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**Friday
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Judge Reform

Eliminate Visiting Judges

Legal Reform Now! is working to make our legal system totally transparent so aware and aroused Americans will bring about progressive reform.

Not elected—not accountable

In Texas the constitution requires judges to be elected. As well as in twenty-nine other states. But visiting judges—or assigned judges as they are otherwise known—are not elected. Yet they serve as judges—apparently because judges can themselves make the law what they want it to be. At least where their own ease and convenience is the subject.

Even those who have been defeated in the previous election may in Texas serve as visiting judges. Often in districts where they have never appeared on the ballot.

It seems that when a judge is defeated yet comes back to hear cases it defeats the philosophy of allowing the public to elect judges". "In effect the judges are bulletproof."

Long-time former Harris County (Houston) District Attorney Johnny Holmes

Despite this visiting judges have had a sweet deal in Texas—at least until budget cuts.

They make about \$400.00 per day in salary which is paid by the state. And they need

only work one day a month to receive retirement credit for the entire month. And their per diems are substantial. One analysis is instructive:

[an] open-records request forced the county auditor to compile the expenses of visiting judges over the past five years. . . According to a computer analysis ordered by courts administrator Jack Thompson, Harris County [Houston] spent \$846,365 during that time for transportation, hotel and meals and a per diem for the jurists. That doesn't include their salaries, which are paid by the state.

The champion of expenses during that period is Mexia's Putnam K. Reiter, a more-or-less non elected full-time judge of the special asset forfeiture court. He charged \$112,727 from 1995 through this year."

Mexia is 165 miles from Houston. And this judge no doubt drives past a lot of other retired Harris County judges to get to Houston.

From the visiting judge's viewpoint his customers are the law firms and the lawyers with whom he has a relationship—not the public who he is ostensibly serving. When one considers this one is not surprised by their behavior—only surprised that their employment which is unconstitutional in Texas is allowed in the first place.

Sitting judges use assigned judges as a gaming device.

A favorite use of visiting judges is when a sitting judge has a case before him where the plaintiff and the defendant are each represented by large law firms who have in the past each contributed substantially to his campaign. The sitting judge simply arranges his docket so that he is handling another case when that case in question comes up. He then allows a visiting judge to be used in his place so as to avoid alienating either side. The money then continues to roll in—from **both** sides.

The sitting judge follows the same plan of using visiting judges to make rulings in controversial or politically sensitive cases, so the elected judges won't have to suffer the fallout from voters or influential sides in the litigation.

(George Flynn Houston Press 6-19-03 p.19)

Still another use is for a sitting judge up for election is to staff his court with visiting judges while he or she is on the campaign trail. While touting their own work in reducing dockets!

Large law firms use assigned judges as a gaming device.

Large law firms use their regular and continuing relationship with the small number of regular visiting judges to cause themselves to be favored in the process. The economics are understandable: the visiting judges are more popular and receive greater preference with these firms if they give them favorable results; less preference if they do not. They retain their popularity by giving preference on allowing hearings on a matter, less strict discovery rules, the timing of trials, etc. Or they can give more direct and less ethical preferences.

And make no mistake about it these law firms have other ways to get the judges they want in a case. By managing the subject matter they can influence the case scheduler—even if honest—in the name of efficiency to schedule the case with a visiting judge whose specialty is handling cases of that sort.

Eliminate Assigned Judges

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