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The background of the cover is a composite image. The top half is dominated by the Texas state flag, with its characteristic blue field containing a white five-pointed star, and horizontal stripes of white and red. The bottom half shows the Texas State Capitol building in Austin, with its iconic white dome and classical architecture. Green trees are visible in the foreground, partially obscuring the base of the capitol. A dark red rectangular box is overlaid on the right side of the image, containing the text 'Texas' New Laws and Business Court Developments' in white.

**Texas' New Laws
and Business Court
Developments**

TEXAS BUSINESS COURT: The First Year

Just over a year ago, the Texas Business Court became operational in five of the 11 judicial districts in Texas—First (Dallas), Third (Austin), Fourth (San Antonio), Eighth (Fort Worth), and Eleventh (Houston)—and practitioners are loving it! The hallmarks of the Business Court are well-informed jurists, faster-paced litigation, and written opinions—all of which provide a clear benefit to Texas litigants engaged in complex commercial litigation.

Although the court has been in operation for only one year, practitioners are finding great value in this new venue available for complex commercial litigation. Ty Doyle, a partner at BakerHostetler, said, “I tell people both in Texas and beyond that this is one of the best things to come out of the state—period—in a long time, and I hope that it succeeds.” He analogized the Business Court to how arbitration is described in theory: “less gridlock, high-quality decision makers, more collaborative interaction with the judge.”

With these high-quality decision makers, practitioners should expect that the judges will spend time with the written submissions and draft accordingly. Amy Farish, a partner at Yetter Coleman, currently has one case in front of the Eleventh Division that involves multiple parties and law from multiple jurisdictions, and she is considering removing another case to the Business Court. She noted how impressed she is with the court, which “has gone above and beyond to read our papers, ask intelligent questions, and give all parties an opportunity to advocate for their clients.” BakerHostetler associate Jennifer DeVlugt, who is handling her first case in the Business Court, appreciates that

“the court has time to consider the big issues and the implications for not only the case before them but [also] the body of law that will be impacted.”

As many litigators know, the ability to have matters heard timely is an issue that sometimes plagues the district courts, which can have a significant backlog due to their voluminous dockets. Farish praised the ability “to have hearings quickly and as often as needed” in front of a judge who “has been generous with her time and accommodating to the many schedules of large trial teams.” This ability to have issues heard by a well-prepared court is a clear benefit to the parties and the litigators.

Rick Houghton, a litigator at Murphy Ball Stratton, is also handling his first case before the Business Court. After his client was served with a temporary restraining order, he removed the case to the Business Court, a process that he described as easy to learn and similar to that of the federal courts.¹ He explained that much like in federal courts, parties should anticipate filing a detailed case information sheet that identifies the basis for jurisdiction and a corporate disclosure statement.²

Rafe Schaefer, a litigation partner at Norton Rose Fulbright, has five cases currently before the Business Court and one case that was appealed to the Fifteenth Court of Appeals. He applauds the court for being a place where complex business disputes are efficiently and timely handled. In the year the Business Court has been operational, there have been over 185 cases filed, including more than 75 in the Eleventh Division (Houston) alone.³ Clearly, more and more parties are taking advantage of this resource to resolve their disputes, with more than 20 cases filed

since August 1, 2025.

Based on Schaefer’s experience, practitioners should also understand that cases move quickly with trial settings in 12 to 18 months of case initiation⁴ and that discovery disputes are handled in Business Court differently than in the Texas district court. For example, a party raising a discovery dispute must file a letter (rather than a motion) of no more than 700 words describing the dispute and setting out in no more than 300 words the parties’ conference regarding the same; the opposing party is granted a response of similar length, but no reply is permitted.⁵

Careful study of the Business Court Local Rules is encouraged, and parties should also actively engage with the court staff to ensure they meet the court’s specific requirements. DeVlugt encourages practitioners “to work closely with the court staff to ensure that you handle things in the manner the particular court wants. The staff has been instrumental in the smooth running of the courts, and I have found they are more than happy to answer questions.”

