence may be presented in a court proceeding. Sometimes a lawyer tries to present evidence to the jury that may not be proper in light of these rules. The opposing lawyer has a right to object to the questionable evidence, and the judge must decide if it is admissible or not. If the judge rules that the evidence may not be admitted, the opposing lawyer's objection is "sustained." If the judge allows the evidence to be presented, the objection is "overruled."

• *Sentencing*—The judge sets a date for a sentencing hearing for criminal defendants who plead guilty or are found guilty at trial. To help determine sentences, judges use a system of guidelines that reflect the type of offense and background of the offender. Before the sentencing hearing, a federal probation officer prepares a presentence report to help the judge determine the sentence, which can be imprisonment, fines, supervision by a probation officer, or some combination of the three.

The Appeal Process

The task of the federal courts of appeals and the procedures they follow differ greatly from those of the district courts.

• *Who can appeal*—A defendant found guilty after a criminal trial and the losing party in a civil trial both have a right to appeal their case to the court of appeals. Appeal is not available to parties who settle a civil suit without trial, or to a criminal defendant who pleads guilty (except that guilty-plea defendants can sometimes appeal their sentences). Appeals are usually based on a claim that the district court made an error either in procedure or in interpreting the law. The government, however, cannot appeal if a criminal defendant is found not guilty. Otherwise, the defendant would be subjected to "double jeopardy," which is forbidden by the Fifth Amendment to the Constitution. The government can appeal in civil cases, as any other party can.

• *Types of appellate decisions*—In most cases, a court of appeals affirms a decision of a trial judge. A court of appeals can reverse a district court's decision if it finds that the trial judge applied the law incorrectly. When the district court is reversed, the case is usually sent back ("remanded") to the district court for further proceedings or another trial.

• *Appellate procedure*—Courts of appeals usually deliberate in panels of three judges, who decide the case for the entire court. Sometimes, when the parties request it, the entire appeals court will reconsider a panel's decision (called an "en banc" sitting). Courts of appeals review the record (the transcript of the trial and the documents filed in the case), along with written briefs presenting the arguments for both sides. They do not use jurors, witnesses, or court reporters, and the parties are usually not present. The judges may hear oral argument by lawyers in a formal courtroom session, but many cases are decided on the basis of the briefs and the record alone, without oral argument. If oral argument is permitted, the lawyers are given a limited amount of time to explain the case to the judges. The judges frequently ask them questions about their case.

• *Appellate opinions*—The judges on the panel discuss the case in private, consider any relevant prior cases ("precedents"), and reach a decision. At least two of the three judges must agree on the outcome. One judge is chosen to write an opinion, which explains the decision. A judge who disagrees with the majority opinion may file a dissent, giving the reasons for the disagreement. Many appellate opinions are published online and in books called "reporters." The accumulated judicial opinions make up case law, which is usually an accurate predictor of how future similar cases will be decided. Opinions are read by other judges and by lawyers looking for precedents to guide them in their own cases.

• *Supreme Court review*—A party who is not satisfied with the decision of the court of appeals may petition the Supreme Court to accept the case for review. Like judges on the courts of appeals, the nine justices on the Supreme Court hear oral arguments, deliberate, render their decisions, and write opinions on cases they decide to review. Unlike the courts of appeals, however, the Supreme Court is not required to hear each case presented to it. It is a different kind of appeals court—its major function is not correcting errors made by trial judges, but clarifying the law on matters of great importance or when other courts disagree about the interpretation of the Constitution or federal law. Each year the Supreme Court reviews only about 80 of some 8,000 cases that losing parties ask it to review. The Court's decisions in these cases set precedents for the interpretation of the Constitution and federal law that all other federal and state courts must follow.

The first edition of this public information brochure was created at the suggestion of the Committee on the Judicial Branch of the Judicial Conference of the United States. This updated edition was prepared in 2013 by the Federal Judicial Center, the federal courts' agency for research and continuing education, and is printed and distributed to the courts by the Administrative Office of the U.S. Courts. Members of the public can obtain copies from their federal court.