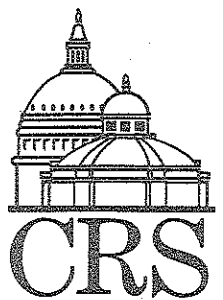


# CRS Report for Congress

## Income Protection for Judges of Selected Federal Courts

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# **INCOME PROTECTION FOR JUDGES OF SELECTED FEDERAL COURTS**

## **SUMMARY**

Federal courts can be divided into constitutional and legislative courts, the former authorized under Article III of the Constitution, and the latter created by Congress for specified judicial purposes. "Article III" judges serve for life ("during good behavior") and are paid salaries that cannot be reduced, principles that authors of the Constitution believed would best facilitate independent judgement. While legislative court judges are not given lifetime appointments or salaries that cannot be reduced, in practice Congress has not tried to influence decision-making by removing legislative judges or reducing their salaries. In fact, most legislative court judges have tenure and compensation opportunities that resemble those of judges on constitutional courts.

Most Federal judges completing a full term on their respective courts become eligible for lifetime payments at least equal to their final pay in office. Federal judges who become disabled before having completed 10 years of service are typically granted permanent entitlement to an annuity equal to one-half of salary; disability after 10 years results in an annuity equal to salary. With the exception of judges on the Court of Veterans Appeals (COVA), Federal judges may be eligible to receive upward pay adjustments during their retirements, either because of increases to the pay of the office (available to certain judges with "senior" status) or through regular cost-of-living adjustments (COLAs). Judges on most Federal courts have the opportunity to attain senior status, which means that in return for the willingness to serve the court if the need arises, their pay is maintained at the current rate for the position. The specific conditions under which a judge is eligible for senior status vary, but generally, judges can "retire" at around the time the combination of their age and service to the court totals 80 (known as the "Rule of 80"). Justices serving on the U.S. Supreme Court or on Federal circuit or district courts (Article III judges), and on Claims, Tax, and Military Appeals Courts pay nothing for retirement rights. Bankruptcy judges and Magistrate judges pay 1 percent of pay for a term of 14 years; COVA judges pay 1 percent for a term of 15 years.

Judges may participate in survivor benefit programs most of which pay annuities to surviving spouses and to children until their 18th birthday (22 if a full-time student). Court of Military Appeals (COMA) judges have survivor benefits through their retirement plan; others pay 3.5 percent (Tax, COVA, certain retired judges) or 2.2 percent (Article III, BC and Claims) of pay for a separate survivor protection plan.

Except for judges serving on the Tax Court, Federal judges may participate in the Federal employees' Thrift Savings Plan (TSP). COMA judges covered by the Federal Employees Retirement System (FERS) are eligible for Government funds matching their TSP contributions; other judges are ineligible for further matching government payments to TSP after appointment to the court. Article III, Tax, COMA and COVA judges do retain rights to any matching Government contributions to the TSP during previous Federal service, an amount representing agency automatic contributions (1 percent), but Claims Court, Bankruptcy, and Magistrate judges have matching Government contributions (but not interest on those contributions) from prior Federal service deducted from their retirement pay.

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# **INCOME PROTECTION FOR JUDGES OF SELECTED FEDERAL COURTS**

## **INTRODUCTION**

Article III, Section 1 of the Constitution states:

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior Courts shall hold their Offices during good Behavior, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

The income protection rights of Federal judges reflect the confluence of a number of different perspectives on the relationship those judges have to the public they serve. These rights--salary replacement in the event of disability, survivor annuities in the event of death, and retirement pay upon reaching old age--are granted to judges meeting the specific conditions of the selected Federal courts. This report compares benefits for judges of the different courts and concludes that similarities can generally be explained in terms of income protection earned through similar employment. Differences in these rights often are the result of the circumstances under which Congress has established and governed a specific court's existence.

## **Constitutional and Legislative Federal Courts**

Federal courts can be divided into two distinct kinds: Constitutional courts established under Article III of the Constitution (sometimes referred to as "Article III" courts), and legislative courts, which are established by Congress under various Article I powers to perform functions designed by legislative act. Constitutional courts derive their powers from Article III of the Constitution, which grants judges the right to tenure and undiminished salary. In other words, the independence of Article III judges is protected because their rights are maintained by an enduring instrument of law not easily modified. In contrast, judges of legislative courts derive their powers from the law that specifies the circumstances of their appointment, including the length of term and the structure of the compensation awarded. Legislative acts are always subject to amendment by subsequent acts.

## ***Tenure, Compensation, and Judicial Independence***

The provision of retirement income as a benefit earned through service to the public can be predicated on humane grounds, i.e., it is only proper that such protection should be provided judges (and any dependents) so that they will not be destitute at a point when they can no longer serve in their positions. It is

also reasonable to suppose that adequate compensation will allow judicial appointments to be made from among a more qualified pool of applicants.

Yet, the primary argument in support of permanent income guarantees is not one of personnel theory, but follows from the proposition that the ideal of judges ruling from wisdom alone requires that they be free to judge without considering the effect of their decisions on important interests. To support this ideal, a judge should have permanent tenure and a salary for life so that neither his position nor his livelihood can be compromised by an unpopular decision. Similarly, a judge should be removed only for wrongdoing, and offenses should not simply be differences of opinion between a judge and a majority of observers as to the acuity of the judge's wisdom. By this theory, the Constitution provides a bulwark against the transitory influences of powerful interests by securing Article III judges' independence in an instrument of law relatively immune from the whims of the legislature or executive.

Any compromise of these two aspects of a judge's relationship to a constitutional court--lifetime tenure and a salary that cannot be reduced--could be construed as limiting the court's independence, especially from a legislature or executive whose transitory preferences might run contrary to a court's view of the intent of the Founders.

Courts established by the Congress to carry out functions that the Congress determines are best handled through a judicial function cannot acquire this absolute independence from the legislative branch and its presumed representation of temporal interests. Indeed, it follows from its formation by the Congress that a "legislative" court cannot appeal to the Constitution for its independence. The degree of dependence on the legislature is written into the law at a legislative court's creation, and that relationship can be modified at will by subsequent act of Congress.

In practice, however, Congress has been respectful of the independence of judges on legislative courts, and has adopted tenure and compensation principles for legislative judges similar to those of constitutional judges. Judges on legislative courts are appointed for fairly long terms (usually 15 years), and while specific terms are not the same as life-time tenure, in fact, judges on several legislative courts have opportunities to continue in service after completing their terms.

