

SADDLE UP!
WE MEAN
BUSINESS
[COURT]!



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Chapter 25A
Texas
Government
Code



Effective
September 1,
2024



Authorized under
Texas
Constitution
Section 1, Article
V



OVERVIEW



Single court
11 divisions



Governor appoints Judges
Senate confirms

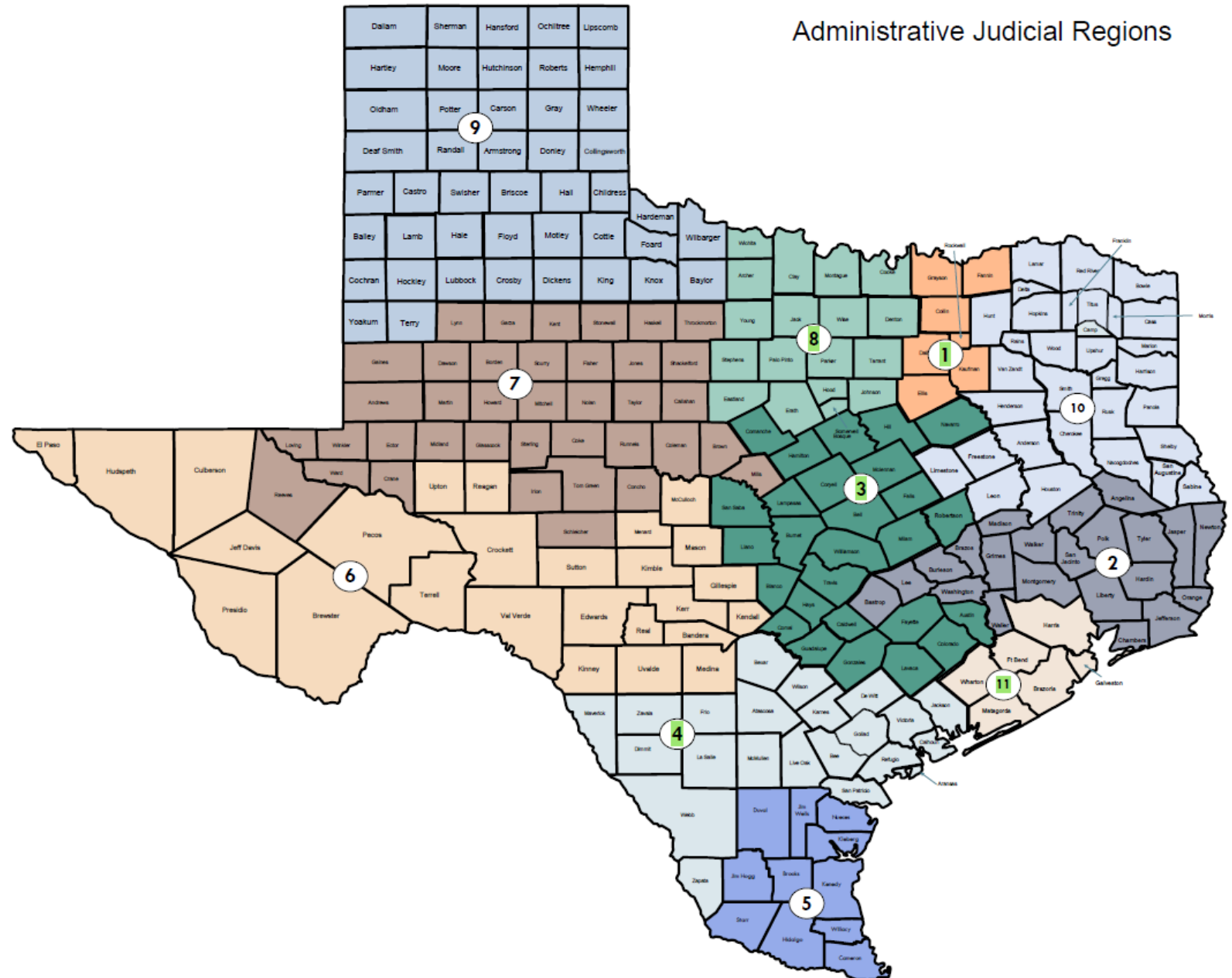


September 1, 2024

Two Judges:

- 1st (Dallas)
- 3rd (Austin)
- 4th (San Antonio)
- 8th (Fort Worth)
- 11th (Houston)

