



The Texas Business Courts Are Open for Business Disputes (That Meet the Jurisdictional Criteria)

The judges have been appointed, the initial challenge to the constitutionality of the Texas Business Courts has been rejected,¹ and the first set of cases have been filed. If you are a company doing business in Texas, here is what you need to know.

The stated purpose of HB 19, the statute creating the Business Courts, is to “giv[e] businesses confidence in Texas’ legal system and encourag[e] them to incorporate and headquarter in Texas.”² To that end, the Texas Business Courts aim to bolster the state’s judicial system by adding efficient courts specializing in large commercial business disputes. In recent panels, the Business Court judges have emphasized that they expect counsel to be prepared and to keep their cases progressing forward. The Business Court judges will utilize remote proceedings to facilitate efficiency and use existing courtrooms and facilities for proceedings when necessary.

At first glance, the Texas Business Courts operate similarly to the Texas District Courts. There are no special deadlines, rules, or procedures in Texas Business Courts. Rather, the Business Courts will be governed by the same rules and procedures applicable in state district courts, subject to local policies and procedures promulgated by the individual divisions. An increased filing fee will apply in the Business Courts – currently \$2,500 with a \$50 filing fee for all motions.³ While more expensive than district courts, the increased price affords litigants the right to a written opinion from the court on a dispositive ruling or “an issue important to the jurisprudence of the state.”⁴

To qualify for Business Court jurisdiction, a case must meet certain jurisdictional criteria.⁵ Indeed, the Business Courts have limited concurrent jurisdiction with the existing state district courts. This means the Business Courts will have jurisdiction

over specific categories of commercial cases – ones where the amount in controversy is more than \$5 million in certain instances, and more than \$10 million in others. Additionally, Texas Business Courts have jurisdiction over cases against publicly traded companies (without regard to an amount-in-controversy) if the action's subject matter is otherwise subject to the Business Court's jurisdiction.⁶ Parties are permitted to agree to Business Court jurisdiction for disputes meeting the jurisdictional criteria.⁷

A case that meets the jurisdictional requirements may be originally filed in the Business Courts. Additionally, cases filed in a state district court may be removed to a Business Court at the district's request. But, if a case is removed and Business Court jurisdiction is lacking, the case may be remanded back to district court.

The Business Courts are composed of eleven geographical divisions, five of which are now operational. An appellate court with exclusive jurisdiction to review judgments from the Business Courts was also created.

- **First Business Court Division (Dallas)** – Andrea Bouressa (previously Judge of the 471st Judicial District Court) and William “Bill” Whitehill (previously member at Condon Tobin Sladek Thornton Nerenberg PLLC and former Justice on the Texas Fifth Court of Appeals in Dallas).
- **Third Business Court Division (Austin)** – Melissa Andrews (previously Partner at Holland & Knight) and Patrick Sweeten (previously Principal Deputy General Counsel for the Office of the Governor).
- **Fourth Business Court Division (San Antonio)** – Marialyn Barnard (previously Judge of the 73rd Judicial District Court) and Stacy Sharp (previously owner of Sharp Appellate PLLC).
- **Eighth Business Court Division (Fort Worth)** – Jerry Bullard (previously shareholder at Adams, Lynch & Loftin, P.C.) and Brian Stagner (former Partner at Kelly Hart & Hallman LLP).
- **Eleventh Business Court Division (Houston)** – Sofia Adrogué (previously partner at Diamond McCarthy) and Grant Dorfman (previously visiting Judge and former Deputy First Assistant Attorney General for the Office of the Texas Attorney General).
- **Fifteenth Court of Appeals** – Scott A. Brister (previously Senior Partner at Hunton Andrews Kurth LLP), Scott K. Field (previously Judge of the 480th Judicial District

Court in Williamson County), and April L. Farris (previously Justice on the First Court of Appeals).

The judges were appointed by Governor Greg Abbott after applying for selection. Qualifications include:

- At least 35 years of age;
- A U.S. citizen;
- A resident of a county within the division of the Business Court to which the judge is appointed for at least five years before appointment; and
- A licensed attorney in this state who has 10 or more years of experience practicing complex civil business litigation or business transaction law; or serving as a judge of a court in this state with civil jurisdiction.

Companies doing business in Texas that may want to avail themselves of the Business Courts should review the forum selection clauses included in their agreements. The clause should contemplate disputes that will meet the jurisdictional requirements of the Business Courts and those that will not.

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¹ *In re Dallas Cnty.*, No. 24-0426, 2024 WL 3908122 (Tex. 2024).

² *HB 19 Committee Report*

³ <https://www.txcourts.gov/media/1459071/filing-in-the-texas-business-court.pdf>

⁴ *Tex. R. Civ. P.* 360.

⁵ *TEX. GOV. CODE* § 25.004.

⁶ *Id.* §25A.004(c).

⁷ *Id.* § 25A.004(d)(2)

⁸ *HB 19*

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