

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF LOUISIANA**

Shawon Bernard, Santrica Pope, Phyllis  
V. Mercadel, Joyce Davis Sims, Charla  
Jo Johnson, League of Women Voters of  
Louisiana, and League of Women Voters  
of Louisiana Education Fund,

Plaintiffs,

v.

Nancy Landry, in her official capacity as  
Secretary of State of the State of  
Louisiana.

Defendant.

Civil Action: 3:26-cv-00487-JWD-SDJ

Hon. John W. deGravelles

**MEMORANDUM IN SUPPORT OF DEFENDANT'S  
MOTION TO DISMISS OR TRANSFER VENUE**

This action cannot proceed in this Court. Plaintiffs ask this Court to intervene in the middle of an ongoing federal election to direct the State to give legal effect to ballots cast under a congressional map that the Supreme Court held unconstitutional and the Western District prohibited the State from using. The First-Filed Rule, principles of comity, and the orderly administration of justice do not permit parallel federal courts to issue competing commands. This Court should dismiss this case or transfer it to the Western District.

## BACKGROUND

Plaintiffs' claims are a response to the Supreme Court's decision in *Louisiana v. Callais*, No. 24–109, 2026 WL 1153054 (U.S. Apr. 29, 2026), *judgment entered*, 2026 WL 1209010 (U.S. May 4, 2026). The Supreme Court affirmed the conclusion of the Western District's three-judge court that "the State's use of race-based redistricting ... was an unconstitutional racial gerrymander" and "remanded" to the Western District "for proceedings consistent with [the Supreme Court's] opinion." *Id.* at \*4, 18.

On remand, the Western District is actively overseeing the State's compliance with the Supreme Court's mandate. The Western District recently clarified that, in light of the Supreme Court's opinion, its prior "permanent [i]njunction ... prohibiting the State of Louisiana 'from using SB8's map of congressional districts for any election' remains in effect." *Callais v. Landry*, No. 3:24-cv-00122 (W.D. La. Apr. 30, 2026), ECF 261. The Western District is giving the State an "opportunity to enact a Constitutionally compliant map consistent with the Supreme Court's opinion" and the Western District's "[i]njunction" and has instructed the State "to file a brief" later this week to explain to the Western District "how the State intends to comply." *Id.* The renewal of that permanent injunction means that the State has no usable congressional map for the 2026 election. And today, the Western District declined a request to vacate that injunction. *See Order, Callais v. Landry*, No. 3:24-CV-00122 (W.D. La. May 6, 2025), ECF 269.

In response to the Supreme Court's opinion and the Western District's renewed injunction, the Secretary of State declared an election emergency under Louisiana

Revised Statute § 18:401.1(B). See Press Release, La. Sec’y of State Nancy Landry, Louisiana U.S. House of Representatives Races Suspended, Early Voting Begins Saturday for All Other Races (Apr. 30, 2026), <https://perma.cc/4DKN-4Y6D>. And the Governor issued Executive Order JML 26-038 suspending the closed-party primary elections for the 2026 congressional races while leaving all other elections unchanged. Exec. Order JML 26-038, <https://perma.cc/4VWK-LYJK>. Early voting for those other races began on May 2, 2026. Get Election Information, La. Sec’y of State, <https://perma.cc/QS39-GL4C>.

This action followed. It is the latest in a string of similar federal and state lawsuits challenging Executive Order JML 26-038. See *Collins v. Landry*, No. 3:26-cv-00471 (M.D. La.) (motion to dismiss or transfer venue pending before three-judge district court); *Nat’l Council of Jewish Women v. Landry*, No. C-777814 (La. 19th Jud. Dist. Ct.) (TRO denied; PI hearing continued without date); *Sims v. Landry*, No. C-777816 (La. 19th Jud. Dist. Ct.) (TRO denied; no PI hearing scheduled); *Edmund Jordan v. Landry*, No. C-777837 (La. 19th Jud. Dist. Ct.) (hearing scheduled for May 14, 2026). Plaintiffs here seek emergency relief to compel the State to credit their congressional votes (already cast via early or mail-in voting), the effect of which would force the State to use the congressional map that the Supreme Court has declared unconstitutional and the Western District has enjoined.