Most judges are eligible to receive, for the remainder of their lives, at least as much in salaries or retired pay as they accepted at appointment, unless they voluntarily leave their position before the completion of a term (or become disabled with less than 10 years service). With the exception of annuities for service on the Court of Veterans Appeals(COVA), all judges have their benefits increased, either as the pay for the office increases or by periodic cost-of-living-adjustments (COLA). All judges have income protection if they become disabled, and they can provide for survivor benefits through arrangements.

### *Origins of Principle of Lifetime Tenure and Undiminished Salary*

One of the founding principles of the fledgling American republic was that the judicial branch of government should be as free of extraneous or biasing influences as possible. In addition to direct influences from special interests, evolving political theory held that the judiciary needed to be protected from the executive and legislative branches of government because of their sensitivity to changing political moods. Hamilton, in *The Federalist* (Number 78), expresses the "... simple view of the matter . . . ."

The executive not only dispenses the honors but holds the sword . . .  
The legislature not only commands the purse but prescribes the rules  
. . . The judiciary, on the contrary, has no influence over either the  
sword or the purse; no direction either of the strength or of the wealth  
of the society. . . It may truly be said to have neither FORCE nor  
WILL but merely judgement . . . .

The evolution of rational Government had brought forward the theory that fair treatment before a court required appointment to the bench of individuals who could exercise judgment free of obligations to individuals with an interest in the decisions rendered. By the middle of the 18th century, colonial judges were appointed for indefinite terms and served during "good behavior," a practice adopted in England to secure judges from adverse reactions to decisions contrary to important interests.

In 1761, however, King George III altered the relationship of colonial judges to their offices, making them dependent on the crown for both tenure in office and compensation. The perception that colonial judges were no longer free to render decisions independent of interests in England led the colonists to list the change as one of the "facts" set forth as justification for a Declaration of Independence:

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

These two conditions of judicial independence, tenure in office and secure compensation, were not principles universally accepted as self-evident once the colonies achieved independence. Although 8 of the original 13 colonies conferred tenure during good behavior, the other colonies made judges subject to election or appointments for specific terms.<sup>1</sup>

The new national Government, with limited powers granted it by colonies fearful of central authority, did not concern itself with questions of judges' tenure or compensation. The *Articles of Confederation*, under which began the development of American Government, makes no provision for a judicial branch,

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<sup>1</sup>U.S. Library of Congress. Congressional Research Service. *Election of Federal Judges*. CRS Report for Congress No. 88-179 A, by Paul Morgan. Washington, Feb. 3, 1988.

except for specific appointments to try acts of piracy or disputes between the states. In each case, a temporary court was created by the legislature, and the *Articles* outline conditions for appointment and instruct an appointed judge "well and truly to hear and determine the matter in question, according to the best of his judgment, without favour, affection or hope of reward . . . ."

A decade later, *The Ordinance of 1787: the Northwest Territorial Government*, set forth a requirement that Congress appoint judges from the ranks of those men who have "... a freehold estate [of] five hundred acres . . .", although it requires only 50 acres for the voting rights of citizenship. It would appear that the authors of the *Ordinance* believed that judicial independence was best maintained by wealthier citizens, especially in the absence of Federal authority to raise funds to provide judges with financial security.

The *Ordinance* was one of the last significant achievements of the Confederation, a national government in need of major structural reinforcement. In that same summer of 1787, members of the Constitutional Convention turned their attention to the problem of an independent judiciary. After explaining the merits of a judicial system in which judges are granted tenure for good behavior, Alexander Hamilton, in No. 79 of the *Federalist Papers*, argued that judges must be free from personal financial concerns.

Next to permanency in office, nothing can contribute more to the independence of the judges than a fixed provision for their support . . . *a power over a man's subsistence amounts to a power over his will.* And we can never hope to see realized in practice the complete separation of the judicial from the legislative power, in any system which leaves the former dependent for pecuniary resources on the occasional grants of the latter. . . . [Furthermore] fluctuations in the value of money . . . rendered a fixed rate of compensation . . . inadmissible. What might be extravagant today might in a half a century become penurious and inadequate. [Therefore] the legislature [can] vary its provisions in conformity to the variations in circumstances, yet under such restrictions as to put it out of the power of that body to change the condition of the individual for the worse.

Until after the Civil War, Federal judges appointed under provisions of Article III of the Constitution were kept in their posts until death. In 1869, Congress enacted legislation that required these judges to resign their offices at age 70, after completing 10 years of service, and granted them their salaries at resignation for the rest of their lives. Mandatory retirement was rescinded in 1877, and optional retirement at age 70 was initiated.

A practice of informally reducing the workloads of older or infirm judges was formalized in 1919, and in 1948 a distinction was created between judges who resigned their offices and those who retired to a status designated as "senior," which meant that they were subject to recall for specific cases for which they might have special wisdom. Judges resigning were entitled for life to the salary of the office at time of resignation, while judges remaining in senior

status received the *current* salary of the position. In 1954, a program was created to assure an income for the dependent survivors of Article III Federal judges.

Since the original formulation of the principle of lifetime financial security for Federal judges, the Federal judiciary has expanded its operations into subject areas unanticipated by the authors of the Constitution. As these various courts were established, their patterns of compensation differed from that of Article III judges. Yet, as the duties of these other Federal courts increased in complexity, the compensation accorded judges serving those courts has evolved toward the standard of financial independence secured by a guaranteed salary undiminished during the judge's lifetime.

This report discusses retirement and survivor benefits for judges of six Federal courts and provides a detailed comparison of them in an appendix table.

## **BENEFIT RIGHTS FOR FEDERAL JUDGES<sup>2</sup>**

### **Uniform Rights--Social Security**

All Federal judges acquire some rights to financial protection when they reach old age, but these rights vary from court to court. The only uniform feature of all judges' income protection is through the Social Security program--all Federal judges make payments to and earn rights to old age, disability, and survivor benefits granted through that program.

When judges attain "senior" status, that is, when they retire subject to recall for specific needs of the court on which they served, generally they are not

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<sup>2</sup>The following information has been gleaned from Federal statutes too numerous to cite in this summary document. These general citations cover broad categories of provisions pertaining to income protection of the Federal courts discussed in the text.