If other divisions funded,
one judge appointed to
each other division after
August 31, 2026, but before
September 2, 2026



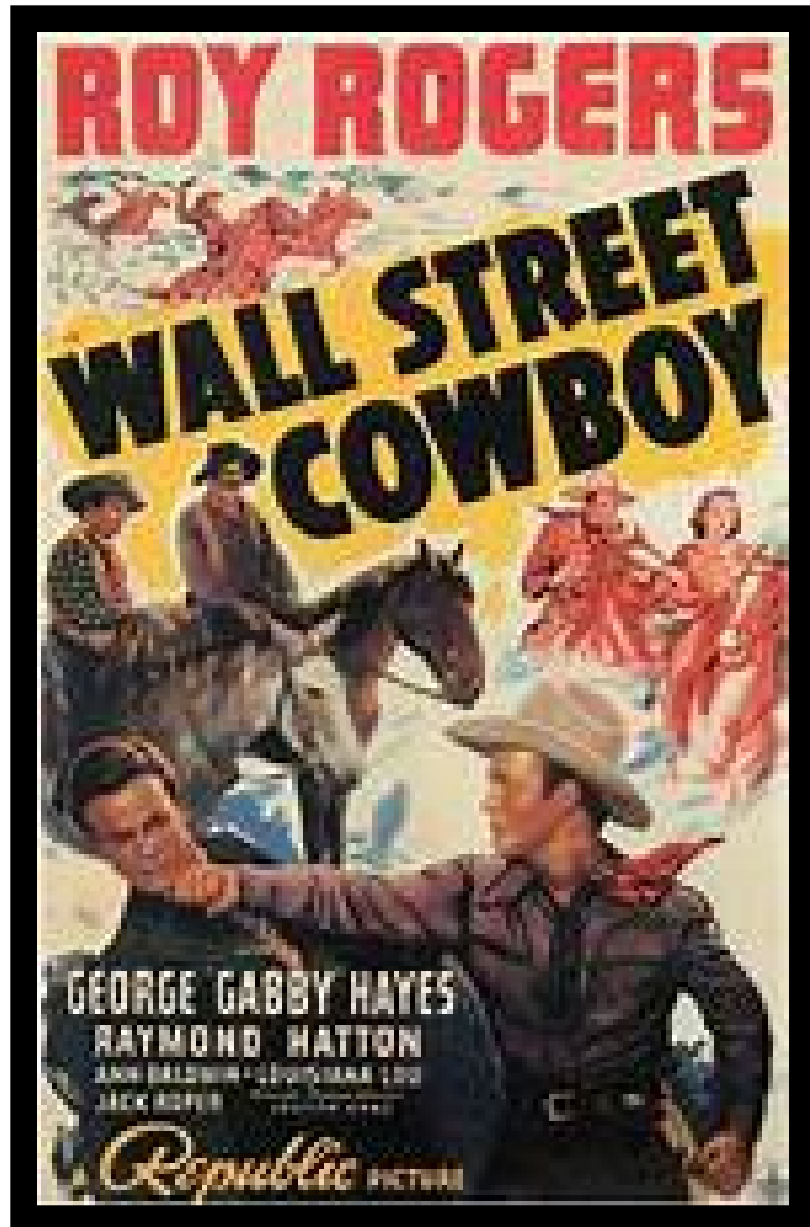


JURISDICTION

Amount in controversy exceeds \$5 million (excl. interest, statutory damages, exemplary damages, penalties, attorney's and costs) :

- Derivative proceedings
- Governance, governing documents, internal affairs of an organization
- State or federal securities or trade regulation laws
- Organization or Owners v. Owners, controlling persons or managerial officials
- Breach of duty by owners, controlling persons or managerial officials
- Owner or governing person liability for organization's obligations (not contract)
- Business Organizations Code





**Publicly traded companies
regardless of
amount in controversy**





JURISDICTION

Amount in controversy exceeds \$10 million (excl. interest, statutory damages, exemplary damages, penalties, attorney's and costs) :

- Loans or advances aggregate at least \$10 million, but not banks, credit unions or loan institutions
- Contracts or commercial transactions when parties agreed to jurisdiction (but not insurance contracts)
- Violations of Finance Code or Business & Commerce Code by organization or officer or governing person, but not banks, credit unions or loan associations

