

## ORIGINAL ARTICLE OPEN ACCESS

# Rules for Thee, Not for Me: Mass Attitudes on Judge Shopping

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## ABSTRACT

**Objective:** The goal of this project is to understand if the practice of judge shopping—strategically filing federal lawsuits to increase the likelihood of a favorable judge—raises concerns about fair judicial procedures. We examine how this practice reflects a broader loyalty-fairness trade-off in public evaluations of legal institutions, and the potential venues for this practice.

**Method:** We conduct a unique preregistered survey experiment to understand the public's reactions to this practice. We also identify geographic opportunities for judge shopping based off of the presence of single-judge divisions.

**Results:** We find that the public broadly dislikes judge shopping: it increases support for reform, perceptions of politicization, and perceived threats to rights. However, reactions depend on partisan context. When the out-party engages in judge shopping, respondents find it unfair and political; when the in-party does so, fairness concerns recede. Also, prior to *Trump v. CASA* (2025), liberals and conservatives had relatively equal access to single-judge divisions, which provides context for public attitudes.

**Conclusion:** Overall, our results show that even nonjudicial behavior shapes court perceptions, and fairness concerns are applied instrumentally.

## 1 | Introduction

In April 2023, US District Judge Matthew Kacsmaryk of Texas suspended the FDA's decades-old approval of mifepristone, a drug used for medically induced abortions. Beyond the obvious implications of suspending such a drug in post-*Roe* America, the decision drew controversy for another reason: Kacsmaryk, a Trump appointee, is the only judge in the Amarillo division of the Northern District of Texas. By filing there, litigants guaranteed that Kacsmaryk—a former employee of the socially conservative, antiabortion First Liberty Institute—would hear the case. Unsurprisingly, he ruled in their favor and issued an injunction to pause the drug's approval. While *Alliance for Hippocratic Medicine v. FDA* made headlines for its legal stakes, it also drew attention as a blatant example of “judge shopping on steroids” (Raymond 2023).

Minutes later, US District Judge Thomas O. Rice lifted FDA-imposed restrictions on mifepristone that exceeded typical prescription drug protocols (McCammon, 2024). This case, brought by 17 Democratic state attorneys general (AGs), was filed in the Eastern District of Washington, Spokane division—despite other filing options. Spokane is neither the state capital nor the largest city, but its active judges were all nominated by Obama or Biden, including Rice.<sup>1</sup> Like the Texas litigants, the AGs received a favorable ruling—one that generated a circuit split and prompted the Supreme Court to stay Kacsmaryk's nationwide injunction.

Although the Supreme Court ended the most common type of nationwide injunctions in *Trump v. CASA* (June 2025), the Kacsmaryk case was hardly unique. Private entities, too, have been accused of judge shopping in districts where they do no

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business.<sup>2</sup> In the Appendix in the Supporting Information, we list five dozen articles from 2022 to 2024—based on a cursory search<sup>3</sup>—addressing the practice. This example is illustrative for two reasons. First, district judges wield(ed) extraordinary power to issue nationwide injunctions, effectively halting or altering federal policy for the entire country (Cass, 2019; HLR, 2024; Huddleston, 2017). Many legal scholars argue this authority has incentivized litigants to strategically seek sympathetic judges (Cass, 2019; HLR, 2024; Huddleston, 2017). Second, judge shopping is not ideologically exclusive. Private actors, governments, liberals, and conservatives have all exploited ideologically homogeneous, single-judge divisions. Though not new, the practice has drawn renewed attention due to the high-profile nature of recent cases (Thomsen, 2024; Weinberger, 2024), raising questions about how the public views these tactics—and the courts—in response.

While judge shopping to seek universal injunctions has been halted by the Supreme Court, it still is possible for properly certified class actions. We believe that this will not end judge shopping for the sake of a sympathetic judge and favorable ruling, and thus, judge shopping as a practice can still influence public attitudes toward the judiciary—even though courts themselves are not engaging in judge shopping; rather, attorneys drive the practice.

In this study, we first use a unique, preregistered survey experiment to assess public perceptions of judge shopping.<sup>4</sup> Drawing on the framework of procedural fairness, we hypothesize that if individuals view judge shopping as unfair, they will support legislation to curb the practice, perceive courts as more politicized, and believe their rights are under threat. While previous research has examined the public's willingness to forgo procedural fairness, we leverage a real-world phenomenon that has received widespread media attention. We also explore the tension between fairness and group loyalty—specifically, whether the public tolerates judge shopping when it benefits their partisan in-group. To better understand the mechanism, we ask whether the public views judge shopping as politically or procedurally unfair.

In the second empirical component, we analyze data on single-judge divisions (i.e., district court “duty stations”) to assess whether liberals or conservatives have/had more opportunities to judge shop. This allows us to identify partisan disparities in access to favorable judicial venues, thereby contextualizing public concern over the practice.

Our findings reveal partisan heterogeneity—and, in some respects, asymmetry—in responses to judge shopping, though the practice is generally unpopular. Relative to the control group, respondents exposed to information about judge shopping are more supportive of legislation to end the practice, perceive the judiciary as more politicized, and express concern over court-produced policies, particularly regarding rights and liberties. When accounting for the partisan identity of the respondent and the actor engaging in judge shopping, we find evidence of a loyalty–fairness trade-off. Republican respondents oppose legislation to end judge shopping only when Democrats are said to engage in the practice, not when Republicans do. In contrast, Democratic respondents consistently view judge shopping as both politically and procedurally unfair, regardless of which party benefits. Despite heterogeneous views toward the practice, we

find a relatively even partisan distribution. Judges in these divisions were appointed in roughly equal numbers by Democratic and Republican presidents, and few are ideological outliers.

These findings contribute to the literature on perceptions of judicial fairness in several ways. First, echoing concerns raised by legal scholars (Cass, 2019; Norwood, 1995), we find that the public generally disapproves of judge shopping. This is important given growing scrutiny of the practice from attorneys, judges, and, ultimately, the Supreme Court. Even brief exposure to the concept measurably shifts attitudes about judges, courts, and legislative control—suggesting that repeated real-world exposure may amplify such effects. Second, we show that strategic behavior by extrajudicial actors can affect perceptions of courts, even when judges themselves are not directly responsible for the actions in question. Finally, despite general disapproval, we observe a loyalty–fairness trade-off and partisan asymmetry in how individuals evaluate judge shopping. Normatively, this is troubling: members of the public *should* disapprove of unfair procedures, even if those procedures benefit their in-group. While court-watchers often worry about declining support for the judiciary, our results suggest that continued support in the face of procedural unfairness may be just as concerning—especially when that support stems from favorable political outcomes secured through judge shopping.

## 2 | The Theory of Procedural Fairness and Judge Shopping

While members of the mass public often bring instrumental attitudes to bear when evaluating the judiciary (e.g., Bartels and Johnston, 2020), many support the courts when they perceive them to follow fair procedures. Indeed, procedural fairness underlies general attitudes toward the Court (Mondak, 1993; Ramirez, 2008), institutional support (Gibson, 1991; Tyler, 2006), and even compliance with decisions individuals may dislike (Baird, 2001; Caldeira and Gibson, 1995). Conversely, behavior perceived as strategic or resembling that of political actors undermines support, as it violates norms of fairness (Gibson and Caldeira, 2011). One reason fair procedures matter is that deliberative institutions are expected to yield both policy victories and losses (Baird, 2001). Unlike elected branches—where all losses are more readily viewed as unacceptable (see Hibbing and Theiss-Morse, 2001)—judicial losses are more palatable because they are offset by occasional wins and because both sides are presumed to be heard (Salamone, 2014). When courts appear to abandon fairness, these losses feel more severe. Stated plainly, fairness is the dominant moral norm shaping evaluations of judges, courts, and the law—likely due to long-standing socialization toward the judiciary as impartial and deliberative (Gibson and Caldeira, 2009).

