

## **The Dynamics of Institutionalized Corruption in the Courts**

How judicial wrongdoing tolerated or supported in one instance gives rise to the mentality of judicial impunity that triggers generalized wrongdoing and weaves relationships among the judges of multilateral interdependency of survival where any subsequent unlawful act is allowed and must be covered up

A judge that engages in wrongdoing once and gets away with it because the other judges will not discipline him or her, will be more likely to do wrong again: The judge realizes that as a matter of practice wrongdoing is an easy or profitable way of handling judicial business and can be engaged in with impunity regardless of the harm caused to third parties. An example is set for fellow judges to follow. In time, everyone knows about the wrongdoing of the others, whether it be bias, abuse of power, or disregard for the law and the facts. Then they must cover for each other, for if one were allowed to be indicted, he or she could tell on another who could tell on another and with domino effect all would fall. This effect would take place even if the incriminated judge were low in the judicial hierarchy, for he or she could trade up in a plea bargain by incriminating those higher up, whether appellate judges or a chief judge, who knew about that one's wrongdoing, or though ignoring it, knew about the wrongdoing of other judges subject to the domino effect, but passively tolerated, or even actively supported them through a cover up or participation, despite their duty to safeguard the integrity of judicial process.<sup>1</sup>

In a hierarchy where integrity is of the essence for the court's single business, that is, administrating justice in accordance with due process, the incrimination of a chief judge would give rise to a most threatening question, to wit, what else did he or she tolerate or support that impaired or denied due process in any other case or all other cases of the indicted judge and, by the same token, of any other judge and all the other judges of the court. In one single step, the trade up, the whole court would come under scrutiny and with it the validity-determinative due process element of the decision in every one of its cases.

This illustrates the dynamics of multilateral interdependency of survival in a practically closed and stable group of people, such as the federal judiciary, where no member, however low in the hierarchy, is expendable: If one judge falls, all fall, unless that one was the odd man out who went outside the group on a folly of his own and never became privy to the wrongdoing of the other judges. Once those dynamics are allowed to determine the relationships among judges, the mentality of everything goes develops, for another, even a more egregious, act of wrongdoing must be tolerated or supported. Were it not, a complaint that was investigated and led to disciplinary action would set a precedent that other complaints could cite in their support, each one of which could support other complaints, thus triggering a chain reaction and uncovering a pattern of wrongdoing that could lead to the fall of a court or the judiciary.

The everything goes mentality boosts a degenerative trend that leads from individual wrongdoing to institutionalized corruption. In the judiciary, even outsiders to the class of judges, whether it be court staff, parties frequently before the court, e.g. lawyers and bankruptcy trustees, and litigants, are allowed in the corruption in exchange for a material or moral benefit payable or receivable in the case at hand or in IOUs for future cases. By then, the force guiding the judges and their courts is not the law of Congress under the Constitution, but rather their interest in surviving and thriving. The courts become a racketeer influenced and corrupt organization.

<sup>1</sup> [http://Judicial-Discipline-Reform.org/docs/SCt\\_knows\\_of\\_dismissals.pdf](http://Judicial-Discipline-Reform.org/docs/SCt_knows_of_dismissals.pdf)

(as of December 14, 2007)

**The Supreme Court Justices and the Chief Judges  
Have Semi-annually Received Official Information  
About the Self-immunizing Systematic Dismissal  
of Judicial Conduct Complaints, But Have Tolerated It  
With Disregard for the Consequent Abuse of Power and Corruption**

For decades since before the Judicial Conduct and Disability Act of 1980 (the Act; [28 U.S.C. §351 et seq.](#))<sup>1</sup>, the Supreme Court has known of the lack of an effective judicial impeachment mechanism ([ToEC:60>Comment, C:1384](#))<sup>2</sup>. In the 218 years since the U.S. Constitution of 1789, only 7 federal judges<sup>3</sup> have been impeached and removed from office. Since the Act's passage, they have known also of the breakdown of its self-discipline mechanism ([ToEC:24>Comment, C:573](#)). To know it, Late Chief Justice Rehnquist, who was also the presiding member of the Judicial Conference ([28 U.S.C §331¶1](#)), the body of last resort under the Act ([id. §354\(b\)](#)), need not read the Annual Reports on the Act produced by the Administrative Office of the U.S. Courts ([§604\(h\)\(2\)](#)) or the Conference's reports ([C:1771](#)). He knew that in the 24 years since the Act the Conference had issued under it **only 15 orders!** ([C:681-683](#)) Yet he waited until May 2004 to charge Justice Stephen Breyer with chairing a committee to study it. ([C:574-577](#)) The Breyer Committee held no hearings (cf. [ToEC:66§L](#)) and took over 27 months only to issue a **report** that clears his peers of the systematic dismissal of complaints apparent from those Reports (see *infra*).

