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PAPER TITLE: **Judicial Review: An Abuse Of The Court System?**

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ABSTRACT

Judicial Review: An Abuse Of The Court System?

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Judicial review, which was a standard part of British common law that became part of the legal process in the United States, is defined as *the power of the United States Supreme Court to compare acts of Congress, the Executive Branch, and State Governments, with the U. S. Constitution.* This means in effect that the Court can overturn (refuse to enforce) any act of Congress or state law if the court believes that that act violates the Constitution. Judicial review was established in 1803 in the landmark case of Marbury v. Madison, 5 U.S. 137, (1803) 5 U.S. 137. This was the first time the Supreme Court overturned federal legislation. This case greatly strengthened the power of the judicial branch, which had thus far been weaker than the other two branches. Judicial review, frequently mistaken as "judicial activism" or the court "making law" is one of the most misunderstood legitimate functions of the appellate court system. Given the general misapprehension of the term judicial review, politicians often use it in a negative sense. The misinformed populace is then anxious to throw blame on the courts when their political ideologies are struck down by the court system, typically at the state and federal appellate court levels as that is the only level when judicial review actually becomes a factor. This paper will explore the legality, rationality, and procedural propriety of cases dealing with judicial review.

Key Words: Judicial review, judicial activism, judicial restraint, judge made law, separation of powers.