U.S. Department of Justice
Civil Division

23-CV-DD

Office of the Assistant Attorney General

Washington, DC 20044

December 21, 2023

The Honorable Robin Rosenberg
Chair, Advisory Committee on Civil Rules
One Columbus Circle, NW
Washington, D.C. 20544

Re: Random Case Assignment—23-CV-U

Dear Judge Rosenberg:

The United States Department of Justice has been asked to provide its views on the proposal by the Brennan Center for Justice for adoption of a Federal Rule of Civil Procedure to address concerns about case assignments in divisions with just one or two district judges. As discussed below, these divisions create the potential for and the perception of judge-shopping, which can undermine confidence in the judiciary. The Department believes that this issue can be addressed by a rules amendment and that such an amendment would further the public interest.

BACKGROUND

Federal district courts differ in terms of how cases are assigned to different divisions of the court. In some federal districts, there are only one or two judges assigned to a division, and these judges hear every case filed in that division. When a district has this limited distribution of judges and case assignments, a plaintiff filing a case in a particular division can predict which judge will hear their case. A plaintiff that takes advantage of such knowledge creates the perception of judge-shopping and risks undermining confidence in the judiciary.

Currently, no Federal Rule of Civil Procedure governs the initial assignment of cases. Rather, case assignments are governed by local rules or orders, which vary from district to district. As discussed below, some districts use random cross-district assignment regardless of which division a case was filed in, while other districts assign every case filed in a particular division to the judge or judges in that division. It is this latter situation that is the focus of this letter.

DISCUSSION

I. The Need for a Federal Rule of Civil Procedure Addressing Case Assignments

There is a critical need at this time to adopt a new Federal Rule of Civil Procedure addressing case assignments in judicial divisions where litigants can effectively choose their preferred judge. While single-judge divisions are not new, concerns about single-judge divisions and forum shopping have increased in recent years, particularly with respect to litigation against

the federal government seeking nationwide relief, which can affect the rights and obligations of people across the country. This concern has been raised by many outside the Executive Branch. For example, nineteen United States senators recently requested that the Judicial Conference recommend rules to district courts to eliminate the opportunity for such judge-shopping.[1] A report by the Congressional Research Service summarized the problem, noting that "litigants challenging government actions were filing suit in [] divisions" where only one or two active federal judges are assigned—"in an attempt to judge shop."[2] Chief Justice Roberts, in his 2021 Year-End Report on the Federal Judiciary, identified two competing considerations in the process of case assignments. Of course, the judiciary "has long supported the random assignment of cases and fostered the role of district judges as generalists capable of handling the full range of legal issues."[3] At the same time, Congress established districts and divisions "so that litigants are served by federal judges tied to their communities."[4] As the Chief Justice recognized, "reconciling these values is important to public confidence in the courts…."[5]

A recent *amicus* brief filed with the Supreme Court by Professor Stephen Vladeck notes that the Texas Attorney General had filed at least nineteen cases in the Texas district courts, on behalf of Texas, opposing policies of the Biden administration, and that it had filed those cases "exclusively in . . . small divisions where it can all but guarantee which judge will hear its case."[6] According to Professor Vladeck, Texas has "not fil[ed] a single case [in Austin, TX] where the Texas state government is actually located…."[7]

The Department has recently filed transfer motions in cases where neither the litigants nor the events giving rise to the case had any connection to the district or division where the case was filed.[8] In those cases, the Department provided exhibits illustrating the scope of the problem, noting this practice "appears to be exploiting single-judge Divisions in ways that create the appearance of judge shopping that threatens to undermine the integrity of the judicial process."[9] *See* Appendix (judge-shopping data). To date, those motions have been denied, and the cases have remained in the district where the case was filed.

In light of these concerns, the Department believes that case assignment is a significant issue that should be addressed by a rules amendment.

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[1] Letter to Hon. Robin L. Rosenberg from Sen. Charles E. Schumer, *et al.* (July 10, 2023).

[2] Congressional Research Service, *Where a Suit Can Proceed: Court Selection and Forum Shopping* at 3 (Nov. 8, 2022), https://crsreports.congress.gov/product/pdf/LSB/LSB10856.