All the justices are also circuit justices of the circuits to which they have been allotted ([28 U.S.C. §42, 45\(b\); C:149](#)) so they may attend ([C:980y-83; cf. 980z-10](#)) their councils' meetings where misconduct complaints are discussed ([C:980y-84, z-76](#)) and can learn the nature and number of orders related thereto, which must be reported to the Administrative Office ([28 U.S.C. §332\(c-d, g\); C:980y-87, z-79](#)). Hence, they know that such complaints are systematically dismissed. Actually, the justices must be presumed to have realized from the cases that they deal with daily at the Supreme Court that 'power corrupts and in the absence of any control over its exercise, power becomes absolute and corrupts absolutely'<sup>4</sup>. So they could not have reasonably believed that while wielding power over life, liberty, and property, **the 2,184 federal judges and magistrates** would remain immune to the type of "Culture of Corruption", in the words of House Speaker Nancy Pelosi, that has engulfed the 535 members of Congress. Did the justices or the circuit judges of the courts of appeals, who appoint bankruptcy judges to renewable 14-year terms ([28 U.S.C. §152\(a\)\(1\)](#)), believe for a moment that even in the absence of any supervision and discipline and without the deterrence of impeachment **bankruptcy judges** would resist the temptation to mishandle the \$billions that are at stake in bankruptcies and whose disposition they determine? ([D:458§V, Add:621§1](#)) Since the justices and circuit judges cannot have ignored ongoing misconduct of judges abusing their uncontrolled power, why have they tolerated it?

<sup>1</sup> All the references to legal authority are found at:

[http://judicial-discipline-reform.org/Authorities%20Cited.htm#VII.A.3.\\_Table\\_of\\_Authorities](http://judicial-discipline-reform.org/Authorities%20Cited.htm#VII.A.3._Table_of_Authorities).

<sup>2</sup> All the references with the format 'letter:#' are found at:

[http://judicial-discipline-reform.org/Bank%20of%20Links.htm#Table\\_of\\_Exhibits](http://judicial-discipline-reform.org/Bank%20of%20Links.htm#Table_of_Exhibits).

<sup>3</sup> [http://www.fjc.gov/history/home/nsf >Judges of the US >Impeachments of Federal Judges](http://www.fjc.gov/history/home/nsf%20Judges_of_the_US%20Impeachments_of_Federal_Judges).

<sup>4</sup> The Dynamics of Organized Corruption in the Courts, <http://Judicial-Discipline-Reform.org/docs/corruption.pdf>.

The abusive and corrupt exercise of judicial power would normally give rise to investigation leading to impeachment and removal from the bench and to prosecution, conviction, and punishment. Hence, the judges' systematic dismissal of complaints against them became a necessary preemptive measure to immunize themselves from such adverse consequences of their misconduct. It was foreseeable that in the ensuing permissive environment devoid of disciplinary checks, the abuse of power and corruption that had already given cause for such complaints would not only go on uncontrolled, but also inevitably generate ever more abuse and corruption in a vicious circle. Since reasonable persons are assumed to intend the normal consequences of their acts just as they are assumed to engage in rational behavior to maximize their benefits and minimize their detriments, the Supreme Court justices, the chief circuit judges, and other district judges that engaged in or tolerated such systematic dismissal of complaints must be assumed to have intended for such abuse of judicial power and corruption to continue so as to keep deriving a benefit from it and avoiding the detriment of discipline.

The official statistics of the Administrative Office (AO) contain the evidence that the federal judges have systematically dismissed the complaints against them. Indeed, out of the 7,462 judicial complaints filed from 1997 to 2006, they only disciplined 9 of their own!<sup>5</sup> (See graphs infra.) For years in a row, such as between 2001-06, they did not refer or allow the appeal of a single complaint to the Judicial Conference Committee to Review Circuit Council Conduct and Disability Orders (§331 4th¶), which reported "no pending petitions for review of judicial council action on misconduct orders"<sup>6</sup>. Thus, it was only in 2006 when the Committee issued its 16<sup>th</sup> decision in the 27 years since the Act of 1980. It would be untenable to allege that in the 10 years in which those 7,462 complaints were filed only three petitioners were "aggrieved" enough by the action under §357(a) of any of the 13 circuit councils to be entitled to petition the Conference for review. So would be to pretend that only those three were sufficiently meritorious for any of the councils to refer any of them under §354(b)(1) or (2) to the Conference.

These statistics cannot be the product of the normal course of events in a society as litigious as ours, where the number of Supreme Court filings went from 7,602 in the 1996 Term to 9,608 in the 2005 Term<sup>7</sup>, while that of complaints reportedly went from 679 to 643! They are the result of the non-coincidental, intentional, and coordinated practice of the judges of the councils, with the conniving approval of those who are also members of the Conference, and its presiding member, the chief justice, both to prevent complaints, not to mention their own actions on them, from being reviewed and to put an end to them as early as possible. The Supreme Court is responsible for ensuring respect for the rule of law through its application not only by, but also to, judges. Hence, it too is to blame both for allowing judges to flagrantly disregard for their own benefit their duty under §351 et seq. to handle effectively complaints against them and for tolerating that thereby litigants and the public at large suffer the denial of due process by power-abusive and corrupt complained-about judges. (Cf. A:1662§D; ToEC:>C:973 and Comment thereunder)

