

April 5, 2024

The Honorable Robin L. Rosenberg
Chair, Advisory Committee on Civil Rules
Judicial Conference of the United States
One Columbus Circle, NE
Washington, D.C. 20544

Re: Random Case Assignment - 23-CV-U

Dear Judge Rosenberg,

Thank you, first, for the thoughtful and careful consideration that you and the Committee have given thus far to our suggestion that the Judicial Conference amend the Federal Rules of Civil Procedure to provide a floor for the application of random case assignment principles in cases with effects beyond the local area in which a case is brought. As we noted in our proposal, it is critical for the rules to protect the impartiality of the federal judiciary against judge-shopping while preserving other important values like access to justice everywhere in the country. We continue to believe, as we outlined and as the Justice Department agreed, that judge-shopping has reached a level that threatens both the perceived and the actual fairness of the judiciary, and that the Judicial Conference both has the legal authority and is best situated to address this crisis through a binding rule.

We were glad to see the Judicial Conference recently release a policy advising district courts around the country to consider and take action to address this issue within their local procedures; as Judge Conrad [noted](#), random case assignment “promotes the impartiality of proceedings and bolsters public confidence in the federal Judiciary.” As Chief Judge Sutton further [explained](#), the recent proliferation of cases seeking nationwide injunctions makes addressing the issue in such cases even more critical, because “obviously, the stakes of the case go beyond that small town or that division.” However, the recent policy does not obviate the need for an amendment to the Federal Rules; indeed, one of the districts that is a major source of concern regarding the proliferation of judge-shopping, the Northern District of Texas, has already [declined](#) to make any changes in response to the policy.

In light of these developments, we write to strongly encourage the Committee to continue actively working on this issue. Amending the Federal Rules of Civil Procedure is a

process that is done only with time and care – appropriately so. The Conference’s adoption of its recent policy, then, is a useful stopgap measure; and further, the various courts’ consideration of the issue at the prompting of the new policy can inform the Rules Committee’s consideration of this issue as the rulemaking process moves forward. Indeed, it might consider adopting the recent policy as a new Rule. But, given the importance of the issue and the initial reaction to the policy’s adoption, we believe it would be unwise for the Committee to stop its work on and consideration of the issue. This is time the federal judiciary cannot afford to lose if it wishes to address this key challenge to judicial integrity effectively.

Thank you again for your consideration.

A handwritten signature in black ink, appearing to read 'A. Shanor', with a stylized flourish at the end.

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