### **ARGUMENT**

This Court should not compel the State to resume the congressional elections that the Western District has prohibited. Voters have already been told the congressional elections are suspended. Forcing the State to disobey the Western

District's injunction and restart those elections would be fundamentally unfair to the State, voters, and candidates alike and would risk undermining the integrity and perceived legitimacy of the electoral process. The Court should dismiss this case or transfer it to the Western District.

**I. THE COURT SHOULD DISMISS THIS CASE.**

Plaintiffs' allegations rely in part on the premise that the Supreme Court had not yet issued its judgment and, therefore, its prior stay of the Western District's injunction remained in effect. Compl. ¶ 3. That premise is now gone. On May 4, 2026, the Supreme Court issued its judgment "forthwith," *Callais*, 2026 WL 1209010, and signaled that the State should not hold "2026 congressional elections ... under a map that has been held to be unconstitutional," *id.* at \*1 & n.\* (Alito, J., joined by Thomas and Gorsuch, JJ., concurring) (explaining "[t]hat constitutional question was argued and conferenced nearly seven months ago").

Accordingly, any attempt by the State to proceed with the 2026 congressional elections under an unconstitutional map—or to delay compliance—would run directly contrary to the Supreme Court's instructions and the Western District's now-renewed permanent injunction. Nor should this Court compel the State to do so. Instead, the Court should decline jurisdiction and dismiss this action.

The Fifth Circuit has instructed district courts to decline jurisdiction over a matter when the First-Filed Rule applies: "[T]he court in which an action is first filed is the appropriate court to determine whether subsequently filed cases involving substantially similar issues should proceed." *Save Power Ltd. v. Syntek Fin. Corp.*, 121 F.3d 947, 950 (5th Cir. 1997). As this Court recently explained:

The First-Filed Rule is “grounded in principles of comity and sound judicial administration.” “The federal courts long have recognized that the principle of comity requires federal district courts—courts of coordinate jurisdiction and equal rank—to exercise care to avoid interference with each other’s affairs.” “The concern manifestly is to avoid the waste of duplication, to avoid rulings which may trench upon the authority of sister courts, and to avoid piecemeal resolution of issues that call for a uniform result.” This concern applies where related cases have been filed in different districts.

*Robinson v. Ardoin*, No. 22-CV-211-SDD-SDJ, 2024 WL 1637530, at \*1 (M.D. La. Apr. 16, 2024) (quoting *Save Power*, 121 F.3d at 950). When two cases “involve substantially overlapping issues,” one court should decide both—almost always the one with the first-filed case. *Waguespack v. Medtronic, Inc.*, 185 F. Supp. 3d 916, 923 (M.D. La. 2016) (noting that the Rule does not apply when “the earlier filed anticipatory suit was merely a forum-shopping maneuver”). This Court has interpreted the First-Filed Rule as a “threshold issue” “more closely related to jurisdiction and abstention doctrines than the § 1404(a) analysis on a motion to transfer because [it] involves the Court’s authority to hear or dismiss a case.” *Id.* at 922 n.6.

Because this case is a collateral attack on the first-filed Western District’s injunction prohibiting the use of the existing congressional map, the First-Filed Rule mandates dismissal. The core issue before this Court and the Western District—whether the existing congressional map can be lawfully used—is the same. *See Order, Callais*, No. 3:24-cv-00122 (W.D. La., Apr. 30, 2026), ECF 261 (“The State of Louisiana shall file a brief outlining how the State intends to comply with the Supreme Court’s opinion in *Louisiana v. Callais* and this Court’s Injunction within

three (3) days of receipt by this Court of a certified copy of the Supreme Court’s Judgment.”). The Court should dismiss this case to avoid a direct conflict with the first-filed Western District case.