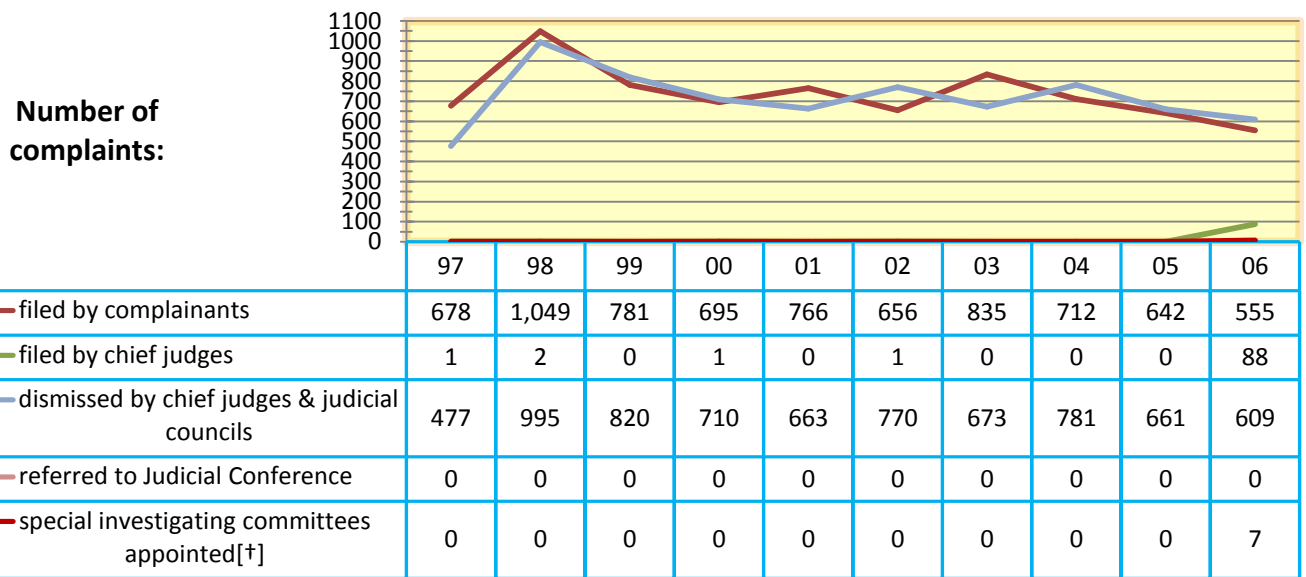
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<sup>5</sup> The tables with the AO Reports of Complaints Filed and Action Taken under the Act are collected with links to the originals in [http://Judicial-Discipline-Reform.org/judicial\\_complaints/complaint\\_tables.pdf](http://Judicial-Discipline-Reform.org/judicial_complaints/complaint_tables.pdf).

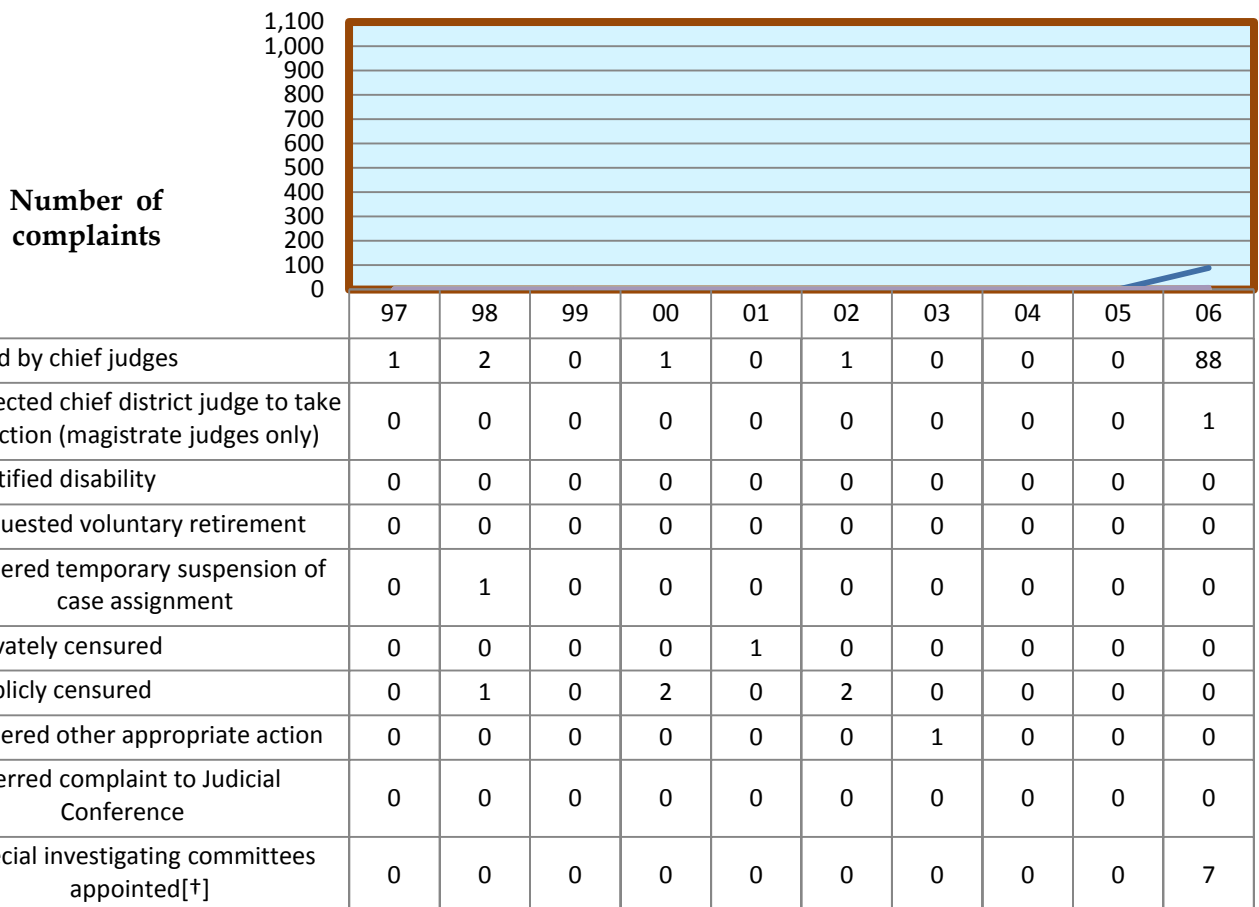
<sup>6</sup> Reports of the Judicial Conference Committee to Review Circuit Council Conduct and Disability Orders; see sample at [http://Judicial-Discipline-Reform.org/judicial\\_complaints/no\\_pending\\_petitions.pdf](http://Judicial-Discipline-Reform.org/judicial_complaints/no_pending_petitions.pdf). These Reports are reflected in the section dedicated to the Committee in the Report of the Proceedings [in March and September of each year] of the Judicial Conference of the United States, collected at [http://Judicial-Discipline-Reform.org/judicial\\_complaints/JConf\\_Reports.pdf](http://Judicial-Discipline-Reform.org/judicial_complaints/JConf_Reports.pdf).

