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 - **Who is Lawyer Alexis Susan Coll-Very?**
 - **Who is Laura Stock Craven?**
 - **Who is Thomas M. Hefferon?**
 - **Who is Matthew S. Sheldon?**
 - **Who is Sabrina Rose-Smith?**
 - **Who is Laura A. Stoll?**
- **Bounty Hunters**
 - **Special Report on Michael F. Hord, Jr. of Hirsch Westheimer**
- **ROBBERS**
 - **CA5 and CA11 Whiteout Opinions**
 - **ClerkGate Corruption Scandal**
 - **CA11 Intervenor Appeal**
 - **Outlaws In Robes**
 - **Outlaws In Robes (FL) and (GA)**
 - **Outlaws In Robes (TX)**
 - **Is Texas Attorney General Ken Paxton a Criminal?**
- **SALOONS**
 - **DC Bar**
 - **Florida Bar**
 - **Texas Bar**
 - **Texas Bar Journal 2021**
 - **Texas Bar Journal 2020**
 - **Virginia State Bar**
- **MOVIES**
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Appellate Judges Corrupt Federal Judges are Now Handing Cases to Judicial Colleagues to Affirm

After LIT exposed the failure of corrupt federal judges to disclose their financial conflicts and recuse from cases, WSJ took up the torch.

By **justicefortexas**

Posted on October 24, 2021

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Dozens of Federal Judges Had Financial Conflicts: What You Need to Know

A Wall Street Journal investigation finds 131 federal judges unlawfully ruled in cases involving companies in which they or their families held shares

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A Wall Street Journal investigation found that federal judges around the nation have violated U.S. law and judicial ethics by overseeing nearly 700 court cases involving companies in which they or their family owned stock.

As a result of the Journal's reporting, judges in more than 300 cases have notified courts that they presided in the lawsuits improperly and that the cases are eligible to be reopened.

How many judges broke the law?

In the most expansive investigation of judicial stockholdings in the U.S., the Journal revealed that 131 federal judges improperly heard 685 court cases between 2010 and 2018 in which they or their family members owned shares of companies that were plaintiffs or defendants in the litigation. Two of the judges sat on appellate courts; the other 129 were district judges, also called trial judges. The Journal's review examined civil cases.

About two-thirds of federal district judges disclosed holdings of individual stocks, and nearly one of every five of those who did improperly heard at least one case involving a company in which they or their families owned a stake.

Nothing bars judges from owning stocks, but a 1974 federal law prohibits any "ownership of a legal or equitable interest, however small," in a party to a case before a judge. That law and the Judicial Conference of the U.S., the federal courts' policy-making body, require judges to avoid even the appearance of a conflict.

The ban on holding even a single share of a company while presiding in a case involving the firm means judges must be vigilant about their assets, including informing themselves about stockholdings of spouses and minor children.

The Judicial Conference requires courts to use conflict-checking computer software to help identify cases where judges should bow out. Judges needn't disqualify themselves from cases involving banks where they have mortgages or checking or savings accounts, nor do they need to recuse because of any mutual-fund holdings.

How pervasive is the problem?

The Journal found judges failing to disqualify themselves as required in every region of the country. They included judges appointed by nearly every president from Lyndon Johnson to Donald Trump.

When there were contested motions in cases involving companies the judges had a financial stake in, two out of three of their rulings on the motions were in favor of those companies.

Dozens of judges or their families not only owned shares in companies in their courtrooms but reported that they or their brokers traded the shares while the judges

were presiding in the cases.

Legal experts said the activity the Journal found amounts to a pervasive disregard for the judicial conflict-of-interest laws. Indiana University Law Professor Charles Geyh said that, in isolation, a violation could be viewed as an oversight. But the Journal's overall findings raise "a more systemic problem of judges chronically neglecting their duty to disqualify in such cases."

How did The WSJ do it?

The Journal reviewed hundreds of financial disclosure forms filed annually from 2010 to 2018 with the Administrative Office of the U.S. Courts. The forms, filed by federal trial and appellate judges, aren't online. The Journal used the courts' data as obtained and digitized by the Free Law Project, a nonpartisan legal-research nonprofit.

