



UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

515 RUSK AVENUE, STE. 4636

HOUSTON, TEXAS 77002

CHAMBERS OF

MARVIN ISGUR.

UNITED STATES BANKRUPTCY JUDGE

August 25, 2025

William L. Osteen, Jr.

Chair of the Committee on the Administration of the Bankruptcy System
of the Judicial Conference of the United States
Washington, D.C. 20544

Dear Judge Osteen:

After working so closely with your Committee in recent years, I was disappointed that the Committee decided to adopt guidance primarily directed at the Southern District of Texas without contacting our Court. I do not know whether your guidance would have changed, but I suspect that there is information that we could have provided to your Committee that should have been considered.

When an issue arose with respect to patent cases assignments, CACM reached out to that District and reached amicable and productive reforms supported by all concerned. I wish that you and CACM (in consultation with your Committee) had taken similar action here.

The outcome of the patent issue was guidance that culminated in the following statement: ***“Regardless of where a case is filed, avoid case assignment practices that result in the likelihood that a case will be assigned to a particular judge, absent a determination that proceeding in a particular geographic location is appropriate.”*** Although that policy statement did not apply to Bankruptcy cases, our District follows that guidance in the assignment of complex bankruptcy cases. A random number generator assures that no judge has a greater than 50% probability of being assigned a particular case. I am not aware of any other District that assigns any cases with a random number generator.

The New Bankruptcy Guidance

Your bankruptcy guidance states that you are not addressing geographical and divisional issues. Bankruptcy guidance to our District without addressing those key questions is not helpful. They are issues that we constantly address.

Our District covers 44,000 square miles, 43 counties and 10,000,000 people. Our size dwarfs other Districts that handle large volumes of chapter 11 cases. Delaware has 2,489 square miles. SDNY has 3,535 square miles. It is literally true that one size will not fit all Districts.

We started with a system where cases filed in a division were assigned to the divisional judges. Six of our seven divisions are single judge divisions. Those are Brownsville, Laredo, Victoria, Galveston, Corpus Christi and McAllen. Before we changed to a system that eliminated single-judge assignments for complex cases, we were having very large cases filed in single-judge divisions. This process allowed debtors to pick the single judge to whom the case was assigned. We stopped that system. If we reinstitute that system as a consequence of your guidance, companies could choose to file in Galveston to be assigned to Judge Perez; in Victoria to be assigned to Judge Lopez; in Corpus Christi to be assigned to me; in Laredo to be assigned to Judge Norman or in Brownsville or McAllen to be assigned to Chief Judge Rodriguez.

Single judge forum shopping on a divisional basis is not a viable option for us.

However, if we unify our assignments in the manner that you suggest, lawyers and business owners in Laredo would have to travel 350 miles to have a hearing if the case is assigned to a Houston Judge. A Brownsville business owner would also have to drive 350 miles. A McAllen business owner would have to drive the same distance. The distance would affect the business owners, their lawyers and their creditors. Corpus Christi is a bit closer, with a drive of only 200 miles; the distance from Victoria is only 127 miles; Galveston is a mere 51 miles. The possibility of extensive travel impositions on litigants is not inconsequential. 80% of our judges have their home offices in Houston, so 80% of all chapter 11 divisional litigants would be required to travel long distances. Additionally, 20% of the cases filed in Houston would be assigned to a judge who offices in McAllen. Those Houston debtors, and their lawyers and creditors, would be required to trek 350 miles to McAllen for their hearings.

This issue will affect real people, real businesses and real creditors. We currently have 19 open chapter 11 cases in Corpus Christi, 9 open chapter 11 cases in Laredo; 7 open chapter 11 cases in Brownsville; 19 open chapter 11 cases in Galveston; 5 open chapter 11 cases in McAllen; and 28 open chapter 11 cases in Victoria. There is

almost no chance that our District would decide that those people should be assigned randomly throughout the District.

My personal view is that we should not have just two or three venues that predominate for large chapter 11 cases. Please see more detailed comments below.

