

UNITED STATES COURT OF  
FEDERAL CLAIMS  
THE PEOPLE'S COURT



IT IS AS MUCH THE DUTY OF GOVERNMENT TO  
RENDER PROMPT JUSTICE AGAINST ITSELF, IN  
FAVOR OF CITIZENS, AS IT IS TO ADMINISTER  
THE SAME, BETWEEN PRIVATE INDIVIDUALS  
ABRAHAM LINCOLN

**T**he role of the United States Court of Federal Claims is integrally related to the fundamental principle of the U.S.

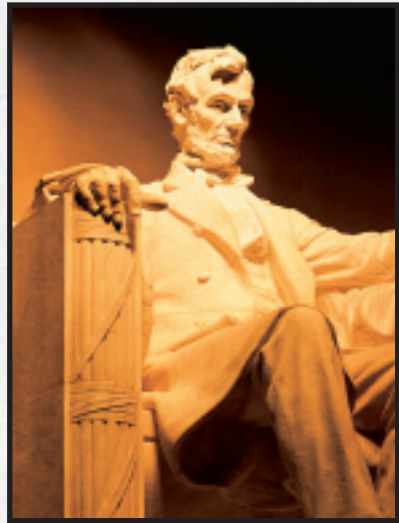
Constitution that individuals have rights against the government. The Court traces its origins directly back to 1855, when Congress established the United States Court of

Claims to provide for the determination of private claims against the United States. The legislation was signed into law on February 24, 1855, by President Franklin Pierce.

Throughout its 150-year history, although it has undergone notable

changes in name, size, scope of jurisdiction, and procedures, its purpose has remained the same: In this Court the federal government stands as the defendant and may be sued by citizens seeking monetary redress. For this reason, the Court has been referred to as the “keeper of the nation’s conscience” and “the People’s Court.”

As originally created in 1855, the Court lacked the essential judicial power to render final judgments. This oversight was resolved by legislation passed in 1866, in response to President Lincoln’s insistence in his Annual Message to Congress in 1861 that, “It is as much the duty of Government to render prompt justice against itself,



*Abraham Lincoln*





*Franklin Pierce*  
*President*  
*1853 — 1857*



*Benjamin Harrison*  
*President*  
*1889 — 1893*



in favor of citizens, as it is to administer the same between private individuals.”

In 1887, Congress passed the Tucker Act, which significantly expanded the Court’s jurisdiction to include all claims against the government except tort, equitable and admiralty claims. The Court thus today has nationwide jurisdiction over most suits for monetary claims against the government and sits, without a jury, to determine issues of law and fact. The general jurisdiction of the Court, described in 28 U.S.C. § 1491, is over claims for just compensation for the taking of private property, refund of federal taxes, military and civilian pay and allowances, and damages for breaches of contracts with the government. The Court also possesses jurisdiction over claims for patent and copyright infringement against the United States, as well as over certain




*Judges of the U.S. Court of Claims 1903 —1916*

suits by Indian tribes and cases transferred from the Indian Claims Commission. In 1987, the Court's jurisdiction was expanded by the National Childhood Vaccine Injury Act, which created the Court's Office of Special Masters to rule on petitions for compensation due to injuries attributed to specified vaccines. This vaccine injury jurisdiction has been enlarged in recent years to encompass claims stemming from a number of additional vaccines, including, for example, varicella, hepatitis B, and influenza.

Additionally, the Court has jurisdiction to hear both pre-award and post-award bid protest suits by disappointed bidders on government contracts.





Although a provision of the Administrative Dispute Resolution Act of 1996 gave the Court of Federal Claims and U.S. districts courts concurrent jurisdiction over post-award protests, subsequent legislation provided that, as of January 2001, this Court would be the exclusive judicial forum for bid protest litigation.

A unique aspect of the Court's jurisdiction throughout its history has been the authority to act on Congressional references of legislative proposals for compensation of individual claims. As eventually codified in 28 U.S.C. § 1492, either House of Congress may refer a bill to the Chief Judge of the Court for an investigation and a report to Congress. A judge of the Court is assigned to act as the "hearing officer" and preside over the judicial proceedings. Then a three-judge review panel submits a report to Congress for its consideration and disposition of such claims for compensation.

**B**efitting its unique role, the Court has been located throughout its history in Washington, D. C., in the vicinity of the White House or in the U.S. Capitol. It first met in May 1855 at Willard's Hotel. In July of that year it moved into the Capitol: After briefly using the Supreme Court's chamber in the basement of the Capitol, it then acquired its own rooms there. In 1879, the Court obtained space on the ground floor of the Freedman's Bank Building, which stood at the place now occupied by the Treasury Annex, adjacent to the southeast corner of Lafayette Park. Two decades later, in 1899, the Court moved to the building formerly occupied by William Corcoran's art collection across Lafayette Park at the intersection of 17th Street and Pennsylvania Avenue.