The literature on procedural fairness helps form clear expectations about public reactions to judge shopping. Existing studies often use hypothetical scenarios in which *courts* or *judges* behave unfairly. For example, Armaly (2021) describes a fictional Judiciary Oversight Committee that finds the Supreme Court ignores evidence from certain political groups. Others ask whether courts receive adequate information before making decisions (Gibson, 1989). From these accounts, we would expect the public to

view judge shopping negatively and potentially reevaluate their broader attitudes toward the judiciary.

Judge shopping, however, is a distinct kind of fairness violation: it is not courts or judges, but *litigants* (and their attorneys) who engage in it to exploit the judiciary. It also differs from other, adjacent legal strategies. For instance, it is unique from *forum* shopping, a debated advocacy strategy in which attorneys attempt to have their case tried in a particular court or jurisdiction due to procedural or doctrinal differences that will result in favorable outcomes (Dodson, 2024; Norwood, 1995).<sup>5</sup> Thus, judge shopping differs—and represents a unique type of fairness abrogation—because it involves an attorney specifically selecting the judge to hear their case in order to inflate their chances of a preferable outcome (Cartolano, 2016; Nair, 2025). Unlike the former, where attorneys take advantage of legal pluralism, diverse procedures, and jurisdiction-specific doctrine across the US legal system (a result of the organization of state and federal courts), the latter exploits the fact “that judges are, as individuals, predisposed to rule a certain way in specific types of cases, and that a sympathetic judge increases an attorney’s odds of winning their case” (Cartolano, 2016, 151). Where forum shopping is akin to choosing one sports league over the other (e.g., one may prefer the rules in an international basketball league over the National Basketball Association), judge shopping is akin to picking the referees. Judges themselves have labeled judge shopping a serious threat that “undermines public confidence [...] and hurts the integrity of the judicial system” (Botoman, 2017, 320). It signals that seeking a sympathetic judge is an effective strategy—undermining the ideal of judicial impartiality. That is, it emphasizes the political nature of judging. This likely explains why attorneys are formally discouraged from judge shopping (Norwood, 1995).

However, elite concern and guidance for counsel tells us little about how the public reacts to judge shopping, particularly when courts can be seen as passive bystanders. We see two plausible public reactions. On the one hand, judge shopping might be viewed as a legitimate legal strategy, a form of creative problem-solving. Indeed, as Katz (2010) writes, “I do not think it an exaggeration to say that exploiting loopholes is most of what good lawyers spend most of their time doing” (1). While little research directly examines public reactions to legal loopholes, related work suggests that exploiting ambiguities is seen as more acceptable than violating clear rules (Bregant et al., 2019; Harmon et al., 2015). Judge shopping may thus be perceived as clever, even acceptable. That attorneys still engage in the practice—often in high-profile cases involving abortion, immigration, or civil rights—suggests they view the strategic benefits as outweighing any reputational risk (Botoman, 2017). Moreover, some evidence suggests attorneys are attuned to the “court of public opinion” (Haggerty, 2009; Scott et al., 2025), meaning they anticipate and weigh potential backlash.

On the other hand, exploiting legal rules may still provoke negative public reactions, even when technically allowed. Garcia et al. (2014) show that individuals apply “commonsense justice,” distinguishing between legality and fairness. People may reject actions that feel unfair, even if they are formally permitted. Jurors, too, follow this pattern (Finkel, 2001). Accordingly, strategic behavior by attorneys and litigants could still damage perceptions

of the judiciary, even when the courts themselves are not at fault. As Chen et al. (2020) argues, rule violations can be interpreted as evidence that institutions lack the ability to maintain proper order. Thus, actions by court “users”—like litigants and their attorneys—may affect perceptions of the judiciary.

In sum, we expect that the indirect nature of judge shopping does not insulate the courts from reputational harm. In the aggregate, judge shopping will be perceived as procedurally unfair and overtly political. When fairness is the dominant normative frame—or, when people are assessing courts “in a vacuum,” so to speak—individuals tend to demand fair procedures from courts. Judge shopping exemplifies a breakdown in fairness: it is only a useful strategy because judges are assumed to hold political preferences that shape their decisions. As a result, judge shopping may undermine confidence in judicial impartiality and weaken trust in the broader legal system. We therefore expect respondents to broadly disapprove of the practice and support efforts to eliminate the procedural loophole. Because judge shopping highlights the political nature of judicial behavior, we also expect it to increase perceptions of the courts as politicized. Accordingly, we hypothesize that individuals who read about a case involving judge shopping will:

- **Hypothesis 1a.** *Be more supportive of legislation to stop judge shopping.*
- **Hypothesis 2a.** *Perceive the courts as more politicized.*

We also expect that exposure to judge shopping will heighten concern about negative policy consequences. Prior research shows that perceived unfairness by a judge in one instance extends beyond that case and informs broader expectations of future unfairness. For example, Baker and Canelo (2025) demonstrate that when a judge is viewed as discriminatory in one ruling, people expect that bias to extend to other groups and contexts. Extending this logic from groups to policy areas, we anticipate that judge shopping will erode confidence in the legal system’s ability to protect rights more generally. Thus, we hypothesize that when individuals learn of judge shopping they will:

- **Hypothesis 3a.** *Perceive rights as under greater threat.*

### 3 | Judge Shopping and the Fairness–Loyalty Trade-Off

As discussed in the introduction, judicial decisions—even at the district court level—often involve divisive political issues and carry significant policy implications. As a result, the judiciary is increasingly viewed in instrumental and political terms (e.g., Armaly and Enders, 2022; Bartels and Johnston, 2013; Nicholson and Hansford, 2014). Loyalty to political groups is a powerful force that shapes attitudes, orientations, and behaviors (e.g., Huddy et al., 2015; Suhay, 2015).

Like fairness, loyalty is a foundational norm both within and beyond the political domain (Haidt, 2007). Simply identifying as a group member (e.g., Democrat or Republican) is enough to generate affective responses toward in- and out-groups (Iyengar

et al., 2012), and loyalty entails conformity to group norms and expectations (DeRidder and Tripathi, 1992; Suhay, 2015; Tajfel, 1970). Moreover, as social identities increasingly converge on a singular partisan dimension (Mason and Wronski, 2018), cross-cutting cleavages have diminished—meaning even ostensibly apolitical institutions like courts are now filtered through partisan identity.

Research demonstrates that law and courts are not insulated from these group dynamics. Nadler (2017) finds that commitment to legal compliance is rooted in group loyalty. Armaly (2021) shows that individuals express concern over unfair court procedures but often refrain from sanctioning such behavior when their group benefits. In short, loyalty can compete with, and sometimes override, the fairness norm (Waytz et al., 2013), even in a domain where fairness typically dominates (Armaly, 2021). Attitudes toward courts and judicial decisions are thus deeply intertwined with group norms and political identity (Zilis, 2021).

In the context of judge shopping, as we laid out in Hypotheses 1a–3a, we expect fairness to dominate in the aggregate. That is, most individuals are unlikely to support judge shopping, and hearing about the practice should affect judicial attitudes. After all, judge shopping represents a clear attempt to gain political advantage through the courts—contravening the “palatable losses” rationale that undergirds procedural fairness. Yet, group loyalty may still play a significant role. When judge shopping benefits one’s partisan in-group, however, we expect loyalty to dominate. This mirrors prior work on how loyalty and fairness motivate behavior differently (e.g., Hildreth et al., 2016): while fairness motivates the punishment of unfair behavior, loyalty motivates its acceptance (Waytz et al., 2013). Thus, while fairness may broadly shape attitudes toward judge shopping, loyalty should operate more selectively—specifically, outside of the “vacuum” when the in-group benefits.