**II. IN THE ALTERNATIVE, THE COURT SHOULD TRANSFER THIS CASE TO THE WESTERN DISTRICT.**

A secondary option for avoiding the direct conflict between the relief Plaintiffs seek here and the Western District’s injunction is to transfer this case to the Western District three-judge court, already empaneled to address the constitutionality of the congressional map. The federal change-of-venue statute provides that a court “may transfer” a case to another district “[f]or the convenience of parties and witnesses” or “in the interest of justice.” 28 U.S.C. § 1404(a). A motion to transfer under § 1404(a) thus calls on the district court to make an individualized, case-by-case determination based on principles of fairness and convenience. The decision to grant or deny a motion to transfer venue is discretionary and requires a careful balancing of private and public interest factors. *In re Volkswagen of Am., Inc.*, 545 F.3d 304, 315 (5th Cir. 2008). The Fifth Circuit has adopted a “good cause” standard, requiring that the movant show the transferee venue is “clearly more convenient” than the venue in which the case is currently pending. *Id.*

There is good cause for transferring this case to the Western District. While a plaintiff’s choice of forum is ordinarily entitled to deference, that consideration yields where, as here, the defendant seeking transfer is moving to a forum more closely connected to the dispute and to the court with institutional familiarity over the underlying proceedings. Moreover, the “interest of justice” component of § 1404(a) is

a broad and flexible standard that permits courts to consider factors beyond convenience alone, including the pendency of related proceedings in the transferee forum and the risk of inconsistent rulings. *See Jarvis Christian Coll. v. Exxon Corp.*, 845 F.2d 523, 528 (5th Cir. 1988). Courts have also not hesitated to transfer or consolidate duplicative lawsuits filed over the same map. *See, e.g., Barnett v. Alabama*, 171 F. Supp. 2d 1292, 1296 (S.D. Ala. 2001); *Balderas v. Texas*, No. 6:01-cv-00158 (E.D. Tex. Aug. 31, 2001), ECF 65.

The Court should do that here. To start, this action “might have been brought” in the Western District of Louisiana. *See* 28 U.S.C. § 1404(a). Venue is proper there under 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to this case occurred in that district. That court also has subject-matter jurisdiction under 28 U.S.C. §§ 1331 and 1343, and personal jurisdiction over Defendant as a Louisiana state official. This action thus could have been brought in the Western District.

Next, the § 1404(a) private and public interest factors support transfer. The private factors favor transfer because (A) the evidentiary record—including redistricting materials, legislative history, and expert and demographic evidence—is already before the Western District and has been reviewed on multiple occasions by that three-judge court. Duplicating that record here would waste judicial and party resources. (B) The availability of compulsory process and the cost of attendance for witnesses are neutral, as relevant witnesses are located throughout Louisiana. (C) Practical considerations, however, strongly support transfer because the *Callais*

remedial proceedings remain pending in the Western District, and Plaintiffs' claims directly challenge the Western District's injunction and threaten to subject state officials to conflicting injunctions. Resolving related (if not nearly identical) issues in a single forum promotes efficiency and consistency.

The public interest factors likewise favor transfer. The Western District has a strong local interest in resolving this dispute, which centers on the State's congressional map and the ongoing *Callais* remedial proceedings, particularly where the affected voting district lies more within the Western District than the Middle District. That court also has deep familiarity with the relevant facts and legal issues after presiding over the *Callais* trial and remand proceedings. While both courts can apply the governing law, the Western District is better positioned to assess this collateral attack on its own injunction as well as how this dispute fits within the ongoing *Callais* remedial framework.

Transfer is also necessary to avoid inconsistent injunctions requiring state officials to take opposite actions—and during an active election cycle no less. If this Court proceeds, state officials could face incompatible injunctive commands regarding their ability to use SB8 for the 2026 congressional election and the timing and manner of that election. The interests of justice, comity, and stability in the law counsel strongly in favor of resolving these issues in a single forum.

\* \* \*

How the 2026 congressional election should proceed in Louisiana in the wake of *Callais*—including what effect, if any, the State should give to already-cast

ballots—is not a freestanding question for this Court to decide. It is part of the remedial process now committed to the three-judge court in the Western District on remand from the Supreme Court. Allowing this case to proceed would create a substantial risk of conflicting federal directives, undermine the Western District’s jurisdiction, and disrupt the orderly administration of justice at a critical moment for voters, candidates, and election officials alike. The First-Filed Rule, principles of comity, and the interests of justice all point in the same direction: This case should not be litigated here.