<sup>7</sup> Table A-1 Supreme Court cases, Judicial Facts and Figures 2005 and 2006, Administrative Office of the U.S. Courts, [http://Judicial-Discipline-Reform.org/judicial\\_complaints/casesFiled\\_90-06.pdf](http://Judicial-Discipline-Reform.org/judicial_complaints/casesFiled_90-06.pdf), pages 23 and 32.

## Number of Complaints Filed by Complainants and Systematically Dismissed by Chief Judges and Judicial Councils Between '97 and '06

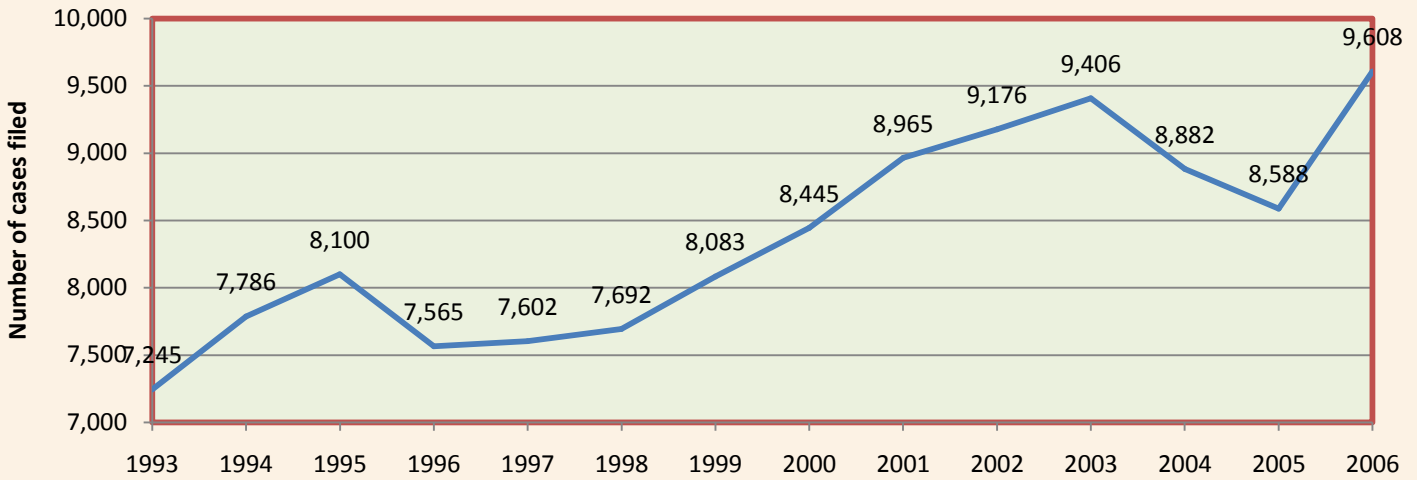