Our first three hypotheses reflect the general tendency of the mass public to prefer fairness in judicial procedures. The fairness norm, however, often conflicts with the loyalty norm, and the latter frequently “wins out” (Armaly, 2021; Waytz et al., 2013). Given this tension, we theorize that group loyalty can override concerns about procedural fairness, particularly in politically charged contexts like judge shopping.

Because judge shopping has clear political implications, we expect that partisan identification will moderate reactions to the practice. Specifically, individuals will be more critical of judge shopping when it benefits the partisan out-group, and more accepting of it when it benefits their in-group. In short, we expect the fairness norm to dominate in the abstract, but the loyalty norm to shape evaluations when partisan stakes are made salient. Therefore, we hypothesize that respondents will:

- **Hypothesis 1b.** *Support legislation to stop judge shopping only when the out-group is judge shopping.*
- **Hypothesis 2b.** *Perceive the courts as more politicized only when the out-group is judge shopping.*
- **Hypothesis 3b.** *Perceive rights as under greater threat only when the out-group is judge shopping.*

Importantly, the loyalty–fairness trade-off does not predict *increased* support for courts when one benefits from unfair procedures. As Armaly (2021) states, “Individuals may be willing to turn a blind eye to perceived institutional unfairness when it benefits their group” and “... respondents who benefit fail to punish unfair behavior, while [those who do not benefit]... uniformly punish unfairness” (8). Thus, loyalty leads people to *fail* to punish when they “should,” or when they otherwise would. By way of analogy, sports fans do not suddenly *support* bad penalties when a referee’s decision benefits their team; they simply fail to criticize the officials.

## 4 | Data and Methodology

To test our theory regarding public reactions to judge shopping, we fielded a survey of 800 US adults in October 2023 using Cint Theorem (formerly Lucid Theorem). To our knowledge, no major news stories on judge shopping were salient at the time of data collection.<sup>6</sup> While Theorem does not provide a probability sample, it approximates the US adult population on key demographics, including age, race, education, and sex. Such samples have proven particularly useful in experimental research.<sup>7</sup> Sample characteristics are detailed in the Appendix in the Supporting Information.

### 4.1 | Experimental Vignette

After answering a series of standard survey items (e.g., political predispositions), respondents were randomly assigned to either a control group or one of two treatment groups. The full text of each vignette can be found in Section B of the Appendix in the Supporting Information. The control group read a neutral vignette about changes to the shape of the Supreme Court’s bench in 1972.<sup>8</sup> The first treatment group read a story that we attributed to the *Associated Press*:

In April of 2023, Texas’ attorney general filed a lawsuit in federal court to block a Biden administration policy regarding Labor Department rules. The lawsuit was not filed in Austin (the state capital) or in Dallas (where the Labor Department’s Texas offices are).

Instead, the suit was filed in Amarillo. This is because there is only a single federal district court judge in Amarillo, who was appointed by President Trump in 2019. In Austin, Dallas, and other major cities in Texas, there are dozens of judges and cases are assigned randomly. By filing in Amarillo, the attorney general guaranteed that the judge would be a Republican appointee.

Although judge assignment is supposed to be random, lawyers often exploit procedural loopholes in order to find a judge likely to sympathize with their argument. Often called “judge shopping,” this approach violates the tradition of random assignment. Moreover, it

brings up serious questions about fairness, impartiality, and ethicality in the judiciary. Many pundits argue this loophole ought to be fixed either by the courts themselves or by Congress.

The second treatment was nearly identical to the first, except that instead of the Texas attorney general attempting to block Biden administration policy in Amarillo, we described the California attorney general attempting to block Trump administration policy in Chico. Corresponding details were updated accordingly: the location was changed from Texas to California, the judge from a Republican to a Democratic appointee, and the year from 2023 to 2019.

We emphasize several important features of these vignettes. First, our treatment reflects the modal tone and structure of media coverage on judge shopping. In fact, the vignette was modeled after such reporting. In the Appendix in the Supporting Information, we (a) link several dozen judge shopping articles from diverse media sources, and (b) use artificial intelligence to generate a vignette from those stories for comparison. Our vignettes match the general attitude and character of the AI-generated summary of articles about judge shopping. The tone of most coverage, while not overtly polemical, is rarely positive. Media accounts often note the strategic selection of judges and highlight how this gamesmanship conflicts with the tradition and intent of random assignment. For instance, one article quotes the Department of Justice as stating that judge shopping allows litigants to “circumvent the random assignment system by never filing in Divisions where they have a non-trivial chance of not knowing what judge they are likely to be assigned.”<sup>9</sup> The coverage is overwhelmingly critical—consistent with broader patterns in judicial reporting (Hitt and Searles, 2018). In short, our vignette mirrors the tone, structure, and language of how judge shopping is typically portrayed in the news.

This bolsters the external validity of our treatment: our vignette presents judge shopping in a way consistent with how participants are likely to encounter it in the real world. Although our media review was not exhaustive, it included legacy and digital sources (*The New York Times*, *The Daily Beast*), industry press (e.g., *ABA Journal*), and partisan outlets across the spectrum (Fox News and CNN). The tone is consistently negative and includes phrases like “a ruling from a one-horse federal courtroom” or criticisms such as “The FBI went judge shopping to get its warrant signed.”

Second, we intentionally omit reference to any specific policy, referring only to generic “Labor Department rules.” This decision is grounded in our desire to isolate reactions to judge shopping itself, rather than conflating them with policy-based preferences. Prior research shows that individuals sometimes adjust their views of the judiciary in response to policy outcomes (see Christenson and Glick, 2015), while others respond based on broader partisan cues (e.g., Armaly, 2018). The implication of the vignette is clear: conservative policy will likely prevail in Texas, and liberal policy in California. However, by not identifying a specific policy, we avoid introducing confounding attitudes linked to particular issues.

This approach also helps minimize inconsistencies between partisan identity and issue preferences. For example, a conservative union member may support liberal labor policy, but such individuals are not representative of most conservatives. By omitting policy content, we reduce the risk of these idiosyncratic mismatches affecting responses. Indeed, a wide body of political behavior research suggests that most members of the public lack detailed, consistent views across policy domains (e.g., Converse, 1964; Kinder and Kalmoe, 2017; Lupton et al., 2015). Therefore, we believe that excluding policy-specific details enhances—rather than reduces—the generalizability of our treatment. Including them would risk introducing noise unrelated to the effects and mechanisms we aim to isolate.

## 4.2 | Dependent Variables

Upon reading the vignette, respondents then answered a series of items which serve as the constitutive components of our dependent variables. In all, we ask about three broad attitudes: (1) support for legislation meant to stop judge shopping, (2) perceived politicization of courts, and (3) perceived threat to rights and liberties. We summarize these variables and their reliability in Table 1 and include full descriptions of each in the Appendix in the Supporting Information. Our dependent variables are summated rating scales, rescaled from 0 to 1.

We select this slate of outcomes for several reasons. As Armaly and Schoenherr (2024) write, “there are (at least) four dimensions” by which individuals might evaluate courts: “(1) the case outcome, (2) the Court, (3) the law, and (4) the justices.” Our outcome variables tap into several of these dimensions, in addition to gauging reactions specific to judge shopping.