### CONCLUSION

For all these reasons, the Court should dismiss this case, or in the alternative, transfer it to the United States District Court for the Western District of Louisiana pursuant to 28 U.S.C. § 1404(a).

Dated: May 7, 2026

Respectfully Submitted,

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# **EXHIBIT A**

Cite as: 608 U. S. \_\_\_\_ (2025)

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ALITO, J., concurring

**SUPREME COURT OF THE UNITED STATES**

No. 25A1197 (24–109 and 24–110)

PHILLIP CALLAIS, ET AL., APPLICANTS *v.*  
LOUISIANA, ET AL.

ON APPLICATION TO ISSUE THE JUDGMENT FORTHWITH

[May 4, 2026]

To permit the losing party time to file a petition for rehearing, the Clerk of Court ordinarily waits 32 days after the entry of the Court’s judgment to send the opinion and a certified copy of the judgment to the clerk of the lower court. Sup. Ct. Rule 45.3. This period is subject to adjustment; the default applies “unless the Court or a Justice shortens or extends the time.” *Ibid.* The Callais appellees have asked for the Clerk to issue the judgment forthwith so that “in the event of a judicial remedy,” the District Court may “oversee an orderly process.” App. 3. Appellant Louisiana does not oppose this application. And while the Robinson appellants oppose it, they have not expressed any intent to ask this Court to reconsider its judgment. Thus, the application to issue the judgment forthwith presented to JUSTICE ALITO and by him referred to the Court is granted.

JUSTICE ALITO, with whom JUSTICE THOMAS and JUSTICE GORSUCH join, concurring.

The dissent in this suit levels charges that cannot go unanswered. The dissent would require that the 2026 congressional elections in Louisiana be held under a map that has been held to be unconstitutional.\* The dissent does not claim that it is now too late for the state legislature or the District Court to adopt a new map that complies with the

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\*That constitutional question was argued and conferenced nearly seven months ago.

ALITO, J., concurring

Constitution. Nor does the dissent assert that it is not feasible for the elections to be held under such a map. Instead, the dissent offers two reasons for its proposed course of action. One is trivial at best, and the other is baseless and insulting.

The first is compliance with the 32-day default rule set out in this Court's Rule 45.3, but as the Court's order explains, there is good reason to depart from the default rule here. The principal reason for the 32-day default rule is to give a losing party time to prepare a petition for rehearing. But here, the Robinson appellees have not expressed an intent to file such a petition, much less set out any ground on which a petition might be based. And the need for prompt action by this Court is clear. The date scheduled for the beginning of early voting in the primary election has already passed. The congressional districting map enacted by the legislature has been held to be unconstitutional, and the general election will be held in just six months.

The second reason offered by the dissent is that we should allow the 32-day period to run out in order to "avoid the appearance of partiality." *Post*, at 3 (opinion of JACKSON, J.). But the dissent does not explain why its insistence on unthinking compliance with Rule 45.3's default rule does not create the appearance of partiality (by running out the clock) on behalf of those who may find it politically advantageous to have the election occur under the unconstitutional map.

The dissent goes on to claim that our decision represents an unprincipled use of power. See *post*, at 4 ("And just like that, those principles give way to power"). That is a groundless and utterly irresponsible charge. What principle has the Court violated? The principle that Rule 45.3's 32-day default period should never be shortened even when there is good reason to do so? The principle that we should never take any action that might unjustifiably be criticized as partisan?

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ALITO, J., concurring

The dissent accuses the Court of “unshackl[ing]” itself from “constraints.” *Post*, at 4. It is the dissent’s rhetoric that lacks restraint.

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JACKSON, J., dissenting

**SUPREME COURT OF THE UNITED STATES**

No. 25A1197 (24–109 and 24–110)

PHILLIP CALLAIS, ET AL., APPLICANTS *v.*  
LOUISIANA, ET AL.