- References to Article III judges and their retirement rights can be found generally at 28 U.S.C. 371-376, with references to "senior" judge status at sec. 294.
- References to bankruptcy judges and magistrate judges can be found at 28 U.S.C. 377.
- References to benefits for service on the U.S. Tax Court can be found at 26 U.S.C. 7447.
- References to benefits for service on the U.S. Court of Federal Claims can be found at 28 U.S.C. 178.
- References to benefits for service on the Court of Military Appeals can be found at 10 U.S.C. 867.
- References to benefits for judges on the Court of Veterans' Appeals can be found at 38 U.S.C. 7296.
- References to the Judicial Survivors Annuities System can be found at 28 U.S.C. 377.
- References to the Federal Retirement Thrift Savings Plan can be found at 5 U.S.C. 8471.



deemed to be earning "wages" as defined by social security for the purpose of having old age, survivors, and disability insurance (OASDI) and hospital insurance (HI) taxes deducted from their pay. Thus, retired pay to senior judges also is not counted toward the earnings limitation rules under which OASDI benefits are reduced for persons earning amounts above specific annual levels. COMA and COVA judges are awaiting determination as to whether their retired pay is excluded from the OASDI and HI definition of wages.

## **Article III Judges**

### ***Retirement***

*Retired pay.* Under the Constitution, Article III judges are assured their salaries for life. If a judge retires by resigning the office (after meeting age and service criteria described below), the salary in effect at resignation is continued (with no provision for increasing that "salary" when salaries are increased for sitting judges). A "resigning" retired judge is free to resume the practice of law. Generally, Article III judges do not assume "retirement" status by resigning; rather, they become "senior" judges with potentially lessened responsibilities and workload. Senior judges are not permitted to engage in private law practice. Judges are eligible for senior status if they are at least 65 and have at least 10 years of judicial service, or if the combination of their age and years of service equals 80 ("Rule of 80").

*Increases to retired pay.* Retired or senior judges are eligible to receive cost-of-living adjustments (COLA) to their retired pay. These COLA are generally applied annually at the same percentage granted to active Federal workers. Senior judges are also eligible to receive other increases applied to the salaries of active judges, provided they are *certified* as performing services equivalent to 25 percent of the services expected of active judges.

*Disability retirement.* Judges who retire as a result of disability and who have at least 10 years service receive the salary of the office for the remainder of their lives. Judges who become permanently disabled with less than 10 years service receive lifetime payments equal to one-half of the salary of the office.

*Contributions.* Article III judges do not contribute toward the cost of their retirement rights. If a judge made contributions to the Civil Service Retirement Trust Fund (CSRTF) as a Federal employee before appointment to the bench, those contributions would be payable to the judge as a lump-sum refund. (If the judge had attained 5 years of civilian Federal service before appointment to the court, the judge is eligible for a deferred CSRS/FERS benefit when the judge takes senior status.)

### ***Survivor Protection***

*Benefits.* Article III judges can, within the first 6 months of assuming office (or marrying), elect to participate in the Judicial Survivors' Annuities System (JSAS), which guarantees an annuity to a surviving spouse of 1.5 percent of the

average of the judge's highest 3 years of salary (high-3), times years of judicial service, service as Member of Congress or congressional employee, or as member of the active duty armed forces, up to 15 total years, plus .75 times average salary times other creditable service. This formula is augmented by a minimum (25 percent) and maximum (50 percent) payable to a surviving spouse.

*Contributions.* Active and certified senior judges contribute 2.2 percent of their salaries or retirement pay to JSAS. Noncertified senior judges pay 3.5 percent of pay for survivor coverage. Retroactive payments of 3.5 percent for previous Federal service (except military service) can also be made. Retroactive payments are calculated at the salary at the time the service was performed, with interest (3 percent per year, compounded) accruing during service, but not during periods in which the judge was not in Federal service.

### ***Thrift Savings Plan***

These judges can participate in the Federal employees' Thrift Savings Plan (TSP), a tax-advantaged savings plan established by the legislation creating the FERS. Article III judges may invest up to 5 percent of their pay in the TSP. Such contributions reduce their taxable income for the year. Their contributions to the TSP are not matched by Federal employer payments to the TSP on their behalf, as is the case (up to a maximum of 5 percent) for Federal employees covered by FERS. However, they retain in their TSP accounts any agency automatic contributions (1 percent) and matching contributions made to the TSP on their behalf before their appointments to the Federal bench. TSP accounts continue to accrue interest until disbursement, and taxes are not assessed until that point.

### **Bankruptcy and Magistrate**

#### ***Retirement Programs***

*Eligibility and choices.* Bankruptcy judges and Magistrate judges participate in one of four possible retirement programs, depending upon the date at which they first entered Federal service, and whether or not they exercise a choice available to them before they retire. Judges whose employment by the Federal Government (whether as Bankruptcy judges or Magistrate judges in some other capacity) first occurred after December 31, 1983, are covered by FERS; those whose employment first occurred before that date can be covered by the Civil Service Retirement System (CSRS), unless they elected FERS within 6 months after appointment. In either case, Bankruptcy judges or Magistrate judges can further elect to participate in the Judicial Officers' Retirement Fund (JORF) or a "hybrid" system, which combines service under JORF and service under CSRS or FERS, using the respective formula appropriate to each period of service. This choice can be made at any time up to 30 days before retirement.

Much of the complexity in the retirement benefit arrangements available to Bankruptcy judges stems from the elevation in status of that court, beginning October 1, 1979. Because of the expanded duties of the court, benefits were

improved, and judges whose appointments continued their service on the new court were granted proportionate rights to enhanced benefits. Retirement benefits are structured to make it possible for a Bankruptcy judge or Magistrate judge to attain an annuity, equal to salary at retirement, after reaching age 65 and completing 14 years of judicial service. In no case may a Bankruptcy judge or Magistrate judge receive an annuity during retirement that exceeds the current salary of the position. Those judges who leave the service of the court after a relatively few years of service, but with substantial previous Federal service, may benefit by retaining rights to FERS.

*Senior status and retirement.* After completing a term of office (14 years), Bankruptcy judges or Magistrate judges can attain a "senior" status similar to that of Article III judges, but without that formal designation. These judges are subject to "recall" for renewable 1 year periods, and are eligible for increases in the salary of the office by accepting (or indicating to the court the willingness to accept) reappointment. These recall judges cannot engage in the private practice of law; Bankruptcy judges or Magistrate judges accepting JORF annuities may engage in the practice of law if they accept a "freeze" in their pay, thereby foregoing future increases (other than COLA).

*Disability retirement.* Bankruptcy judges or Magistrate judges who retire on disability with between 5 and 10 years of service receive 40 percent of their last salary. Judges who retire with at least 10 years service receive that proportion of their salary that their service bears to a full 14-year term.