## Judicial Councils' Action Against Complained-about Judges From 1997-2006

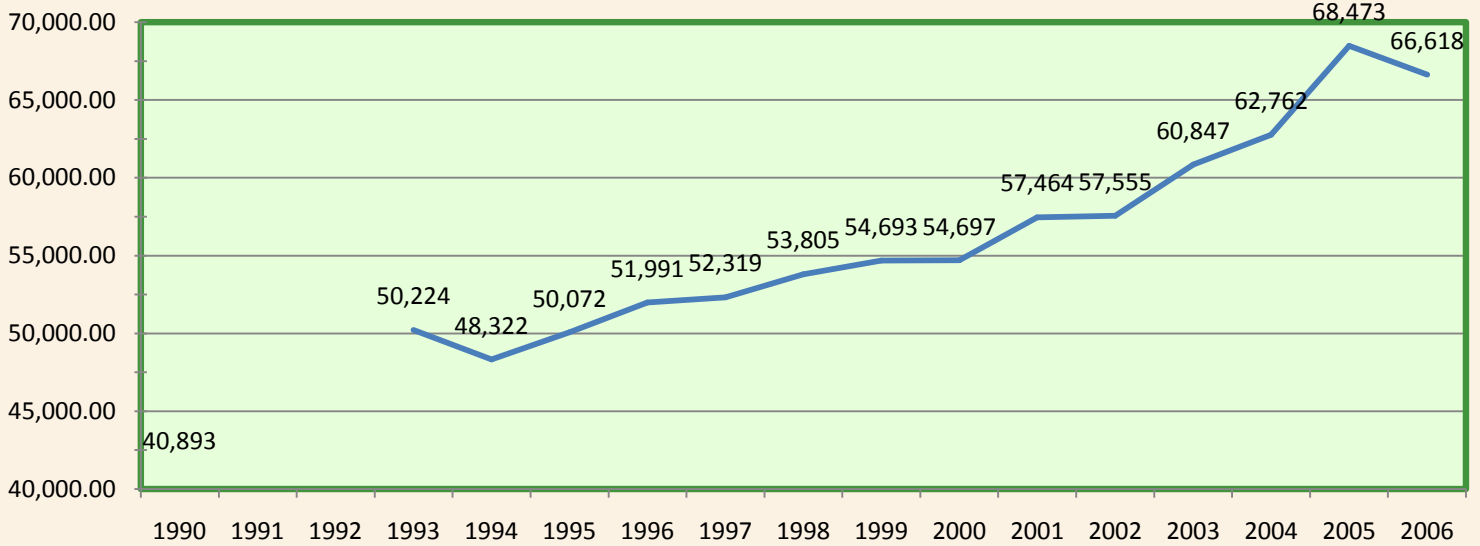


Source: Tables of the Adm. Off. of the U.S. Courts; collected in [http://Judicial-Discipline-Reform.org/judicial\\_complaints/DrCordero\\_draft\\_rules.pdf](http://Judicial-Discipline-Reform.org/judicial_complaints/DrCordero_draft_rules.pdf)

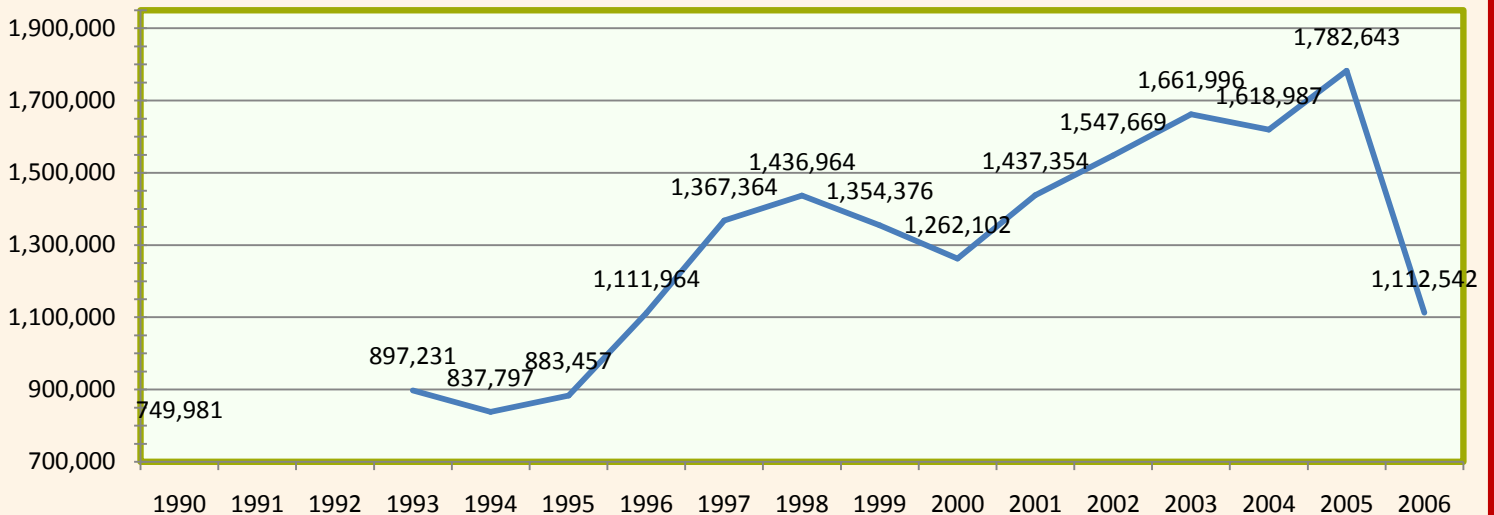
**Cases Filed in the Supreme Court Between 93-06 showing a 33% increase**