ON APPLICATION TO ISSUE THE JUDGMENT FORTHWITH

[May 4, 2026]

JUSTICE JACKSON, dissenting.

The Court’s decision in these cases has spawned chaos in the State of Louisiana.

Louisiana’s primary elections were scheduled to take place on May 16, 2026. Accordingly, the State mailed ballots to overseas and military voters on April 1, and to other voters who qualified to vote by mail on April 26. By April 29—the date on which the Court released its decision holding that Louisiana’s current congressional map is an unconstitutional gerrymander, see *Louisiana v. Callais*, 608 U. S. \_\_\_\_ (2026)—some Louisiana voters had already mailed back their filled-in ballots.

The very next day, Louisiana’s Governor declared that *Callais* “effectively revives” the lower court’s prior injunction against the current electoral map, and suspended the ongoing primary elections for seats in the U. S. House of Representatives. La. Exec. Order No. JML 26–038 (Apr. 30, 2026). For its part, the three-judge court below declared that, due to *Callais*, “Louisiana will be afforded the opportunity to enact a Constitutionally compliant map” right now—for the election in progress—and ordered the State to file a brief “outlining how [it] intends to comply with” the *Callais* decision within three days. Order in *Callais v. Landry*, No. 24–cv–122 (WD La.), ECF Doc. 261, p. 1. Apparently, neither the Governor nor the three-judge court viewed themselves as limited by the fact that this Court had

JACKSON, J., dissenting

yet to issue its certified judgment in these cases; in the ordinary course, we do not do so until at least 32 days after the opinion is released. See this Court's Rule 45.3.<sup>1</sup>

So, new litigation followed. A candidate and Louisiana voters who have already submitted their ballots filed suits against the Governor and the Secretary of State, asserting that, whatever might happen to Louisiana's congressional map in the future, *this* election is already underway and must continue pursuant to the current maps. See, e.g., Complaint in *Garcia v. Landry*, No. 26-cv-471 (MD La.), ECF Doc. 1; Emergency Petition for Injunctive Relief in *National Council of Jewish Women v. Landry*, No. C-777814 (La. 19th Jud. Dist., May 1, 2026). Meanwhile, to facilitate Louisiana's midstream redistricting rush, appellees now ask us to expedite release of the certified judgment in *Callais*. Application 2-3.

These post-*Callais* developments have a strong political undercurrent. Louisiana's hurried response to the *Callais* decision unfolds in the midst of an ongoing statewide election, against the backdrop of a pitched redistricting battle among state governments that appear to be acting as proxies for their favored political parties.<sup>2</sup> And as always, the Court has a choice. By my count, we have granted an application to issue the judgment forthwith over a party's

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<sup>1</sup>In today's order, the Court offers that "Louisiana does not oppose [the *Callais* plaintiffs'] application," suggesting that this is a point in favor of the Court's decision to grant the request. *Ante*, at 1 (*per curiam*). But the reason that Louisiana "takes no position on the *Callais* plaintiffs' request" is that neither the Governor nor the Legislature views the State's ability to "immediately produce a constitutional map and electoral process" as "contingent upon when this Court transmits its opinion and judgment." Louisiana's Response to Application 1-2.

<sup>2</sup>See D. Lieb, A Redistricting Battle Among States Has Reshaped the US House Map Ahead of the Midterm Election, Associated Press, Apr. 30, 2026, <https://apnews.com/article/redistricting-congress-gerrymander-trump-4c5c98bec6af054d13b6275b6917bc86> (archived at <https://perma.cc/RVP9-MN3W>).

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objection only twice in the last 25 years. See *Whole Woman’s Health v. Jackson*, No. 21A220, 2021 WL 5931622 (Dec. 16, 2021); Order in *Adoptive Couple v. Baby Girl*, No. 13A7, etc. (June 28, 2013). To avoid the appearance of partiality here, we could, as per usual, opt to stay on the sidelines and take no position by applying our default procedures.