Injunctive relief and declaratory judgment



SUPPLEMENTAL JURISDICTION

Claims that form part of the same case or controversy of a case within the court's primary jurisdiction

- **However**, only with the agreement of all parties
- If parties cannot agree, the claim will be heard in the court of original jurisdiction alongside the claims considered in BC





JURISDICTION — EXCLUSIONS





NEVER

- Medical Malpractice
- Personal injury and wrongful death
- Legal Malpractice

No, unless within supplemental jurisdiction

- Actions against or by governmental entity
- Foreclosures
- DTPA
- Restraint of trade
- Mechanic's, contractor's and materialman's liens
- Trusts
- Estates, Family or Insurance Code
- Consumer transactions
- Duties and obligations under insurance policy



FILING

File in Business Court if the court has jurisdiction and venue

Business Court assigns to division of proper venue

Court can reassign if the division does not include proper venue

If no operating division in proper county, at the option of the filing party, the Business Court can transfer to a district court or county court at law with proper venue



REMOVAL



Yes, if falls within the Business Court's primary jurisdiction and there is an operating division

Parties can agree to remove at any time

If parties do not agree, timeframe for removal is similar to that of federal court

Business Court can remand to the original court



COURTROOMS, VENUE, AND REMOTE PROCEEDINGS

Judge must maintain chambers in one of the counties within the division

Judge may hold court in any courtroom within the division

Judge can conduct remote proceedings but may not require a party or attorneys to attend a court proceeding with oral testimony unless parties agree

Remote jury trials are not authorized

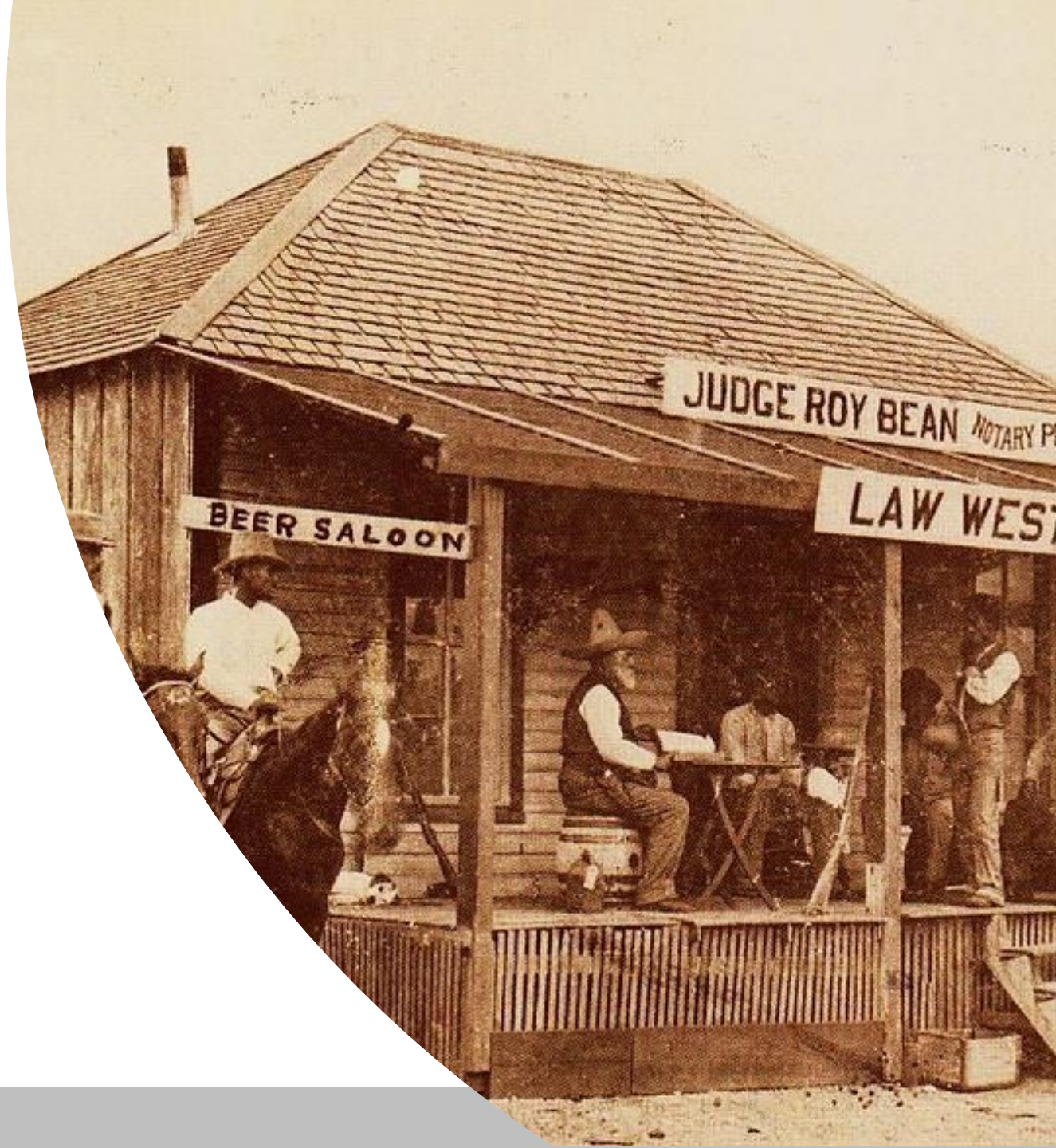
Business Court's physical location has yet to be determined