[3] John G. Roberts, Jr., C.J., U.S. Sup. Ct., 2021 Year-End Report on the Federal Judiciary at 5, https://www.supremecourt.gov/publicinfo/year-end/2021year-endreport.pdf ("2021 Year-End Report"), at 5.

[4] *Id.*

[5] *Id.*

[6] Motion for Leave to File Amicus Curiae Brief and Brief of Stephen I. Vladeck as Amicus Curiae in Support of Applicants at, United States v. Texas, No. 22-40367 (July 13, 2022), https://www.supremecourt.gov/DocketPDF/22/22A17/230032/20220713161446965_22A17%20tsac%20Stephen%20I.%20Vladeck.pdf, at 3-4, 6. (Hereinafter "Vladeck *amicus*").

[7] *Id.*

[8] *See, e.g., State of Texas et al v. Department of Homeland Security, et al.*, No. 6:23-cv-00007 (S.D. Tx.), ECF No. 46 (Government's Reply in Support of Motion to Transfer), at 13.

[9] *Id.*

II. The Rules Enabling Act Permits the Supreme Court To Prescribe Case Assignment Procedures

Under the Rules Enabling Act, the Supreme Court may "prescribe general rules of practice and procedure" for the U.S. district courts and courts of appeal. 28 U.S.C. § 2072(a). The Court's authority under this provision is broad, so long as the rules adopted are procedural and not substantive. *See id.* § 2072(b) ("Such rules shall not abridge, enlarge or modify any substantive right."). The test is "whether a rule really regulates procedure—the judicial process for enforcing rights and duties recognized by substantive law and for justly administering remedy and redress for disregard or infraction of them."[10] The Supreme Court has thus described the Rules Enabling Act as permitting the regulation of "the whole field of court procedure . . . in the interest of speedy, fair and exact determination of the truth."[11]

A rule that would require random district court assignment of cases—or, as proposed, a subset thereof—falls comfortably within the authority provided by the Rules Enabling Act. The division of labor among judges in any district is procedural by any reasonable definition. It "regulates . . . judicial process for enforcing rights and duties recognized by substantive laws,"[12] and it leaves substantive rights unchanged. Indeed, the Federal Rules of Civil Procedure have long addressed related issues of judicial workload management. For example, Rule 63(a) sets forth the procedure to be followed when "a judge conducting a hearing or trial is unable to proceed." The inclusion of this provision in Rule 63 supports a conclusion that a rule concerning the assignment of cases also would be procedural in nature.

III. A Federal Rule of Civil Procedure Addressing Case Assignment Would Not Conflict with 28 U.S.C. § 137

No other provision of federal law withdraws the broad authority that the Rules Enabling Act provides to address court procedures, including case assignments. During the October Advisory Committee meeting, there was a discussion about whether such a rulemaking would conflict with 28 U.S.C. § 137. Section 137 provides:

> The business of a court having more than one judge shall be divided among the judges as provided by the rules and orders of the court.
>
> The chief judge of the district court shall be responsible for the observance of such rules and orders, and shall divide the business and assign the cases so far as such rules and orders do not otherwise prescribe.
>
> If the district judges in any district are unable to agree upon the adoption of rules or orders for that purpose the judicial council of the circuit shall make the necessary orders.

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[10] *Hanna v. Plumer*, 380 U.S. 460, 464 (1965) (quoting *Sibbach v. Wilson & Co.*, 312 U.S. 1, 14 (1941)).

[11] *Sibbach*, 312 U.S. at 14.

[12] *Hanna*, 380 U.S. at 464.

The Department does not believe that section 137 forecloses rulemaking in this area. Congress knows how to withdraw or limit the Supreme Court's broad authority to promulgate Rules on particular issues or procedure. *E.g.*, 28 U.S.C. § 2074(b) ("Any such rule [prescribed under section 2072] creating, abolishing, or modifying an evidentiary privilege shall have no force or effect unless approved by Act of Congress"). But section 137 does not do so. Nor would section 137 inherently conflict with a Rule on the same subject. Section 137 requires district courts to set assignment procedures by local rule or order of the court; charges the chief judge with enforcing those rules and filling in the gaps; and provides a backstop—the judicial council—for when district judges are unable to agree. Nothing about those assignment-specific provisions conflicts with the Supreme Court's general authority to set rules of practice and procedure.

