

Federal court administrators recommend six new judges for Fresno, Sacramento

By John
Ellis



Robert E. Coyle Federal Courthouse in downtown Fresno

U.S. DISTRICT COURT

- Seeking new federal judges in California

Recommendations for how many judges should be on the bench:

- **Central District (Los Angeles):** 28 current, 13 additional recommended, plus making one temporary judge permanent
- **Eastern District (Fresno and Sacramento):** Six current, six additional recommended
- **Southern District (San Diego):** 13 current, two additional recommended
- **Northern District (San Francisco):** 14 current, five additional recommended

Source: Judicial Conference of the United States

Federal court officials this week recommended six new judge positions for California's overworked eastern federal judicial district, a region that includes courthouses in both Fresno and Sacramento.

Fresno's federal judges, however, have heard such recommendations before, and they're not hopeful this time around. So far, every plea has fallen on deaf ears in Congress.

"What used to be pessimism is simply now reality," U.S. District Judge Lawrence J. O'Neill said.

The Judicial Conference makes such recommendations every two years, and its call for help in the Fresno and Sacramento courthouses is almost the exact same as it was in 2013. The only difference is two years ago the recommendation also included an additional temporary judge. To make matters worse, a Senate Judiciary Committee hearing scheduled this week for a replacement federal judge in Fresno was postponed — and there's no new hearing date scheduled as of now.

With less than two years left in his second term, President Barack Obama has yet to have a single new federal judge position created during his presidency. He is the first president since Gerald Ford to have that dubious distinction.

"I think that, frankly, the chances for new judges when the president and Congress are not of the same (political) party is just about the same chances I have of swimming the English Channel this afternoon," O'Neill said.

Currently, Fresno has two federal judge positions, but only one is filled. That is O'Neill, who is toiling under one of the largest caseloads in the nation.

The other position is held by U.S. District Judge Anthony W. Ishii, but he long ago moved to senior status — a move akin to retirement, but one that allows a judge to continue hearing cases — and has reduced his caseload by half. Obama has nominated longtime Sacramento federal magistrate Judge Dale A. Drozd to fill Ishii's spot, but that was the hearing that was canceled this week.

So Fresno is down to one-and-a-half judges when it probably needs four or five judgeships.

Sen. Dianne Feinstein, who sits on the Senate Judiciary Committee, has tried to help. In 2011, a bill that included four new judgeships moved through the Judiciary Committee, but died because of Republican opposition. Additionally, in the 2013-14 congressional session language to create additional judgeships was included in multiple appropriations bills, but none were enacted. And an immigration bill in 2013 that passed the Senate include three new judge positions for the Eastern District, but that also failed to become law.

"Hopefully, our legislators will again introduce similar legislation with a commitment to make this legislation a top priority," Ishii said. "Their constituents deserve no less."

In the latest recommendations, the federal court's top administrative office, the Judicial Conference of the United States, is recommending 68 new judgeships nationwide, as well as making permanent nine additional temporary judge positions. The six new recommended judges for California's Eastern District is the second-highest number recommended in a single district, trailing only the 13 new positions recommended for the Los Angeles-based Central District of California.

But Congress must act on such recommendations.

"The caseload in the Eastern District is nearly twice the national average, which hurts all parties with business before the court, including the public and federal prosecutors," Feinstein said. "It is welcome news that the Judicial Conference has again recognized the need for many new permanent judgeships in the Eastern District. I'll continue to work with my colleagues in the Senate and House to get that done."

Fresno officials say they've been as creative as they can to deal with the lack of judges. They've increased the use of magistrate judges. That helps, but those judges are limited in what cases they can hear. They cannot, for instance, hear any felony criminal cases. Those can only be heard by a district judge.

"In our district we have done absolutely everything to use the resources we have to serve the public and be efficient

with cases,” O’Neill said. “And we’re still just very, very busy.”

Contact John Ellis: jellis@fresnobee.com, (559) 441-6320 or [@johnellis24](https://twitter.com/johnellis24) on Twitter.