First, support for legislation to end judge shopping provides a direct measure of whether individuals believe the practice should be stopped—an idea already taken up by members of Congress (Schwartz, 2024c). This represents a plausible legislative solution to judge shopping that does not restrict judicial decision-making authority.

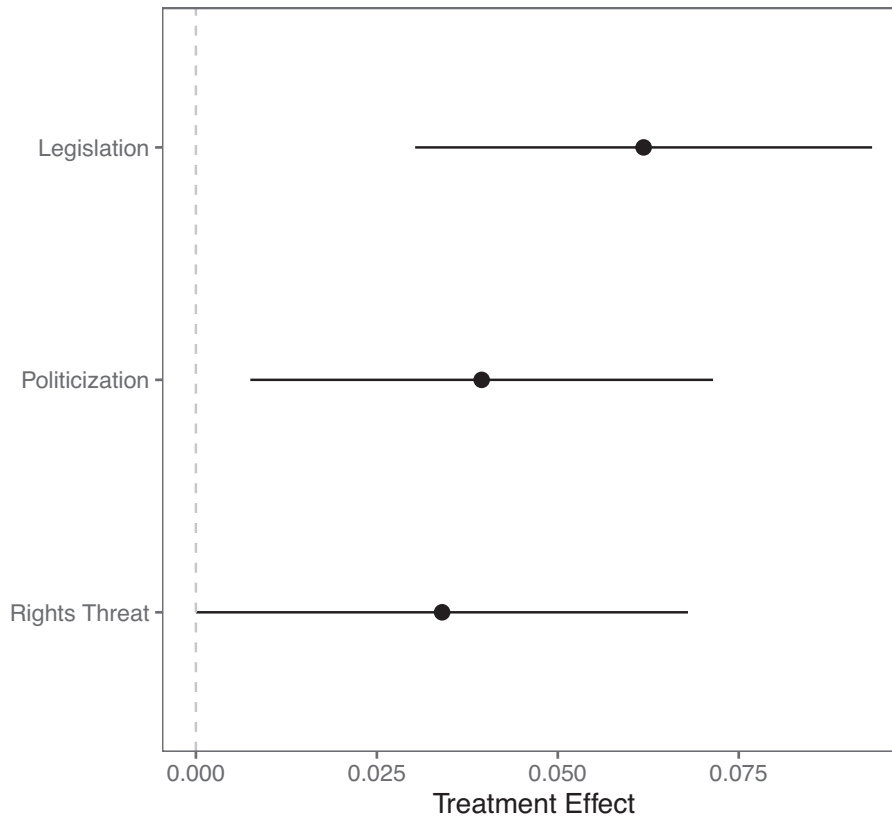
Second, our measure of politicization captures perceptions of the judiciary as a whole, corresponding to one of Armaly and Schoenherr’s (2024) evaluative dimensions. Judge shopping is a clearly strategic and political maneuver, and prior work shows that individuals are generally unsupportive of politicized judicial behavior (Gibson and Caldeira, 2011).

Finally, the perceived threat to rights touches on attitudes toward the law and its protective capacity. We view this perception as a proxy for belief in the justice system’s ability to deliver fair procedures. As Baker and Canelo (2025, 151) note, “judges accused of discriminatory misconduct toward one group are viewed as a threat to rights across the board.” We anticipate a similar dynamic here: when litigants engage in unfair behavior in one policy domain (e.g., labor rules), it undermines public trust in the judiciary’s capacity to ensure fairness across others. Thus, perceptions of rights and liberties are likely to be implicated.

**TABLE 1** | Summary of dependent variables.

|                | <b>Constitutive items</b>                                                                                                     | <b>Cronbach's <math>\alpha</math></b> |
|----------------|-------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|
| Legislation    | (1) Support for Stop Judge Shopping Act, (2) agreement with its passage, and (3) belief the law would be effective            | 0.70                                  |
| Politicization | Agreement with three items like, "Federal judges are little more than politicians in robes," from Bartels and Johnston (2012) | 0.78                                  |
| Rights Threat  | Perceived threat to 9 rights and liberties. Utilized in Armaly and Enders (2023)                                              | 0.84                                  |

<sup>a</sup> Cell entries are Cronbach's  $\alpha$  scale reliability coefficients.



**FIGURE 1** | Treatment effect of the judge shopping vignette. Plotting symbols indicate the treatment effect ( $x$ -axis) for each dependent variable listed on the  $y$ -axis, with 95% confidence intervals; where these confidence intervals intersect the vertical line, we can state the treatment effect is not statistically significant. Note the treatment effect for rights threat is statistically significant, although this is difficult to observe in the figure. All variables have been re-scaled to range from 0 to 1.