Instead, section 137 is best read as doing no more than what its text provides: It sets forth a default case-assignment procedure that can be modified by rules adopted pursuant to section 2072 and that must be guided by any federal rules so adopted. Hence, unless and until the Supreme Court sets rules or procedures for how districts must allocate cases among judges, the districts have broad discretion to determine the procedures to govern assignment pursuant to section 137. But if the Supreme Court wishes to adopt a rule in this area, it has the authority to do so under section 2072(a).

As noted, section 137 provides that case assignment may be governed by "the rules . . . of the court"—*i.e.*, the local rules. When district courts adopt such a local rule, they act pursuant to their general rulemaking authority under 28 U.S.C. § 2071(a), which provides:

> The Supreme Court and all courts established by Act of Congress may from time to time prescribe rules for the conduct of their business. Such rules shall be consistent with Acts of Congress and rules of practice and procedure prescribed under section 2072 of this title.

Hence, under section 2071, the federal courts are generally authorized to set their own rules "for the conduct of their business." But these rules "shall be consistent with" the rules that the Supreme Court sets under its section 2072 power. Local rules governing case assignment therefore must be consistent with any Federal Rule adopted to govern case assignment. Nor can it be said that when district courts adopt local rules governing case assignments, they act under a separate grant of authority in section 137 that is not subject to section 2072's limits. Section 2071(f) expressly provides that "[n]o rule may be prescribed by a district court other than under this section."

Of course, some districts treat assignment questions through orders rather than through local rules, as section 137 permits.[13] But that does not diminish the force of the structural point just described: If local rules governing case assignments must comply with Federal Rules on the subject (as section 2071(a) and (f) establish), then Congress cannot have intended to empower district courts to avoid compliance with the Federal Rules simply because Congress permitted courts to act by order as well. The orders of a district court also must, of course, be consistent

[13] For example, the Northern District of Illinois and the District for the District of Columbia have assignment procedures as part of their local rules. By contrast, the Southern and Eastern Districts of New York have assignment procedures separate from their local rules.

with the Federal Rules. *See* Fed. R. Civ. P. 1 ("These rules govern the procedure in all civil actions and proceedings in the United States district courts, except as stated in Rule 81.").

Although section 137 provides that "the business…*shall* be divided…as provided by the rules and orders of the court," this language does not foreclose adoption of a Federal Rule in this area. It merely imposes a mandatory duty on district courts to allocate cases via local rules or orders. It does not mean that rules and orders adopted by district courts to govern case assignment need not comply with relevant Federal Rules of Civil Procedure. Indeed, this language cannot relieve local courts of the obligation to adhere to any relevant Federal Rules of Civil Procedure for the reasons explained above. The local rules or orders that section 137 directs district courts to promulgate must themselves accord with the Federal Rules, and section 137 therefore cannot give district courts exclusive authority over case assignment rules. A contrary reading of section 137, moreover, would call into question rules like Rule 63, which addresses an aspect of how a court's business is divided among judges. The very first edition of the Federal Rules included a version of Rule 63, and this long history militates against reading section 137 to conflict with rulemaking in this area.

Another aspect of section 137 further undermines any suggestion that Congress intended to empower district courts to set case assignments free from the Supreme Court's supervision. The final sentence of the section provides that "[i]f the district judges in any district are unable to agree upon the adoption of rules or orders for that purpose the judicial council of the circuit shall make the necessary orders." 28 U.S.C. § 137(a). This sentence suggests, first, that Congress's concern in enacting section 137 was to ensure that some entity established case-assignment rules—not to declare that adoption of case assignment rules was somehow a unique prerogative of district courts. Moreover, if section 137 empowered district courts to establish case assignments without regard to the Federal Rules, then presumably it would authorize judicial councils to do the same thing when exercising their backstop authority. But a principal duty of "[e]ach judicial council" is to "periodically review [local] rules . . . for consistency with [Federal] rules prescribed under section 2072" and to "modify or abrogate any such rule found inconsistent." 28 U.S.C. § 332(d)(4). It is implausible that Congress intended to authorize judicial councils charged with *enforcing* the Federal Rules to act *without regard to* those Rules.