Business Court is administratively attached to the OCA

- OCA may contract for use of facilities within a county

- Business Court judges could potentially sit in district court buildings

Business Court Clerk's office will be in Travis County



JURY TRIALS

Parties have a right to a jury trial

- If jury trial requested, judge will decide which county it will take place in based on:
 - If the case was initially filed in Business Court, trial must occur in a county where the case could have been filed under the general venue rules
 - If removed from another court, trial must be in the county where the action was originally filed
 - If a written contract specifies a particular county for the trial, trial must be held in that specific county

Parties and the Business Court Judge may agree to a different county, but no party can be compelled to agree to a different county

Handling of jury calls, juror selection, and other practices, rules and procedures are the same as the district court of their respective county



APPEALS

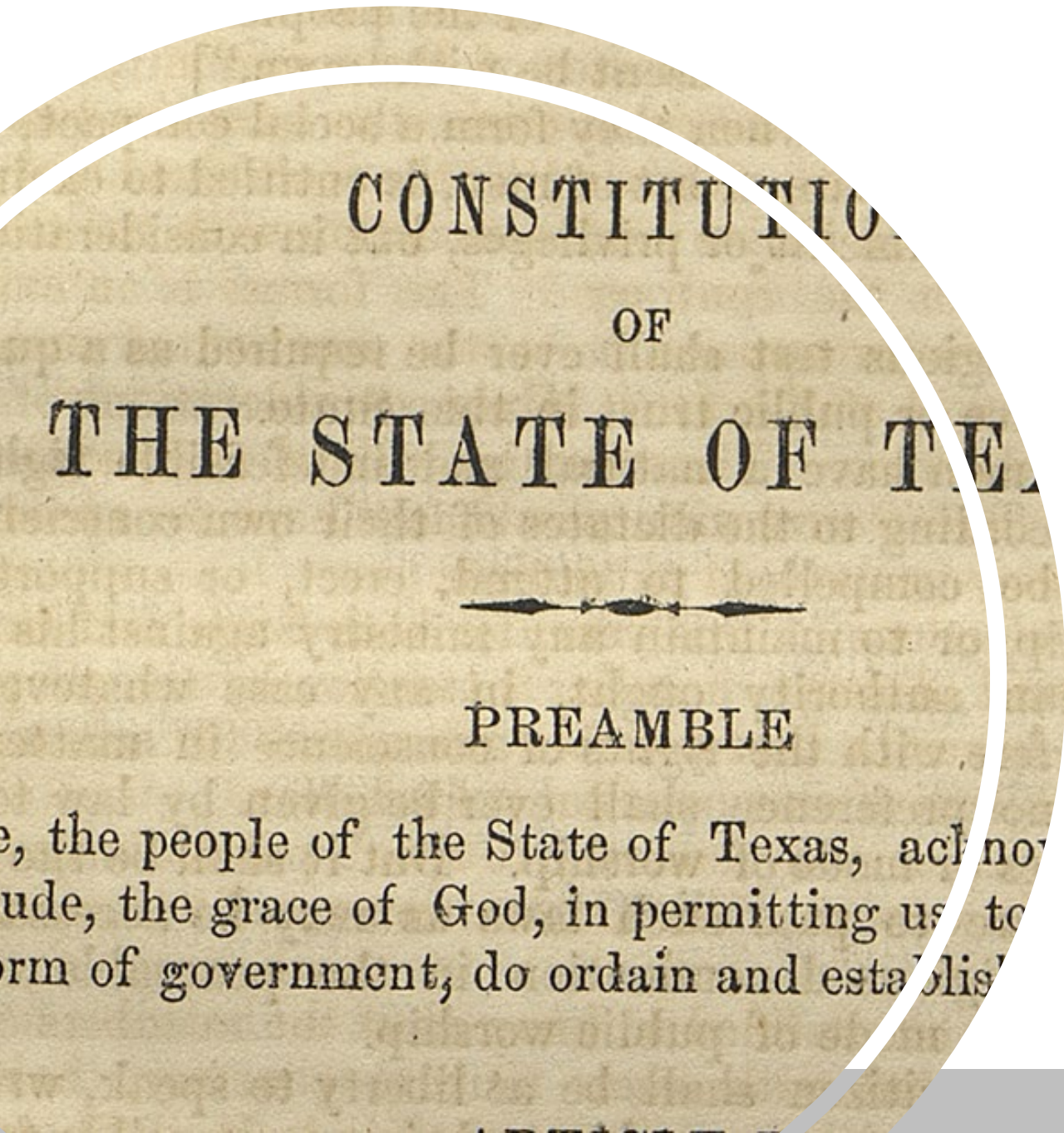
Exclusive Jurisdiction

15th Judicial District
Court of Appeals (Austin)



CONSTITUTIONAL CHALLENGES

- Expected
- If Judge appointment is deemed unconstitutional, the Business Court will be staffed by retired or former judges or justices appointed to the court under Section 25A.014



RULES FOR THE BUSINESS COURT

**Public comment period closed
May 1**



RULE 352 — THE BUSINESS COURT GENERALLY

- “Chapter 25A, Government Code, and Parts I, II, III, VI of these rules govern the business court. If there is any conflict between Parts I, II, VI and Part III, Part III controls.”
- Bottom Line → Understanding how things work will require an understanding of governing statutory provisions (Chapter 25A), existing procedural rules, and the new procedural rules specific to the business courts.



RULE 353 — FEES FOR BUSINESS COURT ACTIONS

- OCA and business court must publish a schedule of court fees.