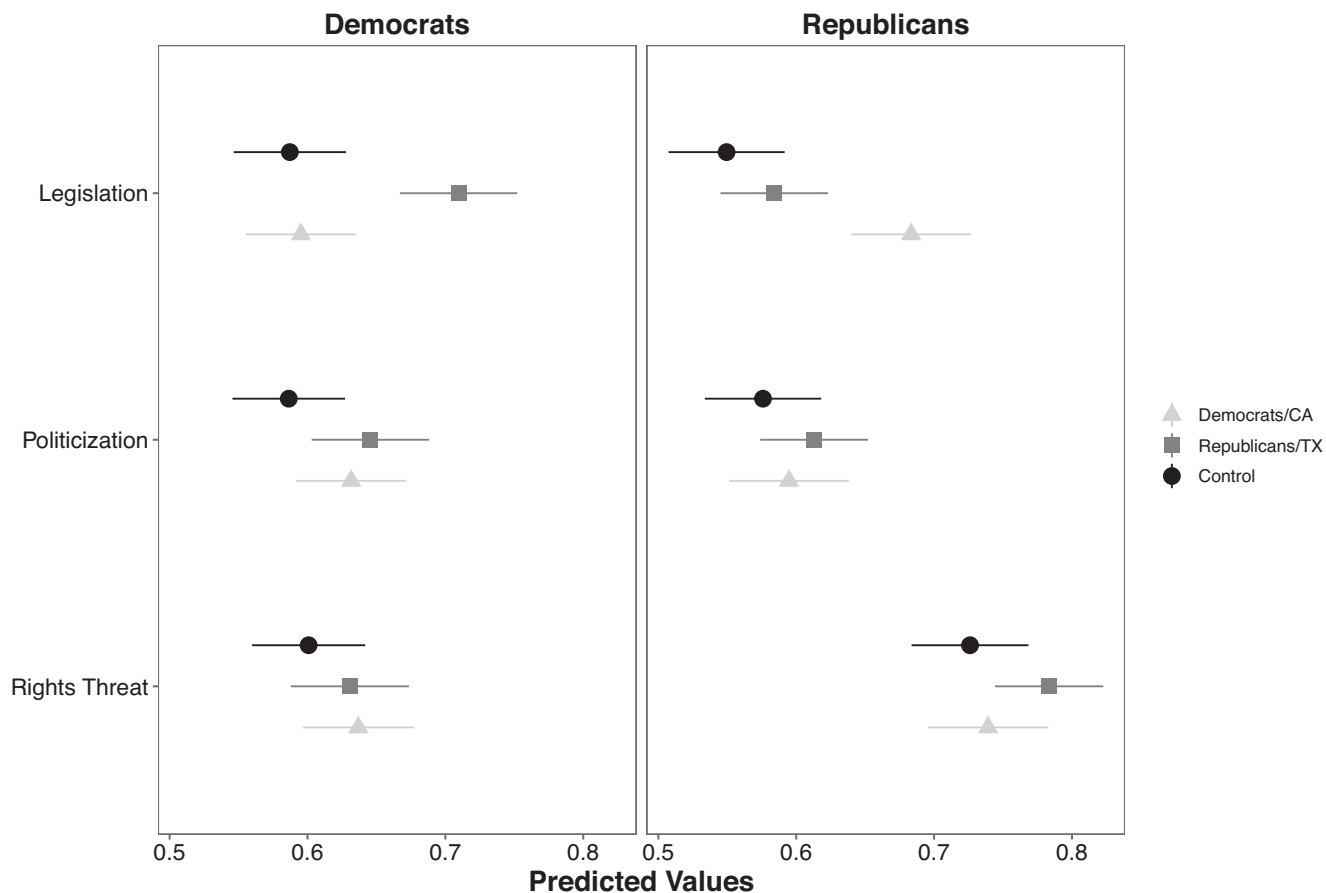
## 5 | Empirical Results

We begin by examining the treatment effects for all treated respondents, irrespective of partisan identity. As previously hypothesized, we expect broad disapproval of judge shopping. Figure 1 presents the treatment effects for each dependent variable, along with 95% confidence intervals. The results support Hypotheses 1a, 2a, and 3a.<sup>10</sup> A table containing all estimates of this regression analysis can be found in Section D.7 of the Appendix in the Supporting Information.

Specifically, compared to the control group, respondents exposed to information about judge shopping (1) are more supportive of legislation to end the practice, (2) perceive the courts as more politicized, and (3) believe that rights are under greater

threat. Although the treatment effects are modest in size, this is to be expected, as our estimates include individuals who may not disapprove of judge shopping—for example, partisan respondents whose in-group was depicted as engaging in the practice. Moreover, the results reflect the effects of a single exposure. Given that judge shopping received increased media attention and public scrutiny in the years prior to the Court's intervention (i.e., in *Trump v. CASA*), real-world exposure would be likely to increase the effects we observe here. We therefore view our estimates as a conservative assessment of the average effect of judge shopping on public attitudes.

These results tell us a few things about public reactions to judge shopping. First, it is not a well-received practice. Later in this paper, we consider the degree to which individuals view judge



**FIGURE 2** | Linear predictions across co- and counter-partisan respondents. The left panel displays the results for Democratic respondents, and the right for Republican respondents. Plotting symbols indicate the treatment effect (x-axis) for each dependent variable listed on the y-axis, with 95% confidence intervals. Color indicates treatment category. All variables have been re-scaled to range from 0 to 1.

shopping as an unfair practice, but the results here indicate that it is viewed unfavorably. Second, consistent with expectations, the practice of judge shopping *does* bear on the judiciary. That is, even though it is attorneys and litigants engaging in the behavior, courts are still “punished.” Finally, broader views of the legal world are impacted, such as the belief that freedoms implicated in court decisions are under greater threat. In the aggregate—that is, when not considering loyalty—the fairness norm dominates evaluations of the judiciary, and judge shopping is seemingly viewed as unfair.

### 5.1 | Partisan Loyalty Results

The results reported above do not account for whether the litigant engaging in judge shopping is a co- or counter-partisan. While fairness clearly shapes aggregate reactions to judge shopping, fairness can be “overridden in contexts that pit fairness against loyalty” (Waytz et al., 2013, 1028). We now turn to examine whether reactions differ depending on whether the in-group or out-group is engaging in the practice.

Figure 2 presents linear predictions, with 95% confidence intervals, separately for Democrats (left panel) and Republicans (right panel). Estimates are drawn from ordinary least squares regressions, where each dependent variable is regressed on indicators

for treatment condition, partisanship, and their interaction. Respondents were not assigned to treatments based on their partisanship.<sup>11</sup> Because our theory hinges on group loyalty, we exclude the 77 “true” independents from the analysis due to their lack of consistent partisan identity.<sup>12</sup>

We begin with support for legislation to end judge shopping. Both Democrats and Republicans exhibit a clear “rules for thee, but not for me” pattern: they only support legislative action to curb judge shopping when the out-party is responsible for the behavior. These results support Hypothesis 1b and reinforce the core claim of a loyalty–fairness trade-off. As shown above, judge shopping is generally disapproved of, but this disapproval vanishes when it benefits one’s preferred political group.

Next, we turn to perceptions of politicization. Among Democrats, we observe higher politicization scores regardless of whether Democrats or Republicans are judge shopping. Among Republicans, however, treatment effects are not statistically distinguishable from the control group. These findings do not support Hypothesis 2b. Still, they raise an intriguing possibility: Democrats appear willing to tolerate judge shopping by their own party (as reflected in their lack of support for legislation to ban it), even while acknowledging that the practice politicizes the courts. One plausible interpretation is that Democrats may be more resigned—or even accepting of—a politicized judiciary,

particularly in light of Republican efforts to secure long-term conservative dominance on the Supreme Court (e.g., the blocked nomination of Merrick Garland and rushed confirmation of Justice Barrett under similar conditions (Armaly and Lane, 2023)).

Finally, we consider perceptions of rights threat. Republicans, across all conditions, express greater concern about threats to rights than Democrats (which is consistent with Armaly and Enders's (2023) findings). Unexpectedly, Republicans perceive greater threats when their own party is engaged in judge shopping. These findings do not support Hypothesis 3b, but they do lend support to the broader theoretical claim of partisan heterogeneity in responses to judge shopping. On the surface, these results suggest that Republicans may not associate judge shopping by co-partisans with protection of their rights. One possible explanation is that they trust ideologically aligned elites to make decisions in their best interest, even when such decisions involve questionable procedures.

Taken together, these results support some of our hypotheses, but indicate broader support for our general theory. While fairness norms shape reactions in the aggregate, they are frequently subordinated to partisan loyalty when political stakes are salient. Judge shopping is condemned when it benefits the out-group but tolerated or ignored when it favors the in-group. Reactions to judicial unfairness are thus filtered through a partisan lens, underscoring the instrumental nature of public support for fair procedures.

## 5.2 | Investigating Potential Mechanisms

Thus far, we have presented evidence that judge shopping is broadly viewed as unfair. However, when partisan loyalty is primed alongside fairness, loyalty often prevails. In this section, we consider potential causal mechanisms. Specifically, we ask: what is it about judge shopping that respondents perceive as unfair? We identify two possibilities. First, judge shopping may be seen as a violation of fair procedures, undermining the expectation of an impartial, rule-bound legal process. Second, it may be seen as injecting political strategy into what is supposed to be an apolitical judicial system.

To assess these possibilities, we asked respondents to express agreement or disagreement (on 5-point Likert-style scales) with the following two statements: (1) "Judge shopping is a violation of fair procedures," and (2) "Judge shopping makes the judicial process too political." Respondents tended to agree with both statements. The mean response for the political item was 4.04 (on a 5-point scale), and for the procedural item, 3.96. These means are not statistically distinguishable ( $p = 0.07$ ), suggesting both mechanisms are salient.

Because our theoretical framework emphasizes the role of partisanship—and because these mechanism items were asked post-treatment—we expect that responses to these items may also reflect partisan considerations. Figure 3 displays predicted values for two items assessing potential mechanisms behind respondents' reactions to judge shopping. The left panel presents perceived politicization, while the right panel presents perceived

procedural unfairness. Results are shown by treatment group and partisanship, with triangles representing Democrats and squares representing Republicans. Each point represents the model-predicted mean, and vertical bars denote 95% confidence intervals.

