

Judge Shopping

What is it?

Judge Shopping (also called forum shopping or venue shopping) is the practice of strategically choosing where a legal case is filed based on which court or judge is more likely to provide a favorable ruling. Judge shopping can be done by finding a court with a limited number of judges or by filing multiple lawsuits with the same claims in hopes that one case will be assigned to a specific judge. The “extra” suits are then dismissed.

History

Judge shopping has been used to some extent by both liberal and conservative interests.

Liberal organizations have often worked to have their cases heard in the 9th Circuit Court, and they are considered more liberal than others.

In recent years, there has been more focus on the issue. This is a result of conservative groups attempting to bring their cases to the Fifth Circuit Court of Appeals (Louisiana, Texas, Mississippi) or file cases in the federal courts in Texas. Because of the large number of divisions of the courts in Texas, there are often only one or two judges in each courthouse. These cases include those attempting to block state or federal laws--cases seeking judicial orders to stop enforcement of federal laws throughout the country (“national injunctions”).

In March 2024, the US Federal Judiciary Conference adopted new rules that would limit the use of judge shopping for cases looking to block state or federal laws. The new rules require that these cases be assigned a judge randomly throughout a federal district and not heard just by judges in a specific courthouse or division.

Discussion

The Brookings Institution says, “Allowing plaintiffs to pick their judge is contrary to the bedrock federal court principle of randomly assigning cases to judges through an electronic version of drawing names from a hat.”

In response to the new Federal Judiciary Conference rules, two conservative judges issued statements saying that these rules are a result of political pressure, and that they conflict with federal law. They pointed to a federal statute that gives district courts

control over how cases are allocated. They additionally pointed out that the complaints started about patent cases, but the new rule does not cover those cases.

Principles to Consider

LWVUS positions on Congress and the Presidency, the other two branches of government, pay little attention to specific policy approaches; instead, they focus on principles. Those principles were designed to evaluate future policy proposals and ensure a durable foundation for advocacy. Principles that might be applied when considering judge shopping include:

<ul style="list-style-type: none">• Judicial independence• Judicial accountability• Judicial ethics	<ul style="list-style-type: none">• Legitimacy• Nonpartisanship
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Links

NPR:

[A frustrated Supreme Court to look at one version of judge shopping: NPR](#)

WaPo:

[One judge, one courthouse: Why judge shopping is an issue in the U.S.](#)

Brookings:

[Effort to curb judge-shopping at the federal courts explained](#)

Brennan:

[End 'Judge Shopping' | Brennan Center for Justice](#)

U.S. Judiciary Conference adopts new rules:

[US federal judiciary moves to curtail 'judge shopping' tactic | Reuters](#)

U.S. Judiciary Conference:

[Conference Acts to Promote Random Case Assignment | United States Courts](#)