The history of section 137 and the Rules Enabling Act confirms that Congress did not intend the former to displace the latter. Section 137 has its origins in the Judicial Code of 1911, which provided that, "[i]n districts having more than one district judge, the judges may agree upon the division of business and assignment of cases for trial." Pub. L. No. 61-475, § 23, 36 Stat. 1087, 1090. That 1911 provision predated the Rules Enabling Act of 1934. And that 1911 provision's permissive terms ("may agree") cannot plausibly be read to conflict with, or limit, the broad rulemaking authority that Congress conferred in the Rules Enabling Act. Then, Congress enacted section 137 in its current "shall be divided" form in 1948, when it recodified and amended Title 28. Pub. L. 80-773, 62 Stat. 869, 897 (1948). The Committee on the Revision of the Laws reported that the recodified section 137 "was rewritten and the practice simplified." H.R. Rep. No. 80-308 at A31–32 (1947). There is no hint that Congress intended to amend the 1911 provision to foreclose rulemaking under the Rules Enabling Act. Had Congress intended that result, after adoption of the Rules Enabling Act, it would have left some evidence in the statute's text or legislative history. It is therefore far more plausible to understand section 137 as continuing a line of statutes that pre-dated the Rules Enabling Act and that provided default rules

to address a specific problem, rather than as precluding action via rules under section 2072(a). Nothing we have found in the legislative history indicates that Congress intended case assignment to be a unique prerogative of the district court, independent of any direction from the Supreme Court.

In short, section 137 does not mean that *only* the district courts may set case-assignment rules. It instead indicates that Congress intended to ensure that case assignment procedures be adopted. Congress directed district courts to do so in the first instance and gave the judicial council the duty to act if the district court did not. There is no persuasive reason to understand section 137 as taking priority over other provisions of federal law, including those that permit the Supreme Court to rule-make in this area *even if* the district has set case-assignment procedures pursuant to section 137. Nor does this interpretation read § 137(a) out of the federal code or render it superfluous. Section 137(a) sets an important, mandatory default—because, in fact, the Supreme Court has not yet promulgated rules and procedures in this area.

IV. Supersession: Section 2072(b) Permits the Supreme Court to "Clear the Field"

As explained above, a new Federal Rule governing case assignment would not conflict with section 137. Even if such a rule would conflict, however, the Supreme Court could still adopt a new rule in this area. Section 2072(b) provides that rules of practice and procedure adopted by the Supreme Court displace any conflicting provisions of law: "All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect."

Although it might at first blush seem surprising that rules may supersede a statute, section 2072(b) expressly provides for that result and mandates that "[w]here a Rule of Civil Procedure conflicts with a prior statute, the Rule prevails."[14] Section 2072(b) permitted the Supreme Court to clear the field when the Federal Rules of Civil Procedure were promulgated. Previously, courts were following any number of different local systems for procedure. To unify the federal courts under the Federal Rules, Congress needed to ensure that those Rules, as set forth by the Supreme Court, would supersede conflicting rules of procedure. Courts accommodate arguably overlapping Rules and statutes by reading them to avoid conflict where reasonably possible. But when there is irreconcilable conflict, section 2072(b) specifies that a lawful Rule prevails over a prior statute.[15]

It might be suggested that section 2072(b) was meant for one-time use only, at the initial inception of the Federal Rules. But this argument is unpersuasive for three reasons. First, by its plain terms section 2072(b) contains no expiration date. The text does not provide that the power to supersede conflicting rules is limited only to those rules in effect before the Federal Rules of Civil Procedure were promulgated in 1934. Second, consistent with this interpretation, Congress reenacted the supersession clause even after the House passed a bill that would have eliminated the clause on the grounds that its purpose had been fulfilled.[16] Third, courts' treatment of the

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[14] *Penfield Co. v. SEC*, 330 U.S. 585, 589 n.5 (1947).