*Cost-of-living adjustments.* JORF annuities (and the JORF portion of hybrid annuities) are automatically increased annually for changes in the Consumer Price Index (CPI). The changes equal COLA granted to CSRS. Annuities may not exceed the pay of active Bankruptcy judges or Magistrate judges. In the event that pay for active judges remains frozen for a period of time and then increased substantially, retired pay would be adjusted to the frozen level, and from that base could be adjusted by retroactively applying COLA to the new level. If the new level exceeds that of the retroactively adjusted level, the new level would apply, and the retiree would be eligible for subsequent COLA to that new base.

*Contributions.* Bankruptcy judges or Magistrate judges contribute toward the cost of their retirement rights. These contributions must be made for 1 term of 14 years. If a Bankruptcy judge or Magistrate judge continues on the court for additional service, no contributions are required. Contributions for JORF are 1 percent of salary; a judge electing JORF may be entitled to a full refund of any previous contributions to CSRS or FERS.

### ***Survivor Protection***

*Benefits and contributions.* Bankruptcy judges or Magistrate judges can participate in the JSAS; the cost of their participation is 5 percent of salary or retirement pay. Bankruptcy judges or Magistrate judges must also pay 5 percent of their former salaries for years of previous Federal service (except military service), plus 3 percent interest, compounded annually for those years of Federal service.

### ***Thrift Savings Plan***

These judges can also participate in the TSP. Bankruptcy judges or Magistrate judges covered by JORF or by CSRS can save up to 5 percent in the TSP, and judges enrolled in FERS can save up to 10 percent, with the first 5 percent matched by Government payments. They also receive agency automatic (1 percent) contributions. A judge electing JORF after having participated in the TSP through coverage by FERS (whether as a judge or in another capacity) can keep the Government's previous agency automatic (1 percent) contributions. However, an amount equal to that amount (but not any earned interest), will be subtracted from JORF annuity payments. This deduction from annuity payments can be prorated and spread over 2 years.

### **U.S. Court of Federal Claims**

#### ***Retirement***

*Senior status and retirement.* Judges on the U.S. Court of Federal Claims receive annuities for life equal to the salary of the office if they complete one full term of 15 years and are age 65 (after age 65, the "Rule of 80" applies). If a judge under age 65, after completing a full term and indicating a willingness to be reappointed, is nevertheless not reappointed, lifetime annuities equal to salary are granted. Retiring judges are designated "senior" judges, unless physically or mentally incapable of performing the duties of the office. Senior judges can be recalled for duty of up to 90 days, and if they refuse, they are subject to disciplinary action and their annuities can be suspended for 1 year. A judge can elect to "freeze" the annuity, thereby becoming exempt from recall, but foregoing future adjustments based on increases to the pay of the office.

*Special early retirement.* A judge, having attained age 60 and completed 10 years service as a judge (at age 62, with 5 years of service) may elect to retire on an annuity from CSRS. Such annuity is computed at 2.5 percent of average salary times years of service, including up to 5 years of active duty military service.

*Disability.* A judge with at least 10 years of service who leaves because of mental or physical impairment is granted an annuity equal to the salary of the office; a judge with fewer than 10 years is granted 50 percent of such salary.

*Contributions.* U.S. Court of Federal Claims judges do not contribute toward their retirement. Any previous contributions to the CSRTF are refundable.

#### ***Survivor Protection***

Active (or recalled) U.S. Court of Federal Claims judges can participate in the JSAS by paying 2.2 percent of salary per year. Retroactive payments (of 3.5 percent, plus interest) are required for previous Federal service under the same rules as apply to Article III judges.

### ***Thrift Savings Plan***

U.S. Court of Federal Claims judges can participate in the TSP. If they had previously participated in the TSP through enrollment in FERS, an amount equal to any Federal agency automatic contributions (1 percent) and agency matching contributions (but not interest) will be subtracted from their eventual U.S. Court of Federal Claims annuity.

### **Tax Court Judges**

Judges serving on the U.S. Tax Court have retirement rights similar to those of U.S. Court of Federal Claims judges: Judges of both courts can retire after one full 15-year term and continue that salary for life, or they can elect senior status and remain subject to recall, thereby retaining the right to increases in pay granted to judges of that court. Judges who become disabled after 10 years service receive the salary of the office; disabled judges with less than 10 years receive one-half of that salary.

Judges of both courts make no contributions toward their retirement and can receive a refund of any prior payments to the CSRTF. However, unlike U.S. Court of Federal Claims judges, Tax Court judges are not eligible to participate in the TSP. Tax Court judges do retain rights to any previous TSP contributions, including any Federal agency automatic contributions (1 percent) and matching amounts, and the latter contributions are not subtracted from their eventual Tax Court retirement pay. A second major difference is that survivor protection similar to survivor protection under JSAS costs Tax Court judges less: They pay 3.5 percent of salary or retirement pay rather than the 5 percent required of U.S. Court of Federal Claims judges.

### **Court of Military Appeals**

#### ***Retirement***

*Eligibility and senior status.* Judges on the Court of Military Appeals (COMA) are eligible, after completing one term of 15 years, to receive an annuity equal to 80 percent of the final salary. After completing one term, COMA judges become "senior" judges. If there is a vacancy among the five active judges, upon the call of the chief judge and with the consent of the senior judge, a retired judge may resume active status for the duration of the vacancy. For each day of recalled active service, the senior judge is paid at the pay of the office.

*Relationship to other Federal retirement.* COMA judges begin their service under FERS (or CSRS, if eligible), and if they leave their service before completing one term, their service is counted under the respective system for other Federal workers, at the same accrual rate as service as a Member of Congress, congressional employee, and active military personnel (up to 5 years).

*Special early retirement.* COMA judges are eligible for a reduced annuity if they leave service under age 60, regardless of the length of their service. The reduction is equal to  $1/12$  of 1 percent for each month under age 60 up to 60 months, and  $1/6$  of 1 percent for each additional month under age 60.

*Disability and survivor benefits.* Disability benefits are payable under CSRS or FERS, whichever is applicable. Survivor benefits, both in value and in the level of reduction to retirement benefits, are intended to duplicate similar protection under CSRS and FERS.

*Contributions.* COMA judges pay contributions at the same rate as applicable to CSRS or FERS. If a COMA judge becomes eligible for and elects a COMA annuity, it is in lieu of a CSRS or FERS annuity, and no refunds of contributions to the CSRTF are payable.

*Cost-of-living adjustments.* Postretirement COLA are paid at the same percentage as CSRS or FERS, whichever is applicable.