*Freedman's Bank Circa 1879*

It remained there for 65 years. This building was designed by, and is presently named for, the architect James Renwick, who also designed the Smithsonian Institution's Castle on the National Mall and St. Patrick's Cathedral in New York City. When the facilities there were deemed inadequate by the mid-1950s, the Court asked Congress for a new location. Eventually the site at 717 Madison Place, NW, was chosen and the Court moved to its present home on August 1, 1967.

The Court's original composition of three judges was expanded to five in 1863. They would consider evidence proffered by claimants and weigh testimony taken by permanent or special commissioners employed by the Court, who were dispersed across the United States. One of the first commissioners was Benjamin Harrison of Indiana, who would later become President. If oral argument were requested, the five judges would hear the case en banc. Appeal to the Supreme



*Present Home of the Court*






*Courtyard of National Courts Building*

Court was by right if the amount in dispute was over \$3,000. The growth in government caused by and coinciding with World War I made the system unworkable, as the number of filed cases increased considerably. In 1925, legislation enacted by Congress at the request of the Court created a separate trial division of seven commissioners and elevated the five judges to an appellate role. Initially, the trial commissioners would function as special masters in chancery and conduct formal proceedings either at the Court's home in Washington, D. C., or elsewhere in the United States in a court facility amenable to the parties. The trial procedures evolved to resemble a non-jury civil trial in district court.

In 1948, the commissioners were authorized to make recommendations for conclusions of law. The number of commissioners was increased in 1953 to 15. In 1966, Congress provided that there would be seven appellate judges, to be appointed by the President with life tenure. In 1973, the title of the commissioners was changed to trial judge and, by





1977, the Court of Claims had 16 trial judges, who conducted trials of cases in the first instance. Judgments, which are required to be paid out of appropriations by Congress, were originally paid by individual appropriations passed separately or as part of other appropriations bills. In 1955, Congress provided for a standing appropriation for judgments of \$100,000 or less. Finally, in 1977, Congress created a permanent, indefinite appropriation for all judgments awarded by the Court.

**T**he Federal Courts Improvement Act of 1982 created the modern Court. While the appellate division of the Court of Claims was combined with the United States Court of Customs and Patent Appeals to comprise the new United States Court of Appeals for the Federal Circuit, the trial division of the Court of Claims became the United States Claims Court (and, in 1992, the Claims Court name was changed to the Court of Federal Claims). Appeals from the Court of Federal Claims are taken to the United States Court of Appeals for the Federal Circuit and a judgment there is conclusive unless reviewed by the Supreme Court on writ of certiorari. Decisions of the Court of Claims are binding precedent on both its appellate and trial court successors.

The Court as now constituted consists of 16 judges, appointed by the President and subject to confirmation by the U.S. Senate, for terms of 15 years. In addition, judges who have completed their statutory terms of office are authorized to continue to take cases as senior judges of the Court. This ongoing tenure serves as a mechanism to ensure judicial impartiality and independence.

In recent years, the Court's docket has been increasingly characterized by complex, high-dollar

demand, and high profile cases in such areas as, for example, the savings and loan crisis of the 1980s, the World War II internment of Japanese-Americans, and the federal repository of civilian spent nuclear fuel.

**N**evertheless, despite the nature of the claim, the notability of the claimant, or the amount in dispute, the Court of Federal Claims acts as a clearing house where the government must settle up with those it has legally wronged. As observed by former Chief Judge Loren A. Smith, the Court is the institutional scale that weighs the government's actions against the standard measure of the law and helps make concrete the spirit of the First Amendment's guarantee of the right "to petition the Government for redress of grievances."



*Judges of the U.S. Court of Federal Claims 2005*

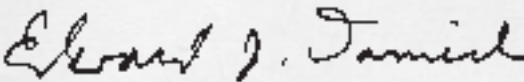
Dear Friend,

The Court of Federal Claims has an extraordinary heritage and unique pedigree within the federal judiciary. Founded in 1855 as the United States Court of Claims, ours is one of the oldest federal courts in the nation.

I trust that this brief history and description of the Court justly presents our mission and will further serve to enhance your interest in the jurisprudence of citizens' claims against the government itself.

Today, with 150 years of practice informing and guiding the Court in its duties, we rededicate ourselves to the Court's mission to administer prompt justice between the United States and its citizens.

