[OPINION]

Navigating the Texas Business Court

Lessons learned from litigating in the new court.

WRITTEN BY **YAMAN DESAI**



The Texas Business Court has changed commercial litigation in Texas. Having litigated multiple matters and obtained summary judgments in this new court, I've seen firsthand how differently it operates: faster timelines, novel processes, and a no-nonsense approach to resolving complex disputes.

But this article isn't about any single victory. It's about what every practitioner should know before stepping into a Texas Business Court courtroom. Whether you're preparing your first filing or refining your strategy for an upcoming hearing, the lessons below will help you navigate a system that rewards preparation, punishes delay, and expects you to be ready for trial from day one.

1. THE BUSINESS COURT ENFORCES CONTRACTS AND ISSUES RULINGS

The Texas Business Court was formed to streamline business disputes. Those disputes are almost always governed by complex contracts. The Business Court has proven adept at interpreting and enforcing those contracts, harmonizing specific terms with the parties' broader intent reflected in the agreement as a whole.

Often equally important, the Business Court articulates its rationale. In a departure from other state courts, the Texas Business Court is required by statute and Supreme Court of Texas rules to issue written opinions. These opinions can provide parties with crucial clarity in litigating their case—and they can guide future litigants and Texas businesses more broadly. For example, the Business Court's first merits decision was a seminal opinion from Judge Bill Whitehill mapping out partnership obligations—and how they can be modified—under Texas law. The opinion was not only dispositive of the plaintiffs' claims, but also instructive for countless Texas limited partnerships.

2. EXPECT EARLY RESOLUTION OF LEGAL ISSUES

The Business Court is frequently confronted with difficult legal questions lacking easy answers. Historically, the Texas Rules of Civil Procedure (TRCP) were ill equipped to tee up those questions for speedy resolution. The result? Months—sometimes years—of costly discovery and motion practice before courts get a chance to weigh in on pivotal legal issues.

But the Business Court has shaped a different course. True to its mandate, the Business Court has carved out a reputation for addressing thorny issues head on—and doing so at the onset of cases. Through both TRCP Rule 91a and early summary judgment motions, the Business Court allows (or, in my experience, often even expects) parties to present central legal questions early in cases. And the court follows through, promptly issuing reasoned opinions with unambiguous answers.

The early answers offer both risk and potential reward—quick resolution of the case or the looming near-

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certainty of a fixed trial date. Either way, parties should expect to gear up for big battles from the beginning.

3. THE BUSINESS COURT HAS LIMITED JURISDICTION

Texas Government Code § 25A.004 lays out the Business Court's jurisdiction—generally cases exceeding $5 million in controversy with an additional hook. Those restrictions are meaningful. When challenged, the Business Court will grapple with its jurisdiction, diligently evaluate the claims and parties, and reject cases that fail to meet the statutory requirements.

But the challenging burden is high. Absent evidence of fraud or a readily established alternative, the plaintiff, in my experience, only needs to raise a fact issue to maintain jurisdiction in the Business Court. The Business Court has repeatedly assessed its jurisdiction, and the record thus far seems to indicate a reluctance to remove a good faith case from the system's jurisdiction.

4. BE PREPARED FOR TRIAL

It's happened to everyone—you work a case for years, painstakingly categorizing exhibits, formulating outlines, and refining themes. And then, on the eve of trial, a party seeks a continuance. They are routinely granted. Countless hours of preparation feel wasted.

That won't happen in the Business Court. The Business Court is setting quick trial dates, as early as one year from a defendant's answer. And, in my experience, barring extraordinary circumstances, the Business Court is holding the parties to that date. With trial earlier and continuance unlikely, parties are forced to prepare for trial from the beginning and litigate cases with intention.

5. THE BUSINESS COURT READS EVERYTHING—AND HAS QUESTIONS

The day before my first Business Court summary judgment hearing, we got an email from the court. The judge read the briefs and had substantive questions for the parties. I threw out my prior presentation and started over, focusing on what was important to the court.

It was an experience that is not uncommon for the Business Court. With the benefit of restricted jurisdiction and a more limited docket, the Business Court judges are routinely afforded more time to engage with cases. That attention can give well-prepared lawyers greater insight into the court's concerns, allowing them to tailor arguments to maximize advocacy for the client. But it also requires lawyers to be nimble and adaptable.

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6. DISCOVERY WILL BE DIFFERENT.

Complex cases get mired in discovery battles. Competing motions to compel and accusations of improper withholdings bog down cases and suck up resources. In the end, clients pay with little progress to show for it.

Judges frequently make themselves available for discovery status conferences within hours of a request; often requiring them before a motion to compel can be filed. And the Business Court has little patience for "whataboutism" arguments, expecting parties to comply with their discovery obligations irrespective of whether they think the other side has lived up to its end. The results are fewer—and cheaper—discovery fights.

7. CREATIVITY IS WELCOME

Big cases don't have to be boring cases. Lawyers often feel the pull to fall back on the safe, traditional playbook. That is especially true in prominent cases, where the stakes are the highest.

But lawyers in the Business Court can leverage creativity to their clients' advantage. Inspired advocacy—from captivating storytelling to engaging demonstratives to out-of-the-box legal theories—can help your themes resonate and translate complex concepts.

The Business Court seems to welcome this creativity with open arms. At times, the Business Court even does it itself, creating charts and diagrams, for example, to better understand complicated cases. Lawyers should lean into those elements.

The Texas Business Court is not just a new venue—it represents a new mindset. The dockets move fast and there is little patience for procedural gamesmanship. But for lawyers willing to adapt, the payoff is considerable: significant engagement on the merits, reasoned rulings on dispositive motions, and a pathway to resolution that doesn't require years of attrition. The bottom line is simple. Come prepared. Know your case cold. And don't be afraid to make the arguments that matter. If you do, you will be better positioned to advocate effectively in the Texas Business Court. **TBJ**



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