

Points to Consider About Requesting a New Judge for Your Lawsuit

(Contributed by Christopher F. Burger – 06/2005)

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Whether real or not, the feeling that the court is not giving you fair consideration of your case warrants an analysis as to whether to request that a new judge be assigned. The mere fact that the judge may exhibit a history or pattern of ruling against your positions (even wrongly) is insufficient for a new judge to be assigned. However, should the situation arise in which the trial court reveals an affiliation, bias or prejudice which might appear to question the court's impartiality, the legislature has established a procedure for a change of judge.

That procedure, subject to the existence of sufficient facts, is tantamount to an automatic change of judge, but must be entered into seriously and upon firm and sober deliberation, because the action itself may serve to undermine the credibility of any individual judge. Accordingly, it should not be done lightly, but remains an available remedy for those situations in which partiality exists.