Beginning with the left panel, we observe that Republicans in the out-party-benefits treatment condition are especially likely to view judge shopping as politicizing, whereas in-party Republicans report significantly lower levels of politicization. This suggests that Republicans view judge shopping as problematic primarily when it is Democrats engaging in the behavior. Democrats, by contrast, perceive judge shopping as politicizing regardless of which party is responsible, though the effect is somewhat stronger when Republicans are judge shopping. These patterns underscore the role of partisanship in conditioning perceptions of judicial politicization, and offer further evidence of partisan asymmetry in reactions to judge shopping.

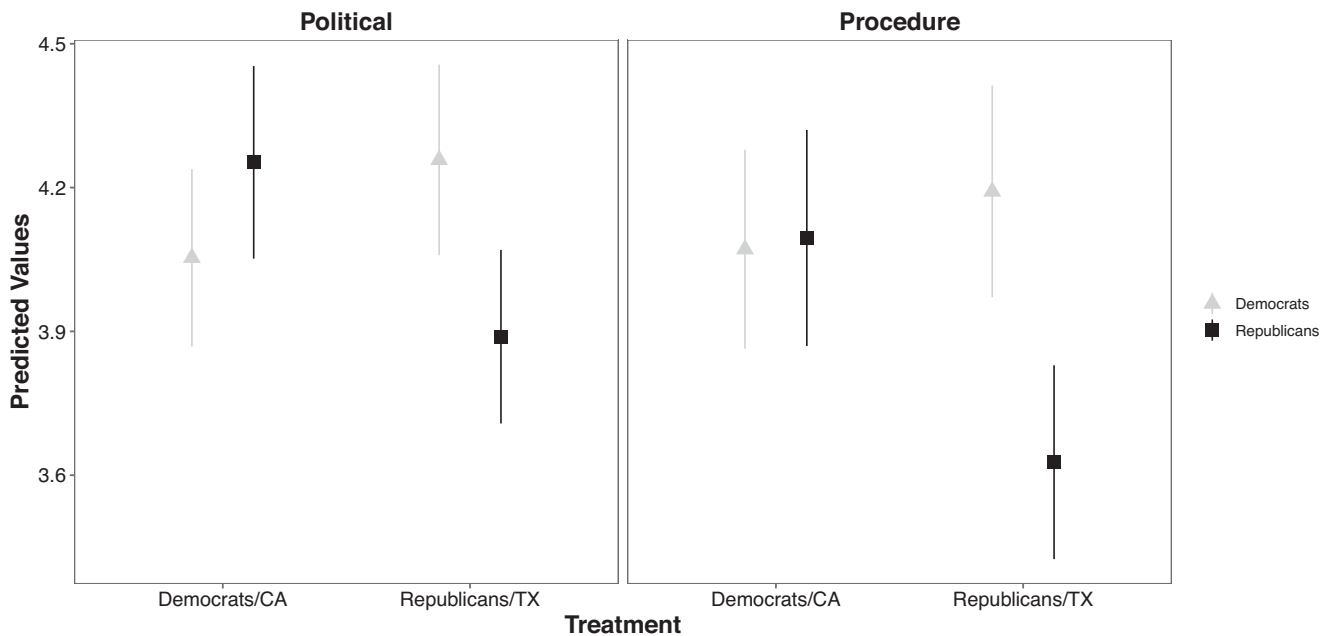
Turning to the right panel, we see a similar pattern with regard to procedural fairness. Republicans strongly agree that judge shopping violates fair procedures when Democrats are the ones engaging in it, but are far less likely to view it as unfair when Republicans are doing it. Democrats, meanwhile, express consistent agreement that judge shopping is procedurally unfair, regardless of which party benefits. These results reflect both partisan heterogeneity (i.e., reactions vary based on who is judge shopping) and partisan asymmetry (i.e., one party is more forgiving of co-partisan violations of fairness norms).

Taken together, these findings support the idea that public reactions to judge shopping are driven by both fairness and political considerations—but are ultimately shaped by partisanship. Judge shopping is broadly perceived as both a political maneuver and a violation of fair procedure, yet these evaluations are contingent on whether one's partisan group is advantaged. In short, partisanship itself appears to be a key mechanism that shapes how individuals interpret the fairness and legitimacy of strategic litigation behavior.

What remains unclear is if one side has more opportunities to engage in judge shopping. That is, are their more single-judge divisions controlled by Republican or Democratic appointees? If they are equally distributed across liberal and conservative judges, both parties have an opportunity for policy gains while the other party's perceptions of the judiciary may falter, and vice versa. However, if one group has a clear advantage and repeatedly uses it, there is potential for significant damage to court attitudes by the partisans that are not benefiting. To understand this, we turn to our next section to examine single-judge divisions across the United States.

## 6 | Judge Shopping and Single Judge Divisions

To this point, we have shown that the mass public generally dislikes judge shopping, but are conflicted on the practice when their political in-group benefits. In this final empirical section, we shift from public opinion to institutional opportunity. Specifically, we examine the extent to which single-judge divisions in the



**FIGURE 3** | Linear predictions of two potential causal mechanisms behind respondents' views of judge shopping: political practice (left panel) and procedural unfairness (right panel). Plotting symbols represent point estimates (y-axis) for Democratic respondents (triangles) and Republican respondents (squares), based on the vignette they received (x-axis). Vertical lines represent 95% confidence intervals.

federal district courts may have enabled judge shopping, and whether such divisions systematically advantage one side of the political aisle over the other. Understanding the distribution of these opportunities helps contextualize mass attitudes about the practice. Although the Supreme Court has curtailed the use of the most common type of nationwide injunctions, we believe it remains important to examine the institutional pathways through which judge shopping has historically occurred (and may still occur with appropriately certified classes). Many of the divisions we examine here played a central role in high-profile national cases, and understanding their structure helps explain how and why the practice gained public attention in the first place.

In general, federal district courts assign cases randomly among judges.<sup>13</sup> There are 94 federal judicial districts in the United States, 55 of which are subdivided into smaller divisions (Botoman, 2017). For instance, the Northern District of Texas includes divisions in Dallas, Fort Worth, Amarillo, and Lubbock, among others. In these subdivided districts, random assignment occurs at the division level rather than across the entire district. This narrows the pool of eligible judges, and in some cases—as in Amarillo—there is only one judge. These arrangements allow(ed) litigants to strategically file cases in divisions with single-judge benches, even if the district as a whole includes a mix of appointees.

The legal challenges involving mifepristone that we discussed earlier originated in such strategically selected divisions—Texas and Washington. Much of the public discourse on judge shopping has focused on these courts, particularly those in Texas, where patterns of judge selection are striking. As one Bloomberg Law report puts it, “Lawsuits are filed in Texas, even when other options are available” (Thomsen, 2024). For example, the US

Chamber of Commerce—headquartered in Washington, D.C.—has filed suit in the Northern District of Texas in 63% of its challenges to federal policy since 2017.<sup>14</sup>

Despite this attention to conservative actors and Texas courts, we sought to determine whether judge shopping via single-judge divisions is a broader institutional feature—available to both liberals and conservatives. To do so, we collected data on single-judge divisions across all district court duty stations. We define single-judge divisions as those where only one judge is assigned, excluding divisions with rotating or backup judges. Thus, while divisions like Fort Worth and Lubbock are often cited as conservative venues, they are excluded from our analysis because they have more than one judge. This means our analysis offers a conservative estimate of where judge shopping might have been exploited.<sup>15</sup>

In total, we identified 79 districts—including the Virgin Islands, the Northern Mariana Islands, and Guam—that contain at least one single-judge division. Several districts include multiple such divisions, including the Eastern District of North Carolina, the Eastern District of Texas, Montana, both Northern and Southern West Virginia, and the Eastern District of Michigan. By contrast, some districts—such as those in California—contain no single-judge divisions at all.

