

United States Senate

WASHINGTON, DC 20510

March 29, 2024

The Honorable Bob Conrad
Secretary of the Judicial Conference
One Columbus Circle, NE
Washington, D.C. 20544

Dear Secretary Conrad:

We write to you today to applaud the Judicial Conference's new policy on judge shopping, which requires judges to be assigned through a district-wide random selection process in civil actions that seek to bar or mandate state or federal laws on a statewide or nationwide basis.¹ This follows a letter from members of our caucus dated July 10, 2023, which urged the Judicial Conference to craft new policies on judge shopping to promote fairness in our courts.²

Congress requires the Judicial Conference to create policies for our courts that "promote uniformity of management procedures,"³ and this issue is a quintessential example. In nearly every judicial district, local rules require cases to be assigned among all of the judges serving in the district according to a random selection process. However, in a few districts with single-judge divisions, plaintiffs can effectively choose the judge who will hear their case due to local court rules governing how matters are assigned. As a result, some plaintiffs are able to guarantee that their claims will be heard before a specific judge whereas others are left to chance, and this inconsistency undermines Americans' faith in our judicial system.

This judge-shopping tactic is more pernicious than it might appear. Even though there are only a few courts subject to this issue, single district judges can issue rulings that thwart congressional statutes and stymie agency actions on a nationwide basis. That means certain plaintiffs are motivated to file their cases in divisions where they know the judge hearing the case is aligned with their goals. For example, the FDA's approval of mifepristone impacts patients nationwide. A challenge to its approval could have been brought in any district court in the nation,⁴ but it is no coincidence that the Alliance Defending Freedom filed suit in the Northern District's Amarillo Division. The plaintiffs knew they had an ally in Judge Matthew Kacsmaryk, and they knew that this one judge in Texas was inclined to bring down an agency action affecting the entire nation.

The anti-democratic practice of judge shopping erodes the rule of law and the public's trust in the judiciary. Your new policy rebalances our court system and will help to restore Americans' confidence in judicial rulings. We encourage you to defend it as courts across the country implement it.

¹ United States Courts, "Conference Acts to Promote Random Case Assignment," press release, March 12, 2024, <https://www.uscourts.gov/news/2024/03/12/conference-acts-promote-random-case-assignment>.

² Letter to the Judicial Conference, July 10, 2023, https://www.democrats.senate.gov/imo/media/doc/071023_-_letter_to_judicial_conference_re_single-judge_divisions_-_schumerpdf.pdf.

³ 28 U.S.C. 331.

⁴ We believe such a challenge was never proper in the first place given that the statute of limitations had passed.

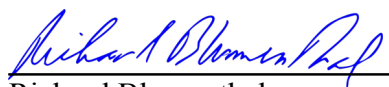
Sincerely,



Charles E. Schumer
United States Senator



Mazie K. Hirono
United States Senator



Richard Blumenthal
United States Senator



Raphael Warnock
United States Senator



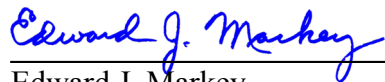
Elizabeth Warren
United States Senator



Peter Welch
United States Senator



Martin Heinrich
United States Senator



Edward J. Markey
United States Senator



Cory A. Booker
United States Senator