[15] Congress could of course withdraw the Supreme Court's authority to act via rule on a particular subject or provide that certain statutes prevail over conflicting rules. Nothing in section 137, however, does so.

[16] Pub. L. No. 100-702, sec. 401(a), 102 Stat. 4642, 4648-49; *see* 131 Cong. Rec. 35,192 (Dec. 9, 1985) (House passage of bill that would have eliminated supersession clause); H.R. Rep. No. 99-422 at 16 (1985) (House

supersession clause also rebuts the argument that it has an implicit expiration date. At least twice, courts of appeals have held that the Rules superseded federal statutes whose enactment postdated the Rules Enabling Act.[17]

V. Proposals for Rulemaking

There are multiple options that the Advisory Committee could consider to address concerns about judge-shopping. Organizations such as the Brennan Center for Justice and the American Bar Association (ABA), have put forward reasonable proposals. We summarize some of those proposals here.

The Brennan Center has suggested assigning cases in districts with single-judge divisions by looking to the relief requested by the plaintiff. The motivation here is to address the apparent practice—discussed above—of requesting and receiving nationwide injunctions after filing in a single-judge division seemingly chosen because of the identity of the judge. Under this proposal:

> In cases where a plaintiff seeks injunctive or declaratory relief that may extend beyond the district in which the case is filed, districts shall use a random or blind assignment procedure to assign the case among the judges in that district.[18]

Another proposal by the Brennan Center addressing the same concern would require random assignment in cases where: (1) the plaintiff is seeking injunctive relief that would extend outside the district; and (2) at least one of the plaintiffs is a governmental entity or official, resides outside the division, or is a member organization that includes members residing outside the division.[19] This proposal appears focused on addressing instances like those discussed by Professor Vladeck—for example, when a state attorney general sues in a jurisdiction other than where the state capital is located, and instead brings its case in a single-judge division elsewhere in the state.

The ABA recently proposed solutions in a similar vein. Under the ABA proposal, where a case is filed in a single-judge district *and* a party objects within a designated number of days after service, that case would then be "randomly assigned to a judge at the district level without regard to the division in which the case was filed."[20]

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committee report arguing that the original purpose of the supersession clause had been fulfilled). The Senate declined to eliminate the clause, *see* 134 Cong. Rec. 31,052 (Oct. 14, 1988), and the final statute retained it.

[17] *See Halasa v. ITT Educ. Servs., Inc.*, 690 F. 3d 844, 850, 852 (7th Cir. 2012) (provisions in Rule 26(b)(4)(E) for cost-shifting of exert discovery superseded a 1959 revision to 28 U.S.C. § 1821 that limited payable fees for expert discovery witness); *United States v. Wilson*, 306 F.3d 231, 236-37 (5th Cir. 2002) (Rule 4(b) superseded 18 U.S.C. § 3731 as to notice of appeal deadline), *overruled on other grounds by United States v. Gould*, 364 F.3d 578, 586 (5th Cir. 2004).

[18] Brennan Center for Justice, "Submission of a Proposal to Adopt a Rule to Increase the Randomness of Civil Case Assignments," 23-CV-U (Sept. 1, 2023), at 4.

[19] *Id.*

[20] *Id.*

Judge-assignment mechanisms bearing some similarities to these, which tie together the assignment with the relief sought by the plaintiff, are already in place in some districts. The District of Nebraska randomly assigns cases across the district when the United States is the plaintiff and when the State of Nebraska, its agencies, or its employees are the defendants.[21] Similarly, the District of Maine randomly assigns cases across the district where the state is a plaintiff or defendant.[22]

Other districts ensure random cross-district assignment for certain types of cases. The Northern District of California randomly assigns patent, trademark, and copyright cases; securities class actions; and prisoner petitions and capital habeas corpus cases.[23] The District of Montana randomly assigns election cases.[24]

And still other districts randomly assign all cases regardless of the division filed, including the Northern District of New York and the Western District of Missouri, which are both large districts with many subdivisions.[25]

Any of these random-assignment formats could be adopted as national rules under the Rules Enabling Act. At this time, however, it is not necessary to reach a view as to what a future Rule should provide. The threshold question is whether a Rule would be useful and whether one could be adopted.