One of the biggest differences from the Texas district courts is that Business Court judges are encouraged to write opinions,⁶ which Schaefer believes will be “hugely beneficial” to practitioners. Apparently, the judges are happy to oblige. Farish explained that she is impressed with the court’s “excitement and willingness to dive into extensive briefing on complicated issues.” Doyle described an experience after a hearing in which the judge *asked the parties* how detailed an opinion they would like and whether the promised date would work. This type of collaboration is atypical of Texas state courts, which are often juggling high caseloads and will issue orders—rather than written opinions—on their own schedule.

There are more than 40 published opinions currently available on the Business Court’s website, many of which relate to the court’s jurisdiction.⁷ But the judges are also starting to

publish opinions on other key issues. For example, Judge Melissa Andrews, sitting by assignment in the Eleventh Division, issued a 15-page opinion analyzing the “attorney’s eyes only” designation included in a protective order.⁸ This type of issue frequently arises but is not one that often reaches the appellate court level; therefore, this is exactly the type of written opinion that will aid all Texas commercial litigators in resolving confidential designation disputes.

New developments from the Texas Legislature have lowered the amount-in-controversy threshold for jurisdiction and added new categories of cases that may be heard by these courts—making them more accessible to litigators in the metropolitan areas of the state. House Bill 40 (HB 40), which became effective September 1, 2025,⁹ enacted several developments for future cases filed in the Business Court:

- **Amount in Controversy:** The amount in controversy has been reduced from \$10 million to \$5 million, excluding interest, statutory damages, exemplary damages, penalties, and attorney’s fees.¹⁰ Parties are now permitted to aggregate claims, including counterclaims and cross-claims, to meet this threshold,¹¹ paving the way for additional matters to be heard by these courts.
- **Expanded Subject Matter Jurisdiction:** The Business Court may now hear matters involving intellectual property; investment contracts and commercial transactions; arbitration-related proceedings, including enforcement actions; and violations of the Texas Finance Code and the Texas Business and Commerce Code.¹²
- **Preferred Venue Clauses:** Parties are now permitted to establish proper venue in the Business Court by designating it as such in their contracts.¹³
- **Changes to Divisions:** Montgomery County was added to the Eleventh

Division (Houston), and the sunset provisions that would automatically abolish the remaining divisions if such divisions were not funded by 2026 were removed, giving the Legislature more time to fund and establish the rural divisions.¹⁴

Overall, the Texas Business Court appears to be fulfilling its purpose of providing “a fair, efficient, and timely resolution of business disputes.”¹⁵ Parties and litigators should consider whether their current or next case qualifies for these specialty courts, and if it does, they should be prepared for issues to be heard before informed and prepared jurists who are ready and willing to assist them in resolving their disputes. Looking ahead, practitioners should watch for developments in the Texas Legislature regarding funding for the courts in the more rural divisions so that more litigants will have the opportunity to participate in this fantastic Texas development. 🏠



Nikki L. Morris is a litigation partner at BakerHostetler. She is the editor in chief of *The Houston Lawyer*, and she is looking forward to an opportunity to have future cases heard in the Texas Business Court.

Endnotes

1. See TEX. GOV'T CODE § 25A.006 (setting out the requirements for removal).
2. See BCLR 3, 4(b).
3. Statistics based on available records at research.txcourts.gov.
4. See TEX. R. JUDICIAL ADMIN. 6.1(a).
5. BCLR 4(d).
6. See TEX. R. CIV. P. 360 (requiring written opinions in connection with dispositive motions upon request and on issues important to the state jurisprudence without request and allowing written opinions in connection with any order).
7. Published opinions are available at <https://www.txcourts.gov/businesscourt/opinions/>.
8. *Westlake Longview Corp. v. Eastman Chemical Co.*, 2025 Tex. Bus. 19 (11th Div.).
9. The full text of H.B. 40 is available at <https://capitol.texas.gov/tlodocs/89R/billtext/html/HB00040F.htm>.
10. H.B. 40 § 45 (amending TEX. GOV'T CODE § 25A.004(d)).
11. *Id.* (adding TEX. GOV'T CODE § 25A.004(i)).
12. *Id.* (amending TEX. GOV'T CODE § 25A.004(d) and adding new § 25A.004(d-1)).
13. H.B. 40 § 47 (amending TEX. GOV'T CODE § 25A.006(a)).
14. *Id.* § 44 (amending TEX. GOV'T CODE § 25A.003).
15. See BCLR 1.

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