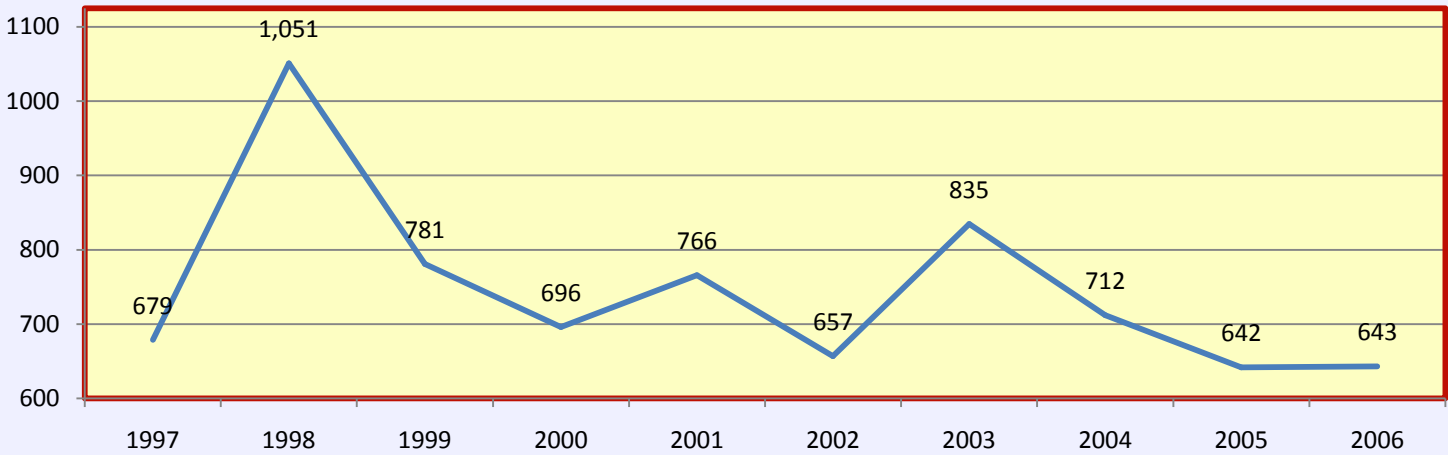
**Cases Filed in the Court of Appeals Between 90-06 Showing a 63% Increase**



**Cases Filed in Bankruptcy Courts Between 90-06 Showing a 138% Increase at Peak**



### Complaints Filed Between 97-06 Showing a *Decrease of 5%*



[Footnotes in the originals]

NOTE: EXCLUDES COMPLAINTS NOT ACCEPTED BY THE CIRCUITS BECAUSE THEY DUPLICATED PREVIOUS FILINGS OR WERE OTHERWISE INVALID FILINGS.

\* REVISED. [regarding complaints pending]

\*\* EACH COMPLAINT MAY INVOLVE MULTIPLE ALLEGATIONS AGAINST NUMEROUS JUDGES. NATURE OF ALLEGATIONS IS COUNTED WHEN A COMPLAINT IS CONCLUDED.

Source: for Tables 1, 2, and 3, Judicial Business of U.S. Courts, 1997-2006 Annual Reports of the Director, Administrative Office of the United States Courts.

For Tables 3, 4, 5, 2005-2006 Judicial Facts and Figures, Administrative Office of the U.S. Courts.

The original Tables are collected and reproduced in [http://Judicial-Discipline-Reform.org/judicial\\_complaints/DrCordero\\_draft\\_rules.pdf](http://Judicial-Discipline-Reform.org/judicial_complaints/DrCordero_draft_rules.pdf), wherein they are accompanied by links to the originals.

Tables 1, 2, and 6, supra, report on complaints filed and processed in the Federal Circuit, the District of Columbia, the 1st-11th circuits, the U.S. Claims Court, and the Court of International Trade

†The category “Special Investigating Committees Appointed” appears for the first time in the 2006 Table.

These figures do not even include cases filed with Article I courts, which are part of the Executive, not the Judicial, Branch, such as the U.S. Tax Court, established in 1969 (after it was created as the Board of Tax Appeals in 1924 and its name was first changed to Tax Court of the U.S. in 1942). Another such court is the U.S. Claims Court, established as an Article I court in 1982, and renamed U.S. Court of Federal Claims in 1992. Likewise, the U.S. Court of Veterans' Appeals was established as an Article I court in 1989 and then renamed the Court of Appeals for Veterans Claims in 1998.

They too support the conclusion to be drawn from these statistics: The significant increase in cases filed with these courts every year attests to the litigiousness of the American society. They belie the judges' report that for the last 10 years Americans have filed a steady number of complaints against them hovering around the average (after eliminating the outlier) of only 712 complaints. The explanation lies in the first footnote in the originals, above: Judges have arbitrarily excluded an undetermined number of complaints. The fact that they have manipulated these statistics is also revealed by the first table above: After 9 years during which the judges filed less than one complaint a year, they jumped to 88 in 2006...and that same year it just so happened that complainants filed the lowest number of complaints ever, 555! *Implausible!* Yet, the judges did not discipline a single peer, just one magistrate.