Your Committee's guidance could leave an objective observer with the view that your Committee prefers a world where over 75% of all bankruptcy cases are filed in the Southern District of New York or the District of Delaware. For many years, that is where the bankruptcy world was before we improved our case handling procedures.

Your guidance states that we should all be generalists. I note that in Delaware, a single judge handles all chapter 13 cases. In New York, the rule provides that "The Judges may direct that chapter 13 cases be referred to the same Judge or Judges." Why does your "generalist" statement not apply with equal force to chapter 13 cases? Actually, for good reason. Those Courts are addressing their needs as their own local conditions dictate. Our geography dictates that all five of our judges share in chapter 13 cases. For example, I am currently assigned 2,198 chapter 13 cases. It has long been my view that the most important work bankruptcy judges do is in chapter 13 cases. I am quite proud of the fact that I have consistently handled over 2,000 chapter 13 cases throughout my career.

Taking all factors into account, our Judges unanimously consented to adopt fair, legal and reasonable rules for handling complex cases. Since our initial decision, we have added Judge Lopez. He supports continuance of the present system. We also added Judge Perez. He supports continuance the present system. Indeed, our two newest judges are now assigned complex cases. This is not a system designed to entrench senior judges. Seven judges, informed of our local conditions, have each properly applied the statutory requirements.

I have had the honor of observing Judge Lopez's and Judge Perez's integrity, devotion and excellence in handling these cases. I have no intention of allowing their integrity to be challenged by ill-considered guidance.

I urge you to reconsider your guidance to try to achieve the goal of making ***every*** bankruptcy court a great venue for the filing of chapter 11 cases.

Addressing the Real Concerns

Judge shopping concerns in bankruptcy cases are not new. They started many years ago when Delaware had a single bankruptcy judge. For decades, large bankruptcy cases were predominantly filed in the Southern District of New York and in

Delaware. That system was heavily criticized as concentrating cases in just two jurisdictions.

Perhaps the most famous critique of the system was Professor LoPucki's book, "Courting Failure". His publisher summarizes his allegations as "A sobering chronicle of our broken bankruptcy-court system, *Courting Failure* exposes yet another American institution corrupted by greed, avarice, and the thirst for power." The book was published in 2006, long before our District became a significant venue for large cases. Professor LoPucki's database showed that over 50% of large cases were filed in those two jurisdictions for the period 1980 through 2006. In the five years following his book, 67% of all large cases were filed in those two jurisdictions. From 2011-2015, 75% of all large cases were filed in those two jurisdictions.

At that point, the Southern District of Texas was the third most frequent venue, with 5.2% of all cases. Professor LoPucki's database stopped collecting data in 2022. Between 2016 and 2022, the concentration of cases was in three jurisdictions, not two. 84.8% of all cases were filed in just three jurisdictions. The Southern District of Texas was the venue for 33.7% of cases.

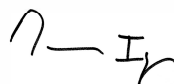
Although data is less precise since the termination of the LoPucki database, anecdotally it seems that there has been some increase in the dispersion of extremely large cases to other districts around the country. My perception is that concentration in the three venues has fallen, but that the three venues still account for over 75% of all large case filings.

From an historic perspective, we should be addressing how to avoid the concentration of cases in 2 or 3 or 4 venues. This could and should occur with legislative change that would create a mandatory dispersion of cases to bankruptcy judges around the United States. I am happy to discuss structural changes that would accomplish this goal. Although the structural changes will be challenging, they could solve (rather than exacerbate) the problem.

Conclusion

I hope that your Committee will consider productive ways to address this national issue. Harming the businesses and citizens in the Southern District of Texas will make the actual problem worse. I hope that we can work together to find a good solution.

Respectfully,

A handwritten signature in black ink, appearing to read "M. Isgur".

Marvin Isgur

- c. Director Robert J. Conrad, Jr.
Chief Judge Jennifer Elrod
Chief Judge Randy Crane
Chief Judge Eduardo Rodriguez
Bankruptcy Judge Jeff Norman
Bankruptcy Judge Chris Lopez
Bankruptcy Judge Alfredo Perez