CONCLUSION

The Rules Enabling Act permits the Supreme Court to set the "general rules of practice and procedure" in the United States district courts. The Department respectfully suggests that the Advisory Committee act pursuant to this authority to adopt case assignment procedures that would address concerns about the appearance of judge-shopping in divisions with only one or two district judges.

Sincerely,

BRIAN BOYNTON Digitally signed by BRIAN BOYNTON
Date: 2023.12.21 14:15:40 -05'00'

Brian M. Boynton
Principal Deputy Assistant Attorney General

[21] *Id.*

[22] Brennan Center, at 5.

[23] *Id.*

[24] *Id.*

[25] *Id.*

APPENDIX

Exhibit A

Suits by Plaintiff Texas vs. the Federal Government in Texas Federal Courts

#	Case Name	Docket	Filed	District (Division)	Judge	Odds of drawing judge	Issue
1	Texas v. United States	6:21-cv-00003	1/22/2021	S.D. Tex. (Victoria)	Tipton	100%	Deportation pause
2	Texas v. Biden	3:21-cv-00065	3/17/2021	S.D. Tex. (Galveston)	Brown	100%	XL Pipeline
3.	Texas v. United States	6:21-cv-00016	4/6/2021	S.D. Tex. (Victoria)	Tipton	100%	Immigration Enforcement Priorities
4.	Texas v. Biden	2:21-cv-00067	4/13/2021	N.D. Tex. (Amarillo)	Kacsmaryk	95%	Suspension of Migrant Protection Protocols
5.	Texas v. Biden	4:21-cv-00579	4/22/2021	N.D. Tex. (Fort Worth)	Pittman	45%	Title 42 / COVID
6.	Texas v. Yellen	2:21-cv-00079	5/3/2021	N.D. Tex. (Amarillo)	Kacsmaryk	95%	ARPA Funding
7.	Texas v. Brooks-Lasure	6:21-cv-00191	5/14/2021	E.D. Tex. (Tyler)	Barker	50	Medicaid Demonstration Project
8.	Texas v. EEOC	2:21-cv-00194	9/20/2021	N.D. Tex. (Amarillo)	Kacsmaryk	95	EEOC Gender Identity Protection
9.	Missouri v. Biden	6:21-cv-00052	10/21/2021	S.D. Tex. (Victoria)	Tipton	100	Border Wall
10.	Texas v. Biden	3:21-cv-00309	10/29/2021	S.D. Tex. (Galveston)	Brown	100	Contractor Vaccine Mandate
11.	Texas v. Becerra	2:21-cv-00229	11/15/2021	N.D. Tex. (Amarillo)	Kacsmaryk	95	CMS Vaccine Mandate
12.	Texas v. Becerra	5:21-cv-00300	12/10/2021	N.D. Tex (Lubbock)	Hendrix	64	Head Start Vaccine Mandate
13.	Abbott v. Biden	6:22-cv-00003	1/4/2022	E.D. Tex. (Tyler)	Barker	50	COVID Mandate for National Guard
14.	Texas v. Biden	2:22-cv-00014	1/28/2022	N.D. Tex. (Amarillo)	Lynn*	5	Central American Minors Program
15.	Texas v. Biden	6:22-cv-00004	2/10/2022	S.D. Tex. (Victoria)	Tipton	100	Minimum Wage for Contractors
16.	Van Duyne v. CDC	4:22-cv-00012	2/16/2022	N.D. Tex. (Fort Worth)	O'Connor	45	Airline Mask Mandate
17.	Paxton v. Richardson	4:22-cv-00143	2/24/2022	N.D. Tex. (Fort Worth)	Pittman	45	Firearms Suppressors
18.	Texas v. Walensky	6:22-cv-00013	4/22/2022	S.D. Tex. (Victoria)	Tipton	100	Title 42 / COVID
19.	Texas v. Mayorkas	2:22-cv-00094	4/28/2022	N.D. Tex. (Amarillo)	Kacsmaryk	95	Credible Fear Screening
20.	Texas v. Becerra	5:22-cv-00185	7/14/2022	N.D. Tex (Lubbock)	Hendrix	64	Post-*Dobbs* Abortion Guidance
21.	Texas v. Becerra	3:22-cv-00419	12/12/2022	S.D. Tex. (Galveston)	Brown	100	Religiously Affiliated Adoptions
22.	Texas v. Mayorkas	6:23-cv-00001	1/5/2023	S.D. Tex. (Victoria)	Tipton	100	Public Charge Rule
23.	Texas v. EPA	3:23-cv-00017	1/18/2023	S.D. Tex. (Galveston)	Brown	100	New Clean Water Act Rules
24.	Texas v. HHS	4:23-cv-00066	1/18/2023	N.D. Tex. (Fort Worth)	Means	10	Medicare Funding/ Abortions
25.	Texas v. DHS	6:23-cv-00007	1/24/2023	S.D. Tex. (Victoria)	Tipton	100	Immigration Parole
26.	Utah v. Walsh	2:23-cv-00016	1/26/2023	N.D. Tex. (Amarillo)	Kacsmaryk	100	Pension Trust Asset Investments
27.	Texas v. Becerra	7:23-cv-00022	2/7/2023	W.D. Tex. (Midland)	Counts	100	Medicare & Medicaid Pharmacies/ Abortion
28.	Texas v. Garland	5:23-cv-00034	2/15/2023	N.D. Tex (Lubbock)	Hendrix	67	Quorum Clause/Proxy Voting in House