Sincerely,

A handwritten signature in cursive script that reads "Edward J. Damich".

Edward J. Damich  
Chief Judge

## AN OVERVIEW OF THE UNITED STATES COURT OF FEDERAL CLAIMS

- Established by Congress in 1855 as the Court of Claims, the court was reorganized by Congress in 1982 as the United States Court of Federal Claims. In general, the court is entrusted with exclusive, nationwide jurisdiction over various money claims against the United States in excess of \$10,000. The court hears suits involving government contracts, Constitutional claims, tax refunds, Indian claims, civilian and military pay claims, patent and copyright matters, and vaccine injury claims. Congress also has authorized the court to review agency decisions under various federal compensation programs. In addition, the court has the unique authority within the federal judiciary to advise Congress, when requested, on private relief bills. The rationale for the court remains as it has been over the past 150 years: to fulfill the need for a national court that can handle cases throughout the country and develop a uniform of body of law in critical subject areas.
- The Court of Federal Claims has had exclusive jurisdiction since 2001 to enter judgment in government contract cases. The previous concurrent jurisdiction with federal district courts was eliminated by Congress in large part because of the need for a uniform body of law and a national court that could hold hearings throughout the country. *See* 142 Cong. Rec. S11848-01 (1996). Consistent with this need for a uniform body of law, Congress has also given the court exclusive jurisdiction over claims under the National Childhood Vaccine Injury Act of 1986, as amended.
- During 2006, there were 8,724 cases on the court's docket, involving more than 10,000 plaintiffs. Of these, 3,091 cases involve the court's general jurisdiction, while 5,633 are vaccine cases handled, in the first instance, by the court's special masters.
- In keeping with the criteria used by the federal district courts in calculating their caseloads based on the number of authorized judgeships, in 2006, the Court of Federal Claims had 193 cases for each of its 16 authorized judgeships (taking into account only the general jurisdiction docket).
- Many of the cases on the court's docket are particularly complex and seek large damage awards:
  - The general jurisdiction non-pro se cases pending before the court during 2006 include damage claims in excess of \$197 billion.
  - In 2006, the court rendered judgments in more than 900 cases and awarded \$1.8 billion in damages.
  - Over 60% of the Fortune 100 companies have been parties in cases before the court. Many have been a party on more than one occasion.
- Examples of some of the cases that are being handled (or have recently been handled) by the court illustrate the complexity, diversity and significance of the court's docket:
  - A series of approximately 120 contract cases, referred to collectively as *Winstar* cases, involving the collapse of the savings and loan industry in the 1980s and the legislation enacted by Congress in response to the collapse. The Justice Department, at one point, estimated that those cases involved dollar claims of more than \$30 billion and over a billion pages of documents.

- A series of 66 contract and takings cases involving claims by electric utility companies that the federal government has breached contracts to remove spent nuclear fuel from their facilities for transfer to the Yucca Mountain repository. While only 11 of these cases have specific dollar claims, those claims still total over \$6 billion, suggesting that the remainder of these cases could involve tens of billions of dollars not reflected in docket figures listed above. For example, a 2006 judgment awarded over \$40 million in a case without a specific dollar claim.
- 77 cases involving claims by Native American tribes that the government has breached its fiduciary responsibilities. Although these cases generally do not request specific dollar amounts, three cases, involving relatively small tribes, claim more than \$550 million in damages.
- Approximately 4,800 vaccine cases involving claims that the measles, mumps and rubella vaccine or a preservative added to other vaccines - specifically Thimerosal - causes autism. While the initial decisions in these cases are being made by the court's special masters, they will be heard by the judges of this court upon petitions for review.
- Exercising jurisdiction granted by Congress, this court also deals with a wide range of equally important, but less dollar-intensive cases, many of which involve reviews of agency decisions under particular benefit programs. These cases include such diverse areas as: civilian overtime and military retirement; compensation for Japanese-American internees during World War II; compensation for police and fire personnel killed in the line of duty; and the Native American and vaccine cases.
- A significant portion of the court's docket involves the review of extensive administrative records. The records in these cases are equivalent in size to those generated at traditional trials and require lengthy findings of fact and resolution of complex issues of law. Trials in other cases often involve hundreds of thousands, if not millions, of pages of documents, as well as numerous witnesses and extensive electronic evidence.
- The court exercises its nationwide jurisdiction as efficiently as possible. The majority of proceedings are held in Washington, D.C. where judges share courtrooms and make effective use of electronic communications, including teleconferencing, video conferencing and computer technology. The court also conducts proceedings in other courts around the country for the convenience of the parties. In addition, the court makes extensive use of alternative dispute resolution.