

3-Judge Federal Court Panels

In 1910, Congress created three-judge district courts in response to the Supreme Court's ruling in *Ex parte Young* (1908), which increased the number of cases in federal courts by holding that state government officials could be sued in federal court for attempting to enforce an unconstitutional state law. Congress believed that three judges, from two different federal courts, would offer more perspective in such cases than a single district judge. Congress later extended the use of three-judge courts in 1937 to preside over numerous challenges to President Roosevelt's progressive **New Deal** during the Great Depression. Over time, many, including Chief Justice Warren Burger, expressed concerns about the burden these larger panels created on both the lower courts and the Supreme Court, which was required to hear appeals from these cases. In 1976, Congress passed a law that significantly reduced the use of three-judge panels. Currently, federal law states "a district court of three judges shall be convened when otherwise required by an Act of Congress," or for challenges to **congressional district apportionment**, the process of dividing the 435 House of Representative seats after a census, and for statewide legislative redistricting. Examples of Congressionally mandated three-judge panels include requests for prison population reduction and certain proceedings related to voting rights.

FORMING THE 3-JUDGE PANEL

1 A District Court trial Judge reviews the request for a three-judge panel to decide if it's necessary.

2 If the three-judge panel is required, the District Judge immediately notifies the Chief Judge of the Circuit. For example, if the request was filed in the District of Puerto Rico, the District Judge would notify the Chief Judge of the U.S. Court of Appeals for the First Circuit.

3 The Chief Judge nominates themselves or another Court of Appeals Judge and another District Judge to form the three-judge panel with the initial District Judge.

THE DISTRICT COURT TRIAL PROCESS



As the case proceeds, a single judge from the three-judge panel may preside over pre-trial proceedings, including **temporary restraining orders** (a *short-term court order that prevents an action*). The full panel, however, must decide motions for **injunctive relief** (a *court order that stops a party from from doing something or requires them to act in a certain way; can be temporary or permanent*) and preside over the trial. The trial proceeds much like typical District Court trial, with attorneys for the plaintiff and the defendant presenting arguments and evidence. There is no jury.

At the end of the trial, the panel issues its opinion. The opinion could be unanimous, or it could be a 2-1 majority opinion with a dissenting opinion. In both instances, the majority opinion is the official opinion of the court. Unlike other District Court trials, three-judge federal panel trials do not follow the typical journey of a federal case.

APPEALS

If either party disagrees with the three-judge panel's decision they may appeal directly to the Supreme Court. The Supreme Court is required to review these appeals.

SUPREME COURT OF THE UNITED STATES

Under the law created by Congress regarding these larger panels, the Supreme Court does not have discretionary review, it is required to hear the case.

When the Clerk of Court receives the appeal:

1. Oral argument is scheduled on the Supreme Court's docket.
2. The lower court sends the full case record for the Justices to review.
3. Both parties submit briefs to the Justices detailing their arguments and supporting precedent.
4. Other interested parties may submit amicus curiae (friend of the court) briefs in support of one of the parties (appellant or appellee).

On the day of argument, both parties are typically permitted 30 minutes to make their arguments before the Justices. Depending on the topic of the case, however, the Chief Justice may allow for more argument time. The attorneys must be prepared to answer numerous questions and hypothetical situations posed by the Justices during the proceeding. After oral argument ends, the Justices meet to discuss and vote on the case. The Court's majority opinion is released later in the Term and it is binding.