Total by Division/Judge

Victoria (Tipton):	7
Amarillo (Kascmaryk):	6
Galveston (Brown):	4
Lubbock (Hendrix):	3
Tyler (Barker):	2
Fort Worth (Pittman)	2
Fort Worth (O'Connor)	1
Fort Worth (Means)	1
Amarillo (Lynn)	1
Midland (Counts)	1

* -- Only after drawing Chief Judge Lynn (a 5% chance at the time, but no longer possible), Texas moved to designate the case as related to another case pending before Judge Kacsmaryk Chief Judge Lynn denied the motion and transferred the case to Dallas.

Gray: Division in which one judge hears 60% or more of all cases

Exhibit B

Texas Federal District Court Divisions By District

District	Division	Judges Hearing New Civil Cases
Eastern District	Beaumont	3 (Truncale: 50%)
	Lufkin	1 (Truncale: 100%)
	Marshall	2 (Gilstrap: 90%)
	Sherman	2 (Mazzant/Jordan: 50%)
	Texarkana	2 (Schroeder: 90%)
	Tyler	2 (Barker/Kernodle: 50%)
Northern District	Abilene	2 (Hendrix: 67%)
	Amarillo	1 (Kacsmaryk: 100%)
	Dallas	11 (6 Judges: 10%)
	Fort Worth	3 (Pittman/O'Connor: 45%)
	Lubbock	2 (Hendrix: 67%)
	San Angelo	2 (Hendrix: 67%)
	Wichita Falls	1 (O'Connor: 100%)
Southern District	Brownsville	2 (Olvera/Rodriguez: 50%)
	Corpus Christi	2 (Morales/Ramos: 50.0%)
	Galveston	1 (Brown: 100%)
	Houston	10 (6 Judges: 12.42%)
	Laredo	2 (Marmolejo/ Saldana: 50%)
	McAllen	3 (Alvarez/Crane/Hinojosa: 33.3%)
	Victoria	2 (Morales/Ramos: 50.0%)
Western District	Austin	2 (Pitman/Yeakel: 50%)
	Del Rio	1 (Moses: 100%)
	El Paso	4 (Cardone/Guaderrama: 37%)
	Midland-Odessa	1 (Counts: 100%)
	Pecos	1 (Counts: 100%)
	San Antonio	4 (Biery/Garcia/Pulliam/Rodriguez: 25%)
	Waco	1 (Albright: 100% of non-patent cases)

Blue—Divisions in which one judge hears 90% or more of new civil cases

Gray—Divisions in which no judge hears more than 50% of new civil cases

*The parenthetical identifies the judge or judges who hear the highest percentage of new civil cases and the total percentage of new civil cases assigned to them as of February 2023, following the most recent amendments to relevant division of work orders