### ***Thrift Savings Plan***

COMA judges can participate in the TSP. If a COMA judge participates in the TSP through enrollment in FERS, there is no offset from the COMA annuity for amount contributed by the Government to the TSP. These contributions do not cause a reduction in the COMA payments.

## **Court of Veterans Appeals**

### ***Retirement***

*Relationship to other Federal retirement.* Judges on the Court of Veterans Appeals (COVA) are considered members of CSRS or FERS, whichever is applicable, until electing to participate in the COVA retirement program. A COVA judge may make such an election at any time up until the COVA annuity is paid, or until the day a successor to the retiring judge takes office. If a COVA judge elects to remain in CSRS or FERS, COVA service is counted as Federal service toward an annuity under the applicable program.

*Eligibility and benefits.* Judges electing a COVA benefit can retire at age 65 after completing one 15 year term, and receive lifetime payments equal to salary at the time of retirement. Retirement after age 65 with less than a full term is permitted under the Rule of 80.

*Disability.* Judges unable to perform their duties because of mental or physical disability are granted annuities of 50 percent of pay if their service is less than 10 years, and full salaries if the service exceeds 10 years.

*Postretirement cost-of-living adjustments.* There are no COLA granted to annuities paid to retirees. Survivors of COVA participants have their benefits

increased by 3 percent for each full 5 percent by which salaries for active judges are increased.

*Contributions.* COVA judges are required to contribute 1 percent toward their retirement annuities (with contributions ending after one term of 15 years). Any previous CSRS or FERS contributions are refunded, once a COVA judge becomes subject to the COVA retirement provisions.

### ***Survivor Protection***

*Benefits.* COVA judges can participate in a survivor program similar in benefits to JSAS. However, there are three important differences:

- COVA judges must have served 5 years of creditable service before survivor benefits are payable; service of less than 5 years yields a lump-sum payment of survivor plan contributions. JSAS requires 18 months service for eligibility.
- COVA survivor benefits are payable to a surviving spouse upon reaching age 50, unless the spouse also has custody of a dependent child. JSAS survivor annuities are paid to the spouse regardless of age.
- COVA survivor annuities are adjusted by 0.6 of the increases granted to active COVA judges. JSAS annuities are indexed for the rate of inflation, i.e., by the COLA applied to CSRS benefits.

*Contributions.* COVA survivor plan participants are required to pay 3.5 percent of salary for survivor coverage, including retroactive payments to cover past service. However, unlike similar provisions for other judges, COVA judges pay compound interest of 3 percent per annum from the time the service was performed, regardless of any breaks-ins-service that might have occurred. JSAS participants pay interest only for periods of previous Federal service.

### ***Thrift Savings Plan***

As a result of Public Law 102-82 (signed August 6, 1991), COVA judges are able to participate in the TSP, but their contributions are limited to 5 percent of pay. No matching Federal contributions are payable to the TSP on behalf of COVA judges. However, any agency automatic (1 percent) and matching contributions to the TSP paid on behalf of a participant while not a judge are not subtracted from any eventual COVA retirement pay.

**APPENDIX TABLE: COMPARATIVE RETIREMENT SYSTEMS, SELECTED FEDERAL COURTS**

	<b>Article III</b>	<b>Bankruptcy and Magistrates</b>	<b>Claims</b>	<b>Tax</b>	<b>Military Appeals</b>	<b>Veterans Appeals</b>
<b>I. Retirement</b>						
<b>Retirement: Basic Structure and Options</b>	No election necessary.	When the new court retirement system, the Judicial Officers Retirement System (JORF), was enacted, incumbents were covered by CSRS or FERS. Incumbent judges had three options: elect to remain under CSRS/FERS; drop CSRS/FERS and join JORF (also known as "377 retirement system" after the section of U.S. Code in which it is defined); or participate in a "hybrid alternative,"	Upon appointment, judges are covered under FERS or, in certain instances, under CSRS. Once appointed, they may elect coverage under the Claims Court retirement system. Once an election is made it is irrevocable, and any right to a CRS or a FERS annuity is forfeited. A judge who does not elect coverage under the Claims Court retirement system during the term of	Same as Claims Court.	Upon appointment, judges are covered under FERS or, in some instances, under CSRS and remain covered under one of those two systems while in active service. At the time a judge becomes eligible for an annuity, he or she may elect to retire under CSRS or FERS, or he or she may elect to receive an annuity, under a special COMA retirement option, equaling 80 percent of the judge's salary at the time of	Upon appointment, judges are covered under FERS or, in certain instances, under CSRS. Once appointed, they may elect coverage under the CVA retirement system and they may revoke such an election at any time while in office. Elections to receive retired pay are irrevocable once retired pay accrues. Once a judge elects to receive retired pay under the CVA retirement system,



	Article III	Bankruptcy and Magistrates	Claims	Tax	Military Appeals	Veterans Appeals
<b>I. Retirement</b>						
<b>Retirement: Basic Structure and Options (cont.)</b>		not credited for an enhanced annuity. Those who elected to remain in CSRS/FERS can choose up to 30 days before retirement to switch from that coverage to JORF. Judges appointed to court after JORF was established may choose to participate in JORF at <i>any time</i> prior to leaving office. Election, once made, is irrevocable.	office is covered by either CSRS or FERS and will receive an annuity under CSRS or FERS according to the statutes and regulations governing those retirement systems. Individual who fails to be reappointed as judge at the expiration of term may elect to receive retirement pay at any time before the day after the day his successor takes office. Election irrevocable upon day on which retirement pay begins to accrue.		retirement. The election is irrevocable since it is made at the time a judge elects to receive retired pay. Judge must elect at the time he becomes eligible for COMA annuity to receive such annuity in lieu of any other annuity (CSRS/FERS) for which he may have been eligible at the time of such election. Election is irrevocable.	he or she forfeits any right to a CSRS or a FERS annuity. A judge who does not elect coverage under the CVA retirement system during the term of office is covered by either CSRS or FERS and will receive an annuity under CSRS or FERS according to the statutes and regulations governing those retirement systems.