Table S-22 [previously S-23 & S-24]. Report of Complaints Filed and Action Taken Under 28 U.S.C. §351 for the 12-Month Period Ended Sep. 30 1997-2007.  
<http://www.uscourts.gov/judbususc/judbus.html>; collected at [http://Judicial-Discipline-Reform.org/judicial\\_complaints/complaint\\_tables.pdf](http://Judicial-Discipline-Reform.org/judicial_complaints/complaint_tables.pdf)

<b>Complaints filed in the 13 Circuits and 2 National Courts</b>	'96-97	'97-98	'98-99	'99-00	'00-01	'01-02	'02-03	'03-04	'04-05	'05-06	'06-07	'96-07	Avr.
<b>Complaints Pending on each September 30 of 1996-2007*</b>	109	214	228	181	150	262	141	249	212	210	241	2197	199.7
<b>Complaints Filed</b>	679	1,051	781	696	766	657	835	712	642	643	841	8303	754.8
Complaint Type												0	0.0
Written by Complainant	678	1,049	781	695	766	656	835	712	642	555	841	8210	746.4
On Order of Chief Judges	1	2	0	1	0	1	0	0	0	88	0	93	8.5
Officials Complained About**													
Judges													
Circuit	461	443	174	191	273	353	204	240	177	141	226	2883	262.1
District	497	758	598	522	563	548	719	539	456	505	792	6497	590.6
National Courts	0	1	1	1	3	5	1	0	0	3	4	19	1.7
Bankruptcy Judges	31	28	30	26	34	57	38	28	31	33	46	382	34.7
Magistrate Judges	138	215	229	135	143	152	257	149	135	159	197	1909	173.5
Nature of Allegations**													
Mental Disability	11	92	69	26	29	33	26	34	22	30	20	392	35.6
Physical Disability	4	7	6	12	1	6	7	6	9	3	1	62	5.6
Demeanor	11	19	34	13	31	17	21	34	20	35	22	257	23.4
Abuse of Judicial Power	179	511	254	272	200	327	239	251	206	234	261	2934	266.7
Prejudice/Bias	193	647	360	257	266	314	263	334	275	295	298	3502	318.4
Conflict of Interest	12	141	29	48	38	46	33	67	49	43	46	552	50.2
Bribery/Corruption	28	166	104	83	61	63	87	93	51	40	67	843	76.6
Undue Decisional Delay	44	50	80	75	60	75	81	70	65	53	81	734	66.7
Incompetence/Neglect	30	99	108	61	50	45	47	106	52	37	59	694	63.1
Other	161	193	288	188	186	129	131	224	260	200	301	2261	205.5
<b>Complaints Concluded</b>	482	1,002	826	715	668	780	682	784	667	619	752	7977	725.2
<b>Action By Chief Judges</b>													
Complaint Dismissed													
Not in Conformity With Statute	29	43	27	29	13	27	39	27	21	25	18	298	27.1
Directly Related to Decision or Procedural Ruling	215	532	300	264	235	249	230	295	319	283	318	3240	294.5
Frivolous	19	159	66	50	103	110	77	112	41	63	56	856	77.8
Appropriate Action Already Taken	2	2	1	6	4	3	3	3	5	5	3	37	3.4
Action No Longer Necessary Because of Intervening Events	0	1	10	7	5	6	8	9	8	6	6	66	6.0
Complaint Withdrawn	5	5	2	3	3	8	8	3	6	9	3	55	5.0
Subtotal	270	742	406	359	363	403	365	449	400	391	404	4552	413.8
<b>Action by Judicial Councils</b>													
Directed Chief Dis. Judge to Take Action (Magistrate Judges only)	0	0	0	0	0	0	0	0	0	1	0	1	0.1
Certified Disability	0	0	0	0	0	0	0	0	0	0	0	0	0.0
Requested Voluntary Retirement	0	0	0	0	0	0	0	0	0	0	0	0	0.0
Ordered Temporary Suspension of Case Assignments	0	1	0	0	0	0	0	0	0	0	0	1	0.1
Privately Censured	0	0	0	0	1	0	0	0	0	0	0	1	0.1
Publicly Censured	0	1	0	2	0	2	0	0	0	0	0	5	0.5
Ordered Other Appropriate Action	0	0	0	0	0	0	1	0	0	0	2	3	0.3
Dismissed the Complaint	212	258	416	354	303	375	316	335	267	227	344	3407	309.7
Withdrawn	n/a	n/a	4	0	1	0	0	0	0	0	2	7	0.6
Referred Complaint to Judicial Conference	0	0	0	0	0	0	0	0	0	0	0	0	0.0
Subtotal	212	260	420	356	305	377	317	335	267	228	348	3425	311.4
Special Investigating Committees Appointed	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	7	5	12	1.1
<b>Complaints Pending on each September 30 of 1997-07</b>	306	263	183	162	248	139	294	177	187	234	330	2523	229.4

\*Revised. \*\*Each complaint may involve multiple allegations against numerous judicial officers. Nature of allegations is counted when a complaint is concluded.