Our core question is whether these divisions disproportionately advantage one party. In other words: are conservative litigants better positioned to exploit single-judge divisions than liberal ones? If so, this could amplify concerns about the practice. And, judge shopping may still be useful to litigants even in the absence of nationwide injunctions. Figure 4 shows that this does not appear to be the case. Of the judges presiding in single-judge divisions, 38 were appointed by Democratic presidents (mostly

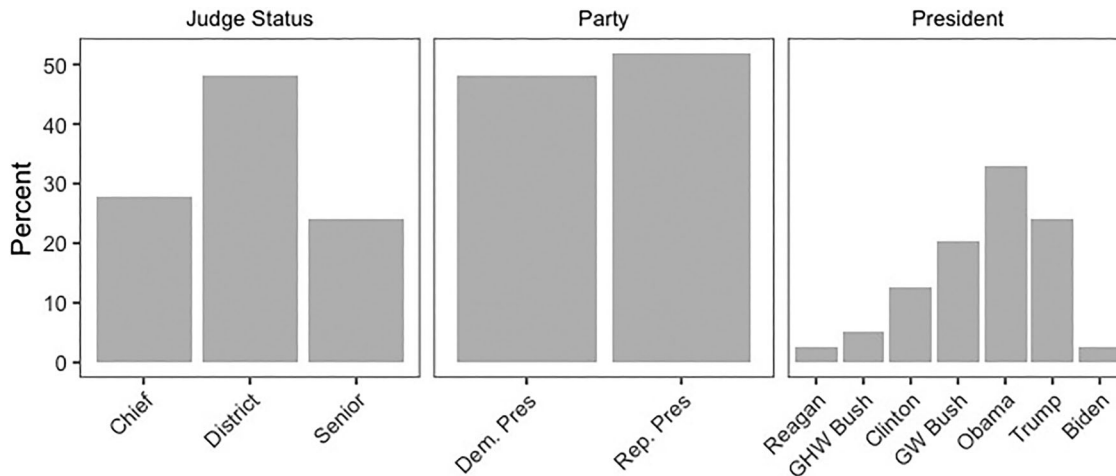


FIGURE 4 | Single-judge divisions by judge status, party of appointing president, and the appointing president. Data as of April 2024.

Obama), and 41 by Republican presidents (primarily George W. Bush and Trump’s first term).

Some may argue that even if partisan balance exists, certain judges sit in circuits more or less likely to uphold their rulings. For example, Texas divisions are attractive in part because the conservative Fifth Circuit often affirms their decisions. In our data, we find 16 liberal single-judge divisions located in majority-liberal circuits. By comparison, conservatives have 26 single-judge divisions in majority-conservative circuits—including two in the Eighth Circuit, which is the most conservative in the country and includes only one liberal (Obama-appointed) judge.

Of course, party of appointing president is a noisy proxy for ideology. It is possible that Republican-appointed judges in single-judge divisions are more ideologically extreme than their Democratic counterparts. To address this, we rely on Judicial Common Space (JCS) scores for currently presiding judges in these divisions (see Boyd, 2010; King et al., 2022).<sup>16</sup>

Figure 5 displays the distribution of JCS scores, where scores range from  $-1$  (most liberal) to  $+1$  (most conservative), with 0 indicating ideological moderation. As expected, Democratic appointees tend to have lower (more liberal) scores, and Republican appointees higher (more conservative) scores. While conservative judges are *slightly* more ideologically extreme than their liberal counterparts, there is relative balance in extremity. In terms of both partisan balance and ideological extremity, these divisions appear relatively even.

It is also noteworthy that fewer than half of the judges presiding solo in these divisions are standard district court judges. Many are chief judges or judges on senior status. In short, there is no evidence to suggest that Republican presidents have disproportionately filled single-judge divisions with ideologically extreme appointees, despite much media attention focusing on these cases (e.g., Kacsmatyk in Amarillo). While it is possible that attorneys and litigants differ in their willingness to exploit these divisions—and that acceptance of such behavior may vary—we observe no institutional advantage clearly favoring one party.

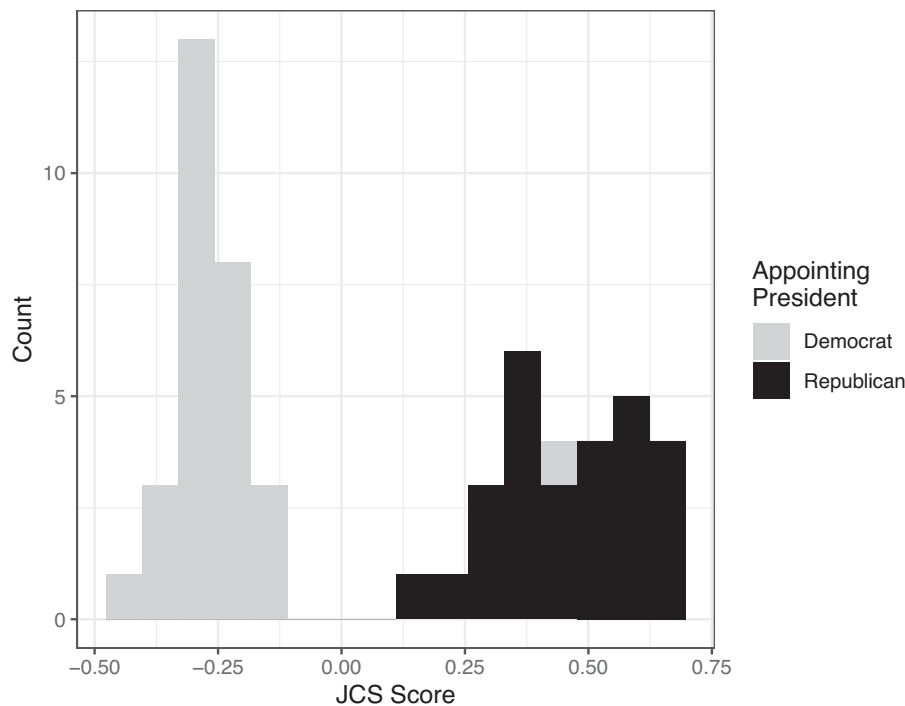
Still, the existence of nearly 40 divisions with only one assigned judge presents meaningful opportunities for strategic litigation. As our earlier findings show, judge shopping not only politicizes the judiciary in the eyes of the public but also undermines perceptions of fairness. Continued exploitation of these divisions—by either side—may carry lasting consequences for public confidence in the judicial system.

## 7 | Discussion

In this paper, we set out to examine how the public reacts to judge shopping, a practice that has drawn increased scrutiny in recent years, as attorneys have used it to halt (at least temporarily) policy changes across a variety of issue areas. Overall, the public views judge shopping as an unfair practice that diminishes trust in the judiciary. Respondents perceive it as a threat to their constitutional rights and express support for legislation to prevent it. Yet, as with other political institutions, the judiciary is increasingly evaluated through a partisan lens (Armaly and Enders, 2022; Bartels and Johnston, 2013; Nicholson and Hansford, 2014). As a result, even a practice widely perceived as unfair—like judge shopping—may be accepted when it benefits one’s political in-group. This is precisely what we find. Both Republicans and Democrats support legislation to stop judge shopping only when the opposing party engages in it. Moreover, Republicans in our sample are more likely to accept seemingly unfair practices when their own party stands to gain.

