

**United States Senate**  
WASHINGTON, DC 20510

March 14, 2024

Chief Judge David C. Godbey  
U.S. District Court for the Northern District of Texas  
1100 Commerce Street  
Dallas, TX 75242

Dear Chief Judge Godbey:

As you are no doubt aware, the Judicial Conference of the United States recently enacted a policy regarding the assignment of cases in district courts. That policy—developed at the urging of Senator Chuck Schumer<sup>1</sup>—purports to instruct district courts to “apply district-wide assignment” to cases that seek to enforce or invalidate state or federal law, broadly construed, “whether by declaratory judgement and/or [sic] any form of injunctive relief.”

The assignment of cases within district courts is governed by federal statute.<sup>2</sup> That statute says in pertinent part, “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.” That’s it. It neither prohibits nor encourages district-wide assignment of cases and leaves the issue to the individual district courts to sort out according to their rules and procedures. As the Judicial Conference notes in its report there was an effort led by the late Sen. Arlen Specter to amend 28 U.S.C. §137(a) in order to specify how such cases should be assigned in order to require random assignment.<sup>3</sup> But importantly (1) this bill did not pass, and (2) this bill implies that random assignment is *not* mandatory under the relevant statute absent further legislation.

The Administrative Office of U.S. Courts agreed with this position in a letter to Senators Cornyn and Cruz. As then-Director Judge Mauskopf observed, “As the Conference gives further study to this complex issue, we will consider whether we may have *legislative suggestions* to propose. At present, the Conference has no recommendations *for Congress to consider* in this area.”<sup>4</sup>

To state the obvious, Judicial Conference policy is not legislation. It is Congress that decides how cases should be assigned in the inferior courts and Congress has already spoken on this issue in an enacted statute: Congress gave that power to the individual district courts. Whatever the Judicial Conference thinks you ought to do, what you actually choose to do is left to your court’s discretion under the law.

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<sup>1</sup> Abbie VanSickle, *Schumer Asks Judicial Policymakers to End Single-Judge Divisions in Texas*, N.Y. TIMES, July 11, 2023, <https://www.nytimes.com/2023/07/11/us/politics/schumer-judge-selection-texas.html>.

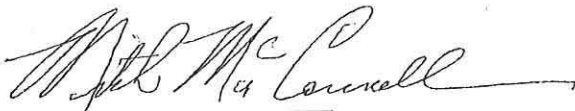
<sup>2</sup> 28 U.S.C. §137(a).

<sup>3</sup> S. 1484, 106th Congress (1999).

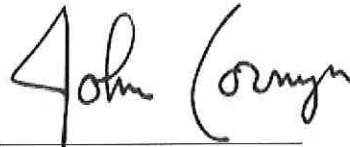
<sup>4</sup> Letter from Roslynn R. Mauskopf, Director, Administrative Office of U.S. Courts, to John Cornyn & Ted Cruz, U.S. Senators (July 31, 2023) (emphasis added).

To be clear, we have no particular knowledge of how you currently comply with 28 U.S.C. §137(a). It's not our place to opine on how you should best manage the caseload of your court. Neither is it Senator Schumer's place, for that matter. It is *your* job to manage the caseload of your court according to the dictates of local circumstances and convention. We therefore hope and expect that you will continue to do what is in the interest of justice for litigants in your jurisdiction without regard to partisan battles in Washington, D.C. If at any time current law is insufficient to meet the needs of justice, you can be assured that Congress—and not the Judicial Conference—will make the relevant changes.

Sincerely,

A handwritten signature in black ink, reading "Mitch McConnell". The signature is fluid and cursive, with the first name "Mitch" and last name "McConnell" clearly legible.

Mitch McConnell  
U.S. Senator

A handwritten signature in black ink, reading "John Cornyn". The signature is fluid and cursive, with the first name "John" and last name "Cornyn" clearly legible.

John Cornyn  
U.S. Senator

A handwritten signature in blue ink, reading "Thom Tillis". The signature is fluid and cursive, with the first name "Thom" and last name "Tillis" clearly legible.

Thom Tillis  
U.S. Senator