Then the Journal compared judges' stockholdings to tens of thousands of court dockets, finding 685 violations. Scholars who reviewed the Journal's analysis said its methodology was sound.

The Free Law Project has posted its database of more than 250,000 pages of judges' financial disclosures drawn from over 26,000 electronic files. The group requested the files from the federal judiciary beginning in 2017 and has been gathering them since then.

What have judges said?

Judges offered a variety of explanations for the violations. Some blamed court clerks. Some said their lists of companies to avoid had misspellings that foiled the conflict-screening software. Some said they had only nominal roles in the cases, such as confirming settlements, though there is no legal exemption for such roles.

Some judges misunderstood the law, saying erroneously that they didn't have to recuse themselves because their stock was held in accounts run by professional money managers.

One judge who had 36 recusal violations, after initially saying he "never really paid much attention" to his stockholdings and wasn't familiar with the ethics law, told the Journal: "I am embarrassed that I did not properly understand and apply the stock ownership rule."

The Administrative Office of the U.S. Courts in October warned judges in a memo they are required to keep informed about their finances and maintain timely lists of parties that are off limits.

Judge Roslynn Mauskopf, director of the office, wrote that judges may not rely on accounts managed by financial advisers to avoid their recusal obligations. "Up-to-date recusal lists are the most effective tool for conflict screening," she wrote.

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— LawsInTexas (@lawsintexasusa) **August 4, 2021**

What has been the fallout?

After being alerted to violations by the Journal, 65 judges have directed court clerks as of Oct. 15 to notify parties in 371 lawsuits that they should have disqualified themselves and that cases could be reassigned and reopened.

One of those cases in a New York federal court involved Exxon Mobil Corp. Lawyers for the losing party, TIG Insurance Co., sought to have Judge Edgardo Ramos's rulings in favor of Exxon wiped out after learning from the court clerk that the judge held stock in Exxon during the case.

A new federal judge assigned to the case denied TIG's request in an October ruling, saying she concurred with Judge Ramos's "thorough analysis and reasoning, and each of his orders." The case is on appeal.

In another case, in an Alabama federal court, a judge ruled against two homeowners in a foreclosure case against Wells Fargo & Co. The judge had bought Wells Fargo stock about two weeks after receiving the case.

"This is outrageous," one of the homeowners said when told the judge held the bank shares. "How am I supposed to know she owns stock in Wells Fargo?"

The homeowners asked the court to reopen the case. The court has assigned a new judge to their suit. The court clerk said the judge's stockholding didn't affect her decisions in the case.

Has there been any government response?

In response to the Journal articles, **lawmakers are proposing** far-reaching changes. A bill being drafted by House Judiciary Chairman Jerrold Nadler (D., N.Y.) and Rep. Hank Johnson (D., Ga.), would require judges to report financial transactions, such as stock trades, within 90 days, a congressional aide said.

Judges would also have to post their financial disclosures in a searchable database, and there would be civil penalties for recusal violations. The committee plans a hearing in October, the aide said.

In **an October letter** to Chief Justice John Roberts, who heads the judiciary, Sen. Elizabeth Warren (D., Mass.) and Rep. Pramila Jayapal (D., Wash.) asked for information related to the Journal's "Hidden Interests" series. They said they were proposing legislation that would impose civil sanctions for recusal violations and a ban on judges "owning individual stocks, radically reducing the likelihood of conflicts of interest without the need for recusal proceedings."

What can you do in your case?

If a judge notifies a court clerk of a recusal violation, parties have the option to ask the court to rehear the case with a different judge.

If you have a pending case involving a company, you can ask your lawyer to contact the Administrative Office of the U.S. Courts for the latest financial disclosure forms of the judge to determine whether he or she has any conflicts or violations. But disclosures are filed only annually.

If anyone requests to see judges' financial disclosures, the judges are told who asked. Some lawyers say this creates a disincentive for them to ask, out of concern about annoying judges in whose courtrooms they frequently appear.

Credit: WSJ

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To Top