We also explored what drives public reactions to judge shopping—whether the practice is seen as unfair, politicizing, or both. While Democrats tend to view judge shopping as both procedurally unfair and overtly political, regardless of who benefits, Republicans only see it as politicizing when Democrats are the ones judge shopping. This partisan divergence highlights the importance of the loyalty–fairness trade-off: fairness norms dominate in the abstract, but group loyalty often overrides them when partisan cues are made salient.

We believe these findings carry important implications for the judiciary, despite several limitations noted throughout the



**FIGURE 5** | Distribution of Judicial Common Space (JCS) scores, by party of appointing president, for single-judge divisions.

manuscript. First, because we rely on a nonprobability sample, we are cautious in drawing conclusions about the precise distribution of attitudes in the general population. However, our goal was not to estimate levels of support or opposition, but rather to test whether—and how—individuals respond to the concept of judge shopping. Theorem samples have been used extensively in judicial politics research (Black et al., 2024; Boston et al., 2023) and have been shown to recover population-level political attitudes effectively (Coppock and McClellan, 2019). Furthermore, our respondents connected a procedural issue involving the Labor Department to broader concerns about rights and liberties—consistent with previous work demonstrating that perceptions of judicial fairness influence views of legal rights more broadly (see Baker and Canelo, 2025). This supports the growing body of research suggesting that the public interprets rights protections through the lens of judicial process.

Our findings extend previous research showing that external actors can politicize the Supreme Court and shape public perceptions of it (Armaly, 2018, 2020; Armaly and Lane, 2023; Armaly et al., 2025; Schoenherr et al., 2020) by shifting focus to the lower federal courts. This is important because the Supreme Court is typically the focal point of scrutiny when it comes to judicial politicization. Our results indicate that lower courts are not immune. As prior work shows, rising politicization can erode public support for the judiciary over time (Bartels and Johnston, 2020; Hasen, 2019). Indeed, declining confidence in the Supreme Court appears to be spreading to lower courts as well (Funk, 2023), due in part to actions by extrajudicial actors who exploit procedural rules. While people are certainly less aware of district court goings-on, many more cases are filed in lower courts; this increases the odds of being exposed to support-eroding stories about strategic filings in districts.

Our study also contributes to academic and professional conversations about judge shopping in the legal community. On the one hand, our findings validate the long-standing concerns of judges who have condemned the practice as one that “cheapens the judicial process,” “invites skepticism of the ability to receive justice,” and “undermines the image of judicial impartiality” (Norwood, 1995, 300). Judge shopping allows attorneys to exploit procedural loopholes in ways the public generally disapproves of—particularly when their group is not the one benefiting. On the other hand, judicial condemnation of judge shopping may reflect discomfort with how it exposes the reality that judges hold preferences. If those preferences did not matter, judge shopping would offer no strategic advantage. The mass public appears to recognize that judges are not blank slates; they expect them to be principled, even if not impartial (Gibson and Caldeira, 2011). In this way, judge shopping is perceived differently than other strategic legal behavior. Forum shopping and jury selection are framed as playing within the rules; judge shopping is seen as hand-picking the umpire, undermining the perceived legitimacy of the judicial process (Norwood, 1995).

The real-world stakes of our findings are unfolding in real time. Of course, the Supreme Court upended the ability of lower courts to issue a certain type of nationwide injunctions (requiring instead that a clear class of individuals is impacted). Prior to this, but following increased criticism of judge shopping, Chief Justice John Roberts directed the Judicial Conference of the United States—the governing body for the federal judiciary—to study assignment practices in response to a bipartisan Senate letter (United States Courts Judiciary News, 2024). The Conference ultimately recommended shifting from division-level to district-wide case assignment in lawsuits seeking statewide or nationwide relief (VanTatenhove, 2024). This proposal sparked

political backlash. When Democrats introduced legislation to mandate district-wide assignment, Republicans accused them of “salivating at the possibility of shutting down access to justice” (Schwartz, 2024a). In turn, Republicans introduced legislation to eliminate nationwide injunctions while preserving current assignment practices. It is striking to see lawmakers defend a practice that is widely condemned by judges, attorneys, and the public—especially given how much elite cues shape mass opinion (Lenz, 2012). This disconnect underscores the broader significance of our findings: elite endorsement of unfair practices has the potential to normalize and perpetuate behavior that undermines public trust in the judiciary.

## Acknowledgments

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## Endnotes

<sup>1</sup>The other four Spokane judges are on senior status and carry lighter caseloads. They include Carter, Clinton, and Obama appointees, plus one G.H.W. Bush appointee: <https://www.waed.uscourts.gov/about-us>.

<sup>2</sup><https://therealdeal.com/new-york/2022/04/27/how-a-white-plains-judge-became-a-favorite-refuge-for-nyc-developers/>

<sup>3</sup>We stopped after the 30th page of Google results for “judge shopping.” While not representative, few articles frame judge shopping positively, which supports the external validity of our treatment vignette.

<sup>4</sup>Preregistered at AsPredicted: [https://aspredicted.org/WBT\\_SRP](https://aspredicted.org/WBT_SRP).

<sup>5</sup>In the legal literature, some cite forum shopping as an example of zealous advocacy (Dodson, 2024). Others however view forum shopping as a nefarious practice that is an unethical use of the adversarial system (Cartolano, 2016).

<sup>6</sup>Google Trends data confirms that the term “judge shopping” was infrequently searched in October 2023.

<sup>7</sup>These samples generally recover political attitudes well, especially in experimental contexts (Coppock and McClellan, 2019). We also followed best practices to ensure data quality (see Berinsky et al., 2021). First, Theorem employs internal screening tools (e.g., reCAPTCHA) to exclude inattentive respondents. We supplemented this with our own attention checks. Respondents who failed the first attention check were immediately removed through survey logic, allowing a demographically similar replacement to maintain quota targets. We included additional checks throughout the survey, both within matrix questions and as standalone items. In the Appendix in the Supporting Information, we show that our results are robust to stricter attention criteria. Finally, we excluded speeders, defined as respondents in the bottom 10th percentile of completion time. Specifically, we removed those who completed the survey in under 3 min; the median completion time was 10 min. Further, we create a composite measure of attention-check failure and include it in statistical models.

<sup>8</sup>We chose to mention the Court in the control vignette because judges and the Supreme Court had already been referenced in the pre-treatment questions. This ensured equal exposure to the judiciary across all conditions before measuring the outcomes of interest.

<sup>9</sup>See: <https://www.cnn.com/2023/03/03/politics/justice-department-texas-judge-shopping/index.html>

<sup>10</sup>While the treatment effect for the *rights threat* variable is statistically significant at the  $p \leq 0.05$  level, this is difficult to observe visually in Figure 1.

<sup>11</sup>Nonetheless, treatment conditions are relatively balanced across partisanship. See Table A2 in the Supporting Information for details.

<sup>12</sup>Our definition of “true” independents refers to those who do not lean toward either party using the ANES-style branching partisanship items.

<sup>13</sup>For exceptions, particularly in patent litigation in the Eastern Districts of Texas and Virginia, see Anderson (2016).

<sup>14</sup>Data from Accountable.US, available at: [accountable.us](https://accountable.us); additional verification by Thomsen (2024).

<sup>15</sup>Botoman (2017) reports that in at least 90 divisions, a single judge handles more than half the caseload even when other judges are technically assigned to the division. Eleven of these are located in Texas (Schwartz, 2024b).

<sup>16</sup>Data on division assignments and judicial appointments were collected in April 2024.

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## Supporting Information

Additional supporting information can be found online in the Supporting Information section.

**Appendix S1:** Internet Appendix.