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Court moves to break logjam

Federal district judges will share cases assigned to 'vacant judgeship'

By SEAN O'SULLIVAN
 The News Journal

WILMINGTON — U.S. District Court officials acknowledged Thursday that it is likely to be a year or more before a vacancy on the court is filled, forcing them to change procedures to deal with a backlog of stalled civil cases.

The admission came in the form of a joint order signed late Wednesday eliminating the designation of "vacant judgeship" — a place-holder position where some 300 civil cases were moved until a new judge is assigned to the district.

Those cases — along with all new cases — will now be assigned to one of the court's three district judges. Chief District Judge Gregory M. Sleet said the process should be completed in a few days to a week or two at the most. "Not a long period of time," he said.

Sleet said the "vacant judgeship" was only intended as a short-term solution when Judge Kent A. Jordan left in December 2006 to take a position on the U.S. 3rd Circuit Court of Appeals.

But the seat now has been vacant for more than a year, and "it appears the vacancy will continue for some time," according to the order.

A list of potential nominees to fill the position, headed by U.S. Attorney Colm F. Connolly, was submitted to President Bush in March, but the White House has not yet forwarded a name to Congress.

The change was welcome news for attorneys and clients who feared it could be years before their cases would get to trial.

"I'm thankful to the court," Nathaniel "Binky" Briddell said through his attorney Thursday. Briddell, 58, a poultry industry worker, has been waiting for four years for his claims about overtime to be decided.

Briddell's attorney, Jeffrey K. Martin, said he was thankful as well, but expressed concern about the strain this will put on court resources, with three judges doing the work of four.



Chief District Judge Gregory M. Sleet gave the order Wednesday.

Court: New judge still a year away, observers say

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"We hope for all concerned that the fourth judge will be joining the court soon," he said.

Attorney Thomas S. Neuberger, who had a number of cases assigned to the empty judgeship, said the new policy "is a very positive development."

He praised the judges for accepting the additional burden, but like Martin expressed apprehension about the increased pressure on the court brought about by political inaction on the nomination in Washington.

"Each judge's workload just increased by one-third. So they were 100 percent busy before, now they are 130 percent busy," he said.

Sleet acknowledged there will be a significant increase in the caseload for each of the three district judges. But he wouldn't comment on the delay in filling the position and said the court is not seeking to pressure anyone involved.

"We don't get to play a role in that process," he said, adding the court's actions this week are designed to deal with the situation it now faces. "Clearly we recognized a need to revisit the management and assignment issue."

The burden on the court may be eased if some parties agree to turn to the court's two magis-

trate judges to take over some cases, he said. In other cases, Sleet said, judges may ask parties for less formal "letter briefs" about disputed issues to try to speed the process toward resolution.

Legal experts say it is doubtful the position will be filled before a new administration takes over in Washington a year from now.

With the nation less than a year away from a presidential election — and a Republican White House and the Democrat-controlled Senate feuding over nominations — political observers say there is little chance of any judicial nominee getting confirmed before the election.

The White House has declined comment.

Professor Paul Light of New York University said that 160 to 200 Bush nominees are stalled in Congress, and any Delaware judicial nominee would be headed to the back of that line.

Nationally, there are 43 vacant federal judgeships, including the one in Delaware, according to the Web site of the federal court's administrative office.

The earliest any nominee is likely to take the bench is after the election, in mid-to-late 2009, according to observers.

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