	Article III	Bankruptcy and Magistrates	Claims	Tax	Military Appeals	Veterans Appeals
<b>I. Retirement</b>						
Age and Service Required for Retirement						
<i>Retirement: Full Annuity</i>	<p>Upon reaching age 70 and subject to a minimum of 10 years service (or at age 65 with 15 years of service):</p> <p>1) Retirement with no further obligation to the Court;</p> <p>2) "Senior" status, with reduced judicial responsibilities for subject to recall as needed; and</p> <p>3) Senior status "certified" as performing duties equal to 25 percent of work of active judge.</p>	<p>Judge may retire with full annuity upon reaching age 65 and completing 14 years or more of creditable service.</p>	<p>Judge may retire with full annuity upon reaching age 65 with 15 years of service; for judges between ages 65 and 70 "Rule of 80" applies (age plus years of service equal to 80); at age 70, may retire with 10 years of service. Retiring judge can be designated "senior judge."</p>	<p>Judge may retire with full annuity upon reaching age 65 with 15 years of service; for judges between ages 65 and 70 "Rule of 80" applies; at age 70, may retire with 10 years of service. Retirement at 70 is mandatory. Retiring judge can be designated "senior judge."</p>	<p>No retirement age specified. To be eligible to receive an annuity a judge must have completed a term of service for which he was appointed and be separated from civilian service in the Federal Government. Retiring judge can be designated "senior judge."</p>	<p>Judge may retire with full annuity upon reaching age 65 with 15 years of service; between ages 65 and 70 "Rule of 80" applies. No senior judge status.</p>

	Article III	Bankruptcy and Magistrates	Claims	Tax	Military Appeals	Veterans Appeals
<b>I. Retirement</b>						
<b>Age and Service Required for Retirement (cont.)</b>						
<i>Retirement: Reduced Annuity</i>	<p>Retiring judge (who vacates office and rejects "senior" status with reduced workload) will receive for remainder of lifetime an annuity equal to salary at time of retirement.</p> <p>Judge may retire (not resign) after attaining age 65 and completing 15 years of service; for judges between ages 65 and 70, "Rule of 80" (age plus years of service equal to 80) applies.</p>	<p>If judge leaves office before age 65 having served at least 8 years, benefit, payable after age 65, is equal to the full annuity reduced 2 percent for each year participant was under 65 at time of leaving office. No reduction can exceed 20 percent.</p> <p>Reduction waived if judge served full term and was not reappointed.</p>	<p>Judges not reappointed may retire and receive during remainder of lifetime annuity equal to salary payable to Claims Court judges in regular active service if (a) served at least one full term as judge; and (b) gave timely notice to President re: "seeking reappointment."</p>	Same as Claims Court.		Same as Claims Court.

	Article III	Bankruptcy and Magistrates	Claims	Tax	Military Appeals	Veterans Appeals
<b>I. Retirement</b>						
<b>Age and Service Required for Retirement (cont.)</b>						
<i>Retirement: Increases in Retired Pay</i>	1) Retired judges receive annuity equal to final pay. 2) Senior judges receive final pay increased by periodic COLAs granted to Federal employees. 3) Senior judges certified as performing 25 percent of workload of active judges receive the salary of the office.	1) Retired judges' annuities are automatically adjusted by COLAs granted to CSRS (equal to changes in the CPI). Retired pay cannot exceed pay of office. 2) Senior judges receive increases on the same basis as Article III judges.	1) Judges who retire after one term but before age 65 receive annuities equal to salary at the time they left office. 2) Senior judges are paid at the salary of the office, and can be recalled. 3) Senior judges can "freeze" their pay and no longer be subject to recall.	1) Judges who retire after one term receive annuities equal to final salary.  2) Senior judges are paid the salary of the office and are subject to recall.	1) Retired judges receive COLAs equal to those granted under CSRS or FERS, whichever is applicable.  2) Recalled "senior" judges are paid at the salary of the office during the period of their recall.	There is no provision for increasing annuities for retired COVA judges.

	Article III	Bankruptcy and Magistrates	Claims	Tax	Military Appeals	Veterans Appeals
<b>I. Retirement</b>						
<b>Required Payments Toward Retirement</b>						
<i>Judge's Contribution to Annuity Fund</i>	Judges contribute nothing to their "own" retirement pay.	Judge contributes 1 percent of total salary, payable on monthly basis; contributions terminate upon retirement or having made contributions covering 14-year period (contributions can be made for service prior to the date of election).	Same as Article III.	Same as Article III.	Judges contribute 8 percent of annual salary to CSRS/FERS annuity fund. Upon retiring and electing COMA annuity, judge loses <i>all</i> prior contributions to CSRS/FERS annuity fund. (COMA annuity is in lieu of CSRS or FERS annuity.)	Judges contribute 1 percent of annual salary to the COVA Judges Retirement Fund; contributions terminate upon retirement, having completed 15 years of service, or having made deposits covering 15 year period (deposits can be made for prior service).
<i>Government Contribution to Annuity Fund</i>	Entire amount paid from current appropriations.	Secretary of Treasury shall provide balance of funds needed to reduce unfunded liability of fund to zero; such contributions not to exceed 9 percent of a judicial official's salary.	Secretary of Treasury shall provide balance of funds needed to reduce unfunded liability of fund to zero.	Same as Claims Court.	Annuities paid out of the Department of Defense Military Retirement Fund.	Same as Claims Court.

	Article III	Bankruptcy and Magistrates	Claims	Tax	Military Appeals	Veterans Appeals
<b>II. Provisions for Recall/Reemployment</b>						
<b>Recall Provisions, Compensation</b>	"Retired" judges agree to accept "senior status" involving a reduced workload (i.e., the performance of such judicial duties as judge is willing and able to undertake). "Resigning" judge assumes no workload upon vacating office.	Retired judge may consent to be recalled. Upon certification of need for "substantial service," judge may consent to 5-year term during which judge will receive annuity <i>plus</i> an amount equal to the difference between the annuity and the current salary of the position to which the judge is recalled. Upon completion of 5-year term, annuity to equal salary in effect at the end of the 5-year term.	Retired judge subject to recall up to 90 days per year; shall be paid same compensation (in lieu of retired pay) as active judge. Judges relieved of such duty for illness/disability. Failure to perform duties results in 1-year forfeiture of retired pay. Judge can elect to "freeze" retirement pay at level equal to salary at time of retirement, thus "opting out" of recall duty. Such election is irrevocable.	Same as Claims Court.	Any COMA judge receiving retired pay may become a "senior judge," and, with his consent, may be subject to recall for any period specified by the chief judge; senior judge to be paid the same compensation (in lieu of retired pay) and allowances for travel and other expenses as an active judge.	No recall provision.