Table S-22 [previously S-23 & S-24]. Report of Complaints Filed and Action Taken Under 28 U.S.C. §351 for the 12-Month Period Ended Sep. 30, 1997-07.  
<http://www.uscourts.gov/judbususc/judbus.html>; collected at [http://Judicial-Discipline-Reform.org/judicial\\_complaints/complaint\\_tables.pdf](http://Judicial-Discipline-Reform.org/judicial_complaints/complaint_tables.pdf)

<b>Data collected by Jud. Council 2<sup>nd</sup> Cir. for AO; 28 U.S.C. §332(g)</b>	'96-97	'97-98	'98-99	'99-00	'00-01	'01-02	'02-03	'03-04	'04-05	'05-06	'06-07	'96-07	Avg.
<b>Complaints Pending</b> on each September 30 of 1996-2006*	5	10	23	65	33	60	29	34	57	31	28	375	34.1
<b>Complaints Filed</b>	40	73	99	59	102	62	69	23	36	14	22	599	54.5
<b>Complaint Type</b>													
Written by Complainant	40	73	99	59	102	62	69	23	36	0	22	585	53.2
On Order of Chief Judges	0	0	0	0	0	0	0	0	0	14	0	14	1.3
<b>Officials Complained About**</b>													
Judges													
Circuit	3	14	23	9	31	10	8	4	7	0	6	115	10.5
District	27	56	63	41	52	41	49	15	23	10	12	389	35.4
National Courts	0	0	0	0	0	0	0	0	0	0	0	0	0.0
Bankruptcy Judges	2	1	2	2	2	1	1	1	0	0	0	12	1.1
Magistrate Judges	8	8	11	7	17	10	11	3	6	4	4	89	8.1
<b>Nature of Allegations**</b>													
Mental Disability	1	9	26	2	5	4	6	3	3	1	1	61	5.5
Physical Disability	0	1	2	1	0	0	1	2	0	0	0	7	0.6
Demeanor	2	2	2	3	14	3	4	6	0	0	0	36	3.3
Abuse of Judicial Power	25	30	7	29	28	57	20	6	3	0	1	206	18.7
Prejudice/Bias	32	36	34	28	24	40	20	35	43	28	30	350	31.8
Conflict of Interest	0	0	5	11	10	18	3	4	5	1	1	58	5.3
Bribery/Corruption	0	0	10	21	2	15	4	5	2	2	1	62	5.6
Undue Decisional Delay	0	4	0	11	6	15	9	5	8	2	3	63	5.7
Incompetence/Neglect	4	1	3	1	5	2	3	3	4	0	3	29	2.6
Other	0	11	3	5	0	0	4	33	80	38	47	221	20.1
<b>Complaints Concluded</b>	33	56	57	80	75	93	42	51	91	45	50	673	61.2
<b>Action By Chief Judges</b>													
Complaint Dismissed													
Not in Conformity With Statute	3	4	0	0	4	1	1	6	5	8	1	33	3.0
Directly Related to Decision or Procedural Ruling	12	19	19	29	17	23	14	18	46	15	10	222	20.2
Frivolous	0	1	19	0	13	9	7	3	1	3	2	58	5.3
Appropriate Action Already Taken	0	0	0	0	0	0	0	1	0	1	0	2	0.2
Action No Longer Necessary Because of Intervening Events	0	0	3	1	0	2	0	0	0	1	0	7	0.6
Complaint Withdrawn	0	0	0	0	0	2	0	1	2	0	0	5	0.5
Subtotal	15	24	41	30	34	37	22	29	54	28	13	327	29.7
<b>Action by Judicial Councils</b>													
Directed Chief District Judge to Take Action (Magistrate Judges only)	0	0	0	0	0	0	0	0	0	0	0	0	0.0
Certified Disability	0	0	0	0	0	0	0	0	0	0	0	0	0.0
Requested Voluntary Retirement	0	0	0	0	0	0	0	0	0	0	0	0	0.0
Ordered Temporary Suspension of Case Assignments	0	0	0	0	0	0	0	0	0	0	0	0	0.0
Privately Censured	0	0	0	0	0	0	0	0	0	0	0	0	0.0
Publicly Censured	0	0	0	0	0	0	0	0	0	0	0	0	0.0
Ordered Other Appropriate Action	0	0	0	0	0	0	0	0	0	0	0	0	0.0
Dismissed the Complaint	18	32	16	50	40	56	20	22	37	17	37	345	31.4
Withdrawn	n/a	n/a	0	0	1	0	0	0	0	0	0	1	0.1
Referred Complaint to Judicial Conference	0	0	0	0	0	0	n/a	0	0	n/a	0	0	0.0
Subtotal	18	32	16	50	41	56	20	22	37	17	37	346	31.5
Special Investigating Committees Appointed	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	1	1	2	0.2
<b>Complaints Pending on each September 30 of 1997-2007</b>	12	27	65	44	60	29	56	6	2	0	0	301	27.4

\*Revised. \*\*Each complaint may involve multiple allegations against numerous judicial officers. Nature of allegations is counted when a complaint is concluded.