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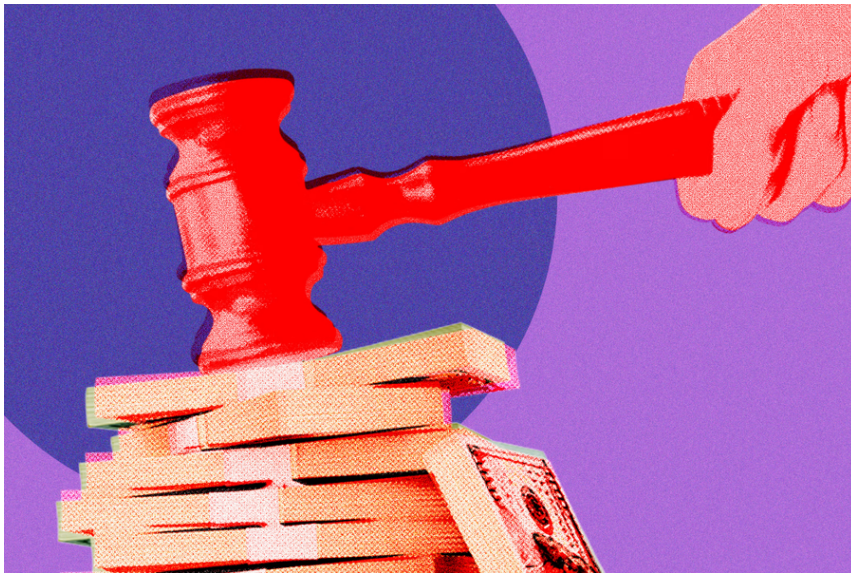
LAW

Inside the Little-Known World of Private Judges for Hire

Litigants looking for speed and expertise are paying for judges who bring it

By [Corinne Ramey](#) [Follow](#)

Nov. 12, 2025 at 5:00 am ET



JEREMY LEUNG/WSJ; ISTOCK

When a marble company believed it was getting stiffed during the expansion of the Baker Museum in Naples, Fla., it went to court, but the presiding judge retired and the state took months to assign a new one, leaving the case as messy as the construction project.

Fed up and eager for resolution, the litigants decided to pay for what Florida's courts hadn't given them: a judge who could hold regular hearings and preside over a timely trial,

which took place last year in office space used by the museum.

“I wore my robe, not because I needed to impress everyone, but because I wanted them to feel like they had their day in court,” said Jennifer Bailey, a retired state court judge in Miami who was hired to oversee the case.

Though not well-known even in the legal profession, it is true: In many states you can hire a private party to serve as a judge. And unlike arbitration or mediation, the proceedings are typically public and the rulings are broadly appealable in the courts. The practice isn’t common, but it is seeing an uptick among civil litigants who can’t stomach lengthy delays and want to ensure they have a judge with relevant expertise.

“When you are paying someone, oftentimes you have more access and get a quicker resolution,” said Florida lawyer Jordan Shaw, who represented clients in shareholder and real-estate disputes before private judges within the past year.

One of his clients, Miami-based entrepreneur Richard Rinella, who was involved in a multimillion-dollar dispute with a former restaurant-business partner, said the nearly six-figure cost of hiring a private judge was worth it. “We were fighting over so much money it didn’t matter,” he said.

Private judging is on the books in about 30 states, according to a Florida task force that has studied the practice. Some require anyone hired as a judge to have served in the public court system. Others require only experience as a lawyer.

In New York, an amendment to court rules last year encouraged the use of private judges in complicated commercial disputes. In Florida, a revised private-judging statute which clarifies that a private judge may oversee a jury trial, could go before lawmakers early next year. And in California and Colorado, private judges are increasingly overseeing family-law matters—and not just for high-net-worth celebrities such as Arnold Schwarzenegger and [Elon Musk](#), who opted to use the process for their divorce proceedings.

“We hire private judges pretty regularly, mainly because we want someone who understands the issues and can deal with them on a timeline we can set,” said Amy Goscha, a Denver-based family-law attorney. Courts overseeing such matters in Colorado are particularly burdened because more than 75% of litigants in family-law cases don’t have

lawyers, she added.

The practice has garnered occasional opposition. The American Civil Liberties Union once cautioned that allowing private judges in Rhode Island would create a “two-tiered system of justice that allows for swift resolution of cases only for those wealthy enough to afford private proceedings.”

In the divorce case of actors Brad Pitt and Angelina Jolie, a California appeals panel disqualified the presiding private judge for what the court said were undisclosed connections to Pitt’s legal team. One judge on the panel criticized the practice for allowing people with means to buy special treatment.

“[Parties] before a regular, sitting judge cannot privately compensate the judge to obtain benefits or advantages for their case,” Justice John Segal wrote.

Freed from ties to an actual courthouse, private judges have presided over cases at all hours—and locations.

Colorado private judge Angie Arkin held one emergency conference for divorcing parents from a hotel lobby while on vacation in Maui. “I consider myself to be a beck-and-call judge,” Arkin said.

New York lawyer Mark Zauderer, who spent years refereeing the heated break up of a mass-tort law firm, once did it from a boat. He was sailing off the coast of Connecticut one Friday afternoon when he heard from attorneys who requested an emergency hearing. He charted a new course and headed to port.

Docked in Westchester, N.Y., the next morning, he appeared for a virtual hearing from his yacht, with a court reporter on the line. “I’m back in the state of New York and can issue orders,” Zauderer told the parties.

He had never served as a private judge but got involved with the case after a state judge asked for his help. He first served as a mediator and then the parties proposed hiring him to just run the whole case. They have been paying him nearly \$1,000 an hour over the course of more than 100 court dates, according to a court filing. A state appeals court is expected to review Zauderer’s latest rulings next year.

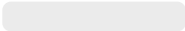
In Naples, Bailey presided over an 8-day trial last year, ultimately ruling in favor of the marble company. She is one of several retired judges and lawyers pushing to expand the practice in Florida.

“Fundamentally, this is justice on demand,” said Bailey. “In a perfect world, you wouldn’t need it. But taking these cases out gives judges the capacity to deal with others that are waiting.”

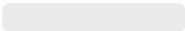
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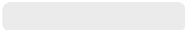
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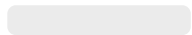
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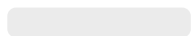
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