	Article III	Bankruptcy and Magistrates	Claims	Tax	Military Appeals	Veterans Appeals
<b>II. Provisions for Recall/Reemployment</b>						
<b>Reemployment Provisions, Compensation</b>	No prohibition of payment of retirement annuity upon reemployment following vacation (resignation) of office.	Retired judge who subsequently practices law forfeits all rights to an annuity during all periods of such practice, unless the judge declares, upon retiring, the intention of returning to law practice, thus agreeing to "freeze" retirement annuity for life at the level of final active salary.	<p>Retired judge who practices law on behalf of client making any civil claim against the United States or any agency thereof forfeits all retirement pay during such period unless first electing to "freeze" retirement pay at level equal to final active salary.</p> <p>Retired judge who receives compensation for work in Federal Government forfeits retired pay while being compensated for Government employment.</p>	<p>Retired judge who practices law in area of Federal taxation permanently forfeits all retirement pay during such period unless first electing to "freeze" retirement pay at level equal to final active salary.</p> <p>Same as Claims Court.</p>	<p>Retired judge receiving COMA annuity and appointed to Federal service shall, during such service, receive only the higher of the annuity or the pay of the position to which the judge is named.</p> <p>Retired judge entitled to a COMA annuity and later appointed as a U.S. judge or justice, and who retires from that office shall receive either:</p> <p>(a) COMA judges annuity, or</p> <p>(b) annuity/salary to which entitled by virtue of service as U.S. judge or justice. Election, to be made upon "second" retirement (from office or active service), is irrevocable.</p>	Same as Claims Court.

	Article III	Bankruptcy and Magistrates	Claims	Tax	Military Appeals	Veterans Appeals
<b>III. Disability Provisions</b>						
<b>Disability Benefit Amounts</b>	<p>Disabled judge may retire after 10 years service, regardless of age, and shall, during the remainder of his lifetime, receive the salary of the office.</p> <p>Judge with less than 10 years of service shall, during the remainder of his lifetime, receive one-half the salary of the office.</p>	<p>When disabled, judge is deemed "retired." Judge shall receive:</p> <p>(a) an annuity equal to 40 percent of final active salary for life, if had served at least 5 years at time of retirement, or</p> <p>(b) an annuity equal to ratio of aggregate years of service (not more than 14) to the number 14, if had served at least 10 years.</p>	<p>(a) equal to the rate of salary payable to an active judge if such judge had served 10 years or more upon retirement, or</p> <p>(b) one-half of the rate of the salary payable to such judge having served less than 10 years upon retirement.</p>	Same as Claims Court.	Available through CSRS/FERS if eligible under that program (5 years service under CSRS; 18 months service under FERS).	Same as Claims Court.



	Article III	Bankruptcy and Magistrates	Claims	Tax	Military Appeals	Veterans Appeals
<b>IV. Survivors' Benefits</b>						
<b>Program</b>	Judicial Survivors' Annuities System (JSAS)	JSAS (same as Article III).	JSAS (same as Article III).	Tax Court Judges Survivors' Annuity Fund	Not yet specified.	Judges Retirement and Survivor Annuity Program
<b>Election</b>	Election to JSAS must be made within 6 months of marriage or appointment to office; such election is irrevocable.	Same as Article III.	Same as Article III.	Can elect to receive survivor benefits at any time prior to leaving office.		Can elect to receive survivor benefits at any time prior to leaving office.

	Article III	Bankruptcy and Magistrates	Claims	Tax	Military Appeals	Veterans Appeals
<b>IV. Survivors' Benefits</b>						
<b>Funding of Survivor Annuity</b>	Benefits funded by judge's contribution of 5 percent of annual salary, if in active status, or of retirement income, if on age or disability retirement. For judicial service rendered prior to inception of plan, and for certain periods of prior nonjudicial Government service, participant may also deposit 5 percent of salary earned during those periods, together with interest at 4 percent per year to December 31, 1947; and at 3 percent per year thereafter. No deposits required for military service.	Same as Article III.	Same as Article III.	Benefits funded by judge's contribution of 3.5 percent of annual salary, if in active status, or of retirement income, if on age or disability retirement. For judicial service rendered prior to plan inception, and for certain periods of prior nonjudicial Government service, participant may also deposit 3.5 percent of salary earned during those periods, together with interest at 4 percent per year to December 31, 1947; and at 3 percent per year thereafter. No deposits required for years in which CSRS deductions were made for military service.	The Secretary of Defense shall prescribe by regulation a program to provide survivor annuities for judges receiving a COMA annuity. Such program shall provide benefits and establish terms and conditions that are similar to those provided for survivor annuities under CSRS/FERS. Election to receive survivor annuity under this program terminates any right or interest to a CSRS/FERS survivor annuity. (Regulations not yet prescribed.)	Benefits funded by judge's contribution of 3.5 percent of annual salary. For judicial service rendered prior to plan inception, and for certain periods of nonjudicial Government service, participant may also deposit 3.5 percent of salary earned during such service.

	Article III	Bankruptcy and Magistrates	Claims	Tax	Military Appeals	Veterans Appeals
<b>IV. Survivors' Benefits</b>						
<b>Computation of Annuity</b>	For each year of service completed, having served at least 18 months (as judge, Senator, Representative, member of armed forces, and congressional employee), survivor annuity shall equal sum of both: (a) 1.5 percent of average salary during the period of 3 consecutive years in which judge received highest annual salary (high 3-year average--years of service to include years while receiving retirement annuity); and (b) 3/4 of 1 percent of such annual average salary multiplied by years of service of any prior creditable service.	Same as Article III.	Same as Article III.	For each year of service completed, having served at least 5 years (as judge, Senator, Representative, member of armed forces, and congressional employee, not to exceed 15), survivor annuity shall equal the sum of both: (a) 1.5 percent of average judge's salary or compensation for other allowable service during the period of 3 consecutive years in which judge received highest annual salary (high 3-year average); and (b) 3/4 of 1 percent of such average annual salary multiplied by years of service of any other allowable service (CSRS/FERS service).		Same as Tax Court.

	Article III	Bankruptcy and Magistrates	Claims	Tax	Military Appeals	Veterans Appeals
<b>IV. Survivors' Benefits</b>						
<b>Computation of Annuity (cont.)</b>	Survivors' annuity may not be less than 25 percent of average annual salary, nor exceed 50 percent. Annuity reduced by 10 percent of any portion of the deposit for prior service unpaid as of judge's death.			Survivors' annuity may not be less than 25 percent of such average annual salary, nor exceed 50 percent. Annuity reduced by 10 percent if deposits into CSRS are not made for all years of CSRS service.		
<b>Spousal and Children's Benefits</b>	If there is a surviving spouse and no children, spouse takes all. Any surviving children under age 18 (or 22 if in school) receive, if the widow(er) is living, an annual annuity equal to the lesser of: (a) 10 percent of the average salary; or (b) 20 percent of the average salary divided by the number of children.	Same as Article III.	Same as Article III.	If there is a surviving spouse and no children, spouse takes all. Any surviving children under age 18 receive, if widow(er) is living, an annuity equal to the lesser of: (a) 10 percent of the average annual salary; or (b) 20 percent of the average annual salary divided by the number of children.		Same as Tax Court.