- Parties must pay the fees, except the business court must waive fees for inability to afford payment of court costs, consistent with Rule 145, and may otherwise waive fees in the interest of justice.



RULE 354

**ACTION
ORIGINALLY
FILED IN THE
BUSINESS
COURT**

Pleading Requirements

Clerk Duties

Challenges

Transfer or Dismissal



RULE 355

ACTION **REMOVED** TO THE BUSINESS COURT

Notice of Removal Required

Notice Contents

Notice Deadline

Effect of Notice

Clerk Duties

Remand



RULE 356

ACTION TRANSFERRED TO THE BUSINESS COURT

Transfer Request

Notice of Hearing

Transfer

Remand

Clerk Duties



RULE 357 — EFFECT OF DISMISSAL OF AN ACTION OR CLAIM

- If the business court dismisses an action or claim and the same action or claim is filed in a different county within 60 days after the dismissal becomes final, the applicable statute of limitations is suspended for the period between the filings.



RULE 358 — APPEARANCE AT BUSINESS COURT PROCEEDINGS

- Rule 21d governs remote proceedings in the business court, except:
 - The business court must not require a party or lawyer to appear electronically for a proceeding in which oral testimony is heard absent agreement of the parties; and
 - The business court must not allow or require a participant to appear electronically for a jury trial.



RULE 359 — WRITTEN OPINIONS IN BUSINESS COURT ACTIONS

- **When Required** – A business court judge must issue a written opinion:
 - In connection with a dispositive ruling, on the request of a party; and
 - On an issue important to the jurisprudence of the state, regardless of request.
- **When Permitted** – A business court judge may issue a written opinion in connection with any order.



Discussion Points

- Filing Fees
- Speed
- Judges
 - Experience
 - Two-year Terms (with limitless reappointment)
- Precedent
- Rules (statewide *and* local)
- Written Opinions
- Risk of the Unknown and Risk Tolerance



This
REALLY
is my first
RODEO



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