But, today, the Court chooses the opposite. Not content to have decided the law, it now takes steps to influence its implementation. The Court’s decision to buck our usual practice under Rule 45.3 and issue the judgment forthwith is tantamount to an approval of Louisiana’s rush to pause the ongoing election in order to pass a new map.<sup>3</sup>

And make no mistake: That course of action does not follow from the *Callais* decision itself. The question whether our decision should affect the map to be used in the *ongoing* primaries raises a host of legal and political questions that are entirely independent of the issue in *Callais*. Among the legal ones, there is the Court’s previous insistence that—even at the cost of letting partisan gamesmanship corrupt our democracy, see *Rucho v. Common Cause*, 588 U. S. 684, 721 (2019) (KAGAN, J., dissenting)—courts should not “‘risk assuming political . . . responsibility for a [partisan map-drawing] process that often produces ill will and distrust,’”

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<sup>3</sup>Contrary to JUSTICE ALITO’s charges, my conclusion here does not “require that the 2026 congressional elections in Louisiana be held under a map that has been held to be unconstitutional.” *Ante*, at 1 (opinion concurring in grant of application to issue judgment forthwith). But he is correct to observe that I am neither “claim[ing] that it is now too late for the state legislature or the District Court to adopt a new map that complies with the Constitution,” nor “assert[ing] that it is not feasible for the elections to be held under such a map.” *Id.*, at 1–2. Indeed, my preference is for the Court to stay out of all this, and the best way to do that is to stick with our default procedures. It is the majority that opts to do otherwise, thereby seeming to endorse Louisiana’s efforts to change its congressional map during this primary election, before the pending lawsuits have a chance to play out.

JACKSON, J., dissenting

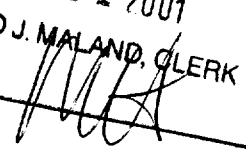
*id.*, at 704 (majority opinion). There is also the so-called *Purcell* principle, which we invoked only five months ago to chide a federal district court for “improperly insert[ing] itself into an active primary campaign.” *Abbott v. League of United Latin American Citizens*, 607 U. S. \_\_\_, \_\_\_ (2025) (*per curiam*) (slip op., at 2).

The Court unshackles itself from both constraints today and dives into the fray. And just like that, those principles give way to power. Because this abandon is unwarranted and unwise, respectfully, I dissent.

# **EXHIBIT B**

cod - 8/31/01

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
AUG 31 2001  
DAVID J. MALAND, CLERK  
BY DEPUTY 

SIMON BALDERAS, ET AL.	§	
Vs.	§	NO. 6:01CV158
STATE OF TEXAS, ET AL.	§	
J.B. MAYFIELD, ET AL.	§	
Vs.	§	NO. 6:01CV218
STATE OF TEXAS, ET AL.	§	
BRIAN MANLEY	§	
Vs.	§	NO. 6:01CV231
STATE OF TEXAS, ET AL.	§	

**ORDER**

The court, *sua sponte*, consolidates these actions into the earliest-filed case, *Balderas, et al. v. State of Texas, et al.*, Cause Number 6:01CV158. Pursuant to Fed. R. Civ. P. 42(a), the court finds that these cases involve common questions of law and fact related to the redistricting of the Congressional districts in and for the State of Texas.

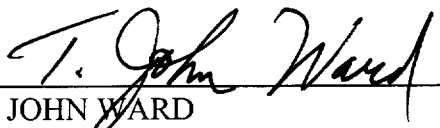
The parties shall, in the future, make any filings related to any of these cases only in *Balderas, et al. v. State of Texas, et al.*. If the filing applies to all actions, the party filing the instrument shall state in the lower left-hand corner of the caption that "This Filing Applies to: All Actions." If the filing is specific to one of the three individual cases, the party filing the instrument shall indicate in the lower left-hand corner of the caption a statement indicating the matter to which

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the instrument applies—e.g., “This Filing Applies to: the Mayfield Action.”

The clerk is directed to make any future filings in any of these cases in the consolidated file only, and the court will deem any future filings inadvertently made in the *Mayfield* or *Manley* actions to be have been made in the consolidated file.

**So Ordered and Signed** this 30<sup>th</sup> day of August, 2001.

  
\_\_\_\_\_  
T. JOHN YARD  
UNITED STATES DISTRICT JUDGE