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## New Study Finds Election Law Litigation Remains at More than Double Rate Before 2000 Election; More Cases Shift from State Court to Federal Court

**Los Angeles, CA**—A new study by Loyola Law School Professor Richard L. Hasen finds that the amount of election law litigation in the 2007-2008 election season remained at more than double the rate before the controversial 2000 election. In addition, reversing a recent trend, more litigation is ending up in federal court than in prior years.

“In 2008, we did not exceed the all-time high of 361 cases reached during the 2004 election,” said Hasen, the William H. Hannon Distinguished Professor of Law at Loyola Law School Los Angeles. “But with 297 cases in 2008, following 216 cases in 2007, the country’s rate of election litigation still averages more than double what it did before 2000.” (See Figure 1).

In the pre-2000 period, the country averaged 94 election law cases per year. The post-2000 number is at 237. Hasen says the amount of litigation is troubling and that there’s every reason to think the litigation explosion will continue in 2012 and beyond. “Unless we take steps to improve the electoral process during the ‘off-season,’ we always face the danger of another *Bush v. Gore*,” Hasen said.

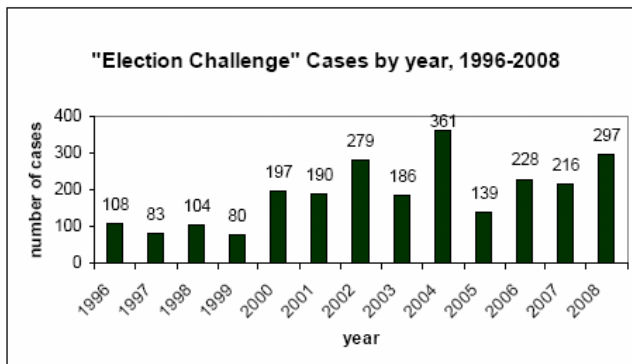


Figure 1

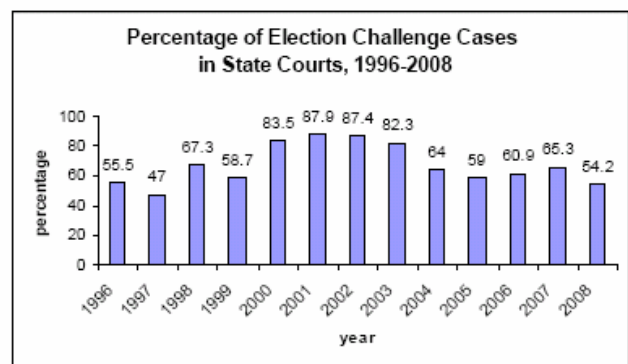


Figure 2

Hasen’s study reveals another interesting shift: More cases are being filed in *federal* rather than *state* court. Right after the 2000 controversy, well over 80 percent of cases were filed in state court. Since 2004, however, the numbers have declined. In 2008, only 54 percent of election law cases were filed in state court, the lowest level since 1997. (See Figure 2).

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“The shift to federal courts is a surprise,” Hasen said. “Litigants might be shifting to federal courts because there are more federal constitutional and statutory questions raised now in light of partial reforms since 2000, or some litigants may expect to get better results in federal court rather than state court. The shift deserves further study.”

Hasen’s study appears in a paper, “The Democracy Canon,” which is available on his website, <http://www.electionlawblog.org>, and is forthcoming in the *Stanford Law Review*. To arrange an interview with Professor Hasen, contact Brian Costello, deputy director of communications, at 213.736.1444 (w), 213.393.8504 (c) or [brian.costello@lls.edu](mailto:brian.costello@lls.edu).

### **About Richard L. Hasen**

Hasen joined Loyola's faculty in 1997 as a visiting professor and became a member of the full-time faculty in fall 1998. In 2005, he was named the William H. Hannon Distinguished Professor of Law. Hasen is a nationally recognized expert in election law and campaign finance regulation, is co-author of a leading casebook on election law and co-editor of the quarterly peer-reviewed publication, *Election Law Journal*. He is the author of more than three dozen articles on election law issues. In 2002, Hasen was named [one of the 20 top lawyers in California under age 40](#) by the Los Angeles (and San Francisco) *Daily Journal* and [one of the top 100 lawyers](#) in California in 2005. His op-eds and commentaries have appeared in many publications, including the *New York Times*, *Washington Post*, *Los Angeles Times* and *Slate*. Hasen also writes the widely read "[Election Law Blog](#)." His book, *The Supreme Court and Election Law: Judging Equality from Baker v. Carr to Bush v. Gore*, was published by NYU Press in 2003.

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