	Article III	Bankruptcy and Magistrates	Claims	Tax	Military Appeals	Veterans Appeals
<b>IV. Survivors' Benefits</b>						
<b>Spousal and Children's Benefits (cont.)</b>	If the widow(er) is deceased, each child receives annual annuity equal to the lesser of: (a) the annuity which widow(er) would have received if still alive divided by the number of children; or (b) 20 percent of the average salary; or (c) 40 percent of the average salary divided by the number of children.			If the widow(er) is deceased, each child receives annual annuity equal to the lesser of: (a) 20 percent of the average annual salary; or (b) 40 percent of such annual average salary divided by the number of children.		
<b>Cost-of-Living Adjustments</b>	COLAs to annuities increased by full increase in the CPI as applied in the CSRS.	Same as Article III.	Same as Article III.	For a judge who rendered some portion of his final 18 months of service <i>as a judge on the Tax Court</i> , survivor annuity payments shall be increased by 3 percent for each full 5 percent by which current salary of position has been increased.		For a judge who rendered some portion of his final 18 months of service <i>as a judge on the COVA</i> , survivor annuity payments shall be increased by 3 percent for each full 5 percent by which current salary of position has been increased.

	Article III	Bankruptcy and Magistrates	Claims	Tax	Military Appeals	Veterans Appeals
<b>V. Credit/Restrictions, Prior CSRS Service</b>						
<b>Past Service Credit</b>	<p>Judge with prior CSRS service but not yet eligible to receive CSRS annuity: immediately discontinues CSRS contributions, waiving all claims to CSRS annuity. Judge may, up to the time of "retiring" (achieving senior status), elect to withdraw, in the form of a lump sum, all prior CSRS contributions.</p> <p>Judge with prior CSRS service already receiving CSRS annuity upon reaching Article III court: CSRS annuity payments suspended during tenure on the court. Upon retirement or resignation, CSRS payments resume at amount paid before appointed to the court (in addition to salary for life). Judge may elect, at any time prior to</p>	<p>Upon election to the court, participation in retirement system is optional; decision can be made at <i>any time</i> prior to leaving office. Decision to participate voids all rights to any and all CSRS annuities judge otherwise entitled to. Upon election, judge entitled to recover, in a lump-sum payment, all prior CSRS/FERS contributions, <i>without interest</i>.</p> <p>At time of enactment of new court retirement system (JORF), incumbents were covered by FERS or CSRS. These officers could have (1) elected to remain under CSRS/FERS, (2) drop CSRS/FERS and join JORF, or (3) participate in a "hybrid alternative" whereby judge entitled to a proportionate annuity for eligible service since October 1, 1979, and</p>	Judge who elects participation in Claims Court Retirement System forfeits rights to annuity or retired pay under CSRS/FERS and/or other judicial retirement systems.	<p>Judge with previous Federal service may choose at <i>any time</i> before leaving office to convert to the Tax Court Retirement System, thus receiving a lump-sum refund of all previous contributions made to CSRS. Judges not wishing to convert automatically remain in CSRS.</p> <p>Judge's choice to convert to Tax Court Retirement System is irrevocable upon day on which retirement pay begins to accrue; such choice forfeits all claim to CSRS pay.</p>	<p>Judge who elects participation in COMA retirement system forfeits rights to CSRS/FERS annuity.</p> <p>Retired judge receiving COMA annuity who is subsequently appointed to a position in Federal Government shall be entitled to receive, during period of such employment, COMA annuity or pay for that position, whichever is higher.</p> <p>Retired judge receiving COMA annuity who is subsequently appointed a judge or justice of the United States shall be paid either COMA annuity or salary to which he is entitled as such judge or justice, as determined by his election at time of retirement. Such election is irrevocable.</p>	Judge with prior Federal service may choose at <i>any time</i> prior to leaving office to participate in COVA retirement system, thus forfeiting rights to CSRS/FERS annuity, discontinuing CSRS contributions. Judge shall receive lump-sum payment of prior CSRS/FERS contributions.

	Article III	Bankruptcy and Magistrates	Claims	Tax	Military Appeals	Veterans Appeals
<b>V. Credit/Restrictions, Prior CSRS Service</b>						
<b>Past Service Credit (cont.)</b>	retirement, to withdraw in lump-sum form, all prior CSRS contributions, thus forfeiting all claim to remaining CSRS eligibility.	to credit for <i>all</i> Government service which was otherwise eligible for an annuity under the CSRS/FERS but not credited for an enhanced annuity. Such aggregate annuity is subject to ceiling equal to 100 percent of the current salary of the office. Those who elected to remain in CSRS/FERS can choose up to 30 days before retirement to switch from that coverage to JORF. In that event, contributions due to JORF must be paid by the individual.				

	Article III	Bankruptcy and Magistrates	Claims	Tax	Military Appeals	Veterans Appeals
<b>V. Credit/Restrictions, Prior CSRS Service</b>						
<b>Thrift Savings Plan (TSP) Participation</b>	Judges may participate in TSP, up to 5 percent of before-tax pay. They are not entitled to Government matching contributions after appointment to the Federal bench, but they do retain any matching contributions made before such appointment.	Judges may participate in TSP. Participation in JORF does not forfeit any contributions previously made to the TSP, nor any earnings on those contributions. FERS employee electing "377 annuity" is entitled to retain agency automatic contributions (1%) and matching contributions to TSP; however, annuity will be reduced by amount equal to contributions made by the Government.	Judges may participate in the TSP, up to 5 percent of before-tax pay. Previous agency automatic contributions (1%) and matching contributions will be subtracted from their eventual Claims Court annuity.	Judges not eligible to participate in the TSP; however, they do retain rights to any previous TSP contributions, including any agency automatic contributions (1%) and matching contributions, and amounts representing these contributions are not subtracted from their eventual Tax Court annuity.	COMA judges may participate in the TSP. If a COMA judge participates in the TSP through enrollment in FERS, that judge retains rights to agency automatic contributions (1%) and matching contributions. COMA annuity payments are not reduced by amounts representing such contributions	COVA judges may participate in the TSP, up to 5 percent of before-tax pay. They are not eligible for Federal matching contributions upon appointment, but any matching contributions made before such appointment are retained by the judge and COVA annuities are not reduced by amounts representing such contributions.