



JUDGE BOURESSA'S COURT PROCEDURES

The following procedures are adopted by Judge Bouressa for cases assigned to her in the First Division and are intended to aid parties and their attorneys in practice before the Court.

I. Case Management

- A. **Court Communication.** Email is the Court's preferred method of communication (BCDivision1A@txcourts.gov). Include all parties or their counsel, if represented, on court communications, except in rare circumstances where inclusion would negate requested *ex parte* relief.
- B. **Scheduling Orders.** Use the form attached hereto. Agreed orders should reflect signatures of all parties or their attorneys. In the absence of agreement, parties can submit competing orders or a single order with proposed alternatives offered for the Court's consideration.
 - 1. **Trial Dates.** Contact the Court for available trial dates to include in the scheduling order. A case may be called on the date set or within 14 days thereafter. Jury trial dates will not be provided unless a jury has been demanded. Jury trial dates will be converted to bench trial dates if the parties fail to comply with any jury fee orders.
- C. **Continuances.** Continuances of dates selected by the parties are heavily disfavored. Good cause should be shown.

II. Discovery

- A. **Written Discovery.** Limits on written discovery will be governed by the Texas Rules of Civil Procedure, the Local Rules of the Texas Business Court, these procedures, and any modifications in Rule 11 agreements filed with the Court.
- B. **Discovery Control Plans, Protective Orders, and ESI Protocols.** Parties who cannot reach an agreement on discovery limitations may request a setting for entry of a discovery control plan, protective order, or ESI protocol; please e-file competing proposals at least 48 hours in advance of such setting.

- C. **Discovery Motions Generally.** Discovery motions should include only items on which agreement cannot be reached absent court intervention.
- D. **Motions to Compel.** No motion to compel written discovery will be considered unless the request and any objection or response are attached to the motion.
 - 1. To the extent practicable, the motion should group requests by similar subject-matter or similar legal objection.
 - 2. If set for oral hearing, movants should be prepared to identify the element(s) of any claim(s) or defense(s) that will be aided by discovery of the requested information.
- E. **Attorney's Fees.** Abusive discovery tactics will not be tolerated. Attorney's fees may be awarded against any party engaging in abuse of discovery, even upon the first instance of such conduct.

III. Scheduling Hearings

- A. **Settings Not Required.** Orders on the following motions may be entered without necessity of a setting, provided that a proposed order is e-filed as a separate document at the same time as the motion:
 - 1. Motions for substitute/alternative service;
 - 2. Motions for default judgment;
 - 3. Motions for admission pro hac vice; and
 - 4. Unopposed motions seeking relief other than continuance of a trial setting.
- B. **Settings Required.** Opposed motions will not be considered unless set. It is the movant's obligation to obtain a setting.
 - 1. Available dates for both oral hearings and submission settings can be obtained from the Court Manager.
 - 2. Parties must confer on dates before setting any matter. If agreement cannot be reached, the movant may set the matter, and the non-movant may e-file objections to the movant's requested date or file any other appropriate motion.
 - 3. When conferring on hearing dates, parties should indicate whether they intend to offer live testimony.

- C. **Oral Hearings.** Unless arranged in advance with the Court, all oral hearings will be held in-person.
1. **Notices.** The movant is required to file and serve on all parties a notice of oral hearing that sets forth the date, time, and location of the hearing, and an indication of whether the hearing is evidentiary.
 2. **Availability.** When the Court sets a hearing, the Court will assume a party is available on a proposed date and time unless the party identifies a specific and verifiable conflict with the same. General statements of unavailability do not suffice to answer Court inquiries.
 3. **Citations.** Parties should be prepared to provide a citation to any statute, rule, or case referenced during an oral hearing.
- D. **Submission.** Motions other than discovery motions* may be set for submission without oral argument upon agreement of the parties, unless the Court, in its discretion, requests oral hearing.

*As set forth in II.B., submission settings are available where the sole discovery issue is the entry of a discovery control plan, protective order, or ESI protocol.

IV. Motion Practice

- A. **Responses.** Unless otherwise provided by law, responses to motions should be filed no later than 5 days before the motion is set for oral hearing or submission.
- B. **Replies.** Unless otherwise provided by law, replies in support of motions should be filed no later than 2 days before the motion is set for oral hearing or submission.
- C. **Sur-replies.** The Court Manager should be notified that a sur-reply has been filed to ensure it is brought to the Court's attention at the time of the setting. Settings will not be delayed to accommodate sur-replies.

V. Case Resolution

- A. **Trials.** As a general rule, older cases take priority.
 1. **Trial Time.** All trials will be subject to time limitations, to be set at the pretrial hearing. Parties should be prepared to address the time needed for their case calculated in hours.

2. **Final Judgment After Trial.** Following return of a jury verdict or notification of the Court's rulings, the parties have 30 days to e-file either a single judgment agreed as to form or competing versions for the Court's consideration. The parties may request an oral hearing on the form of the judgment any time before judgment is entered.
3. **Findings of Fact and Conclusions of Law.** Within 10 days after any party timely files a request for findings of fact and conclusions of law, proposed findings and conclusions should be sent to the Court in Word version. Parties may but are not required to e-file proposed findings and conclusions.

B. Settlement Announcements.

1. To have a trial setting removed from the Court's docket due to settlement, one of the following must occur:
 - (a) The filing of a non-suit or agreed dismissal signed by each party with pending claims;
 - (b) The filing of an agreed judgment signed by all parties; or
 - (c) The filing of a notice of settlement signed by all parties, and, where a jury demand has been made, a waiver of jury trial by all parties.

Emailed notice is not sufficient.

2. Settled cases will not be held on the Court's docket for more than 90 days. If the parties fail to submit final dispositive orders to the Court within 90 days after announcing settlement, the Court will presume the parties desire entry of a dismissal with prejudice and will enter the same without further notice, unless extended by prior order of the Court.



**The Business Court of Texas,
First Division**

[PLAINTIFF],
Plaintiff,

v.

[DEFENDANT],
Defendant.

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Cause No. 2_-BC01A-____

Scheduling Order

The Court enters the following order to control discovery, deadlines, and settings in this Cause. Dates marked with an * may be amended upon the filing of a Rule 11 agreement. No other dates may be changed absent leave of court.

TRIAL SETTING	____ Bench ____ Jury
Date:	If Bench: a party's agreement to this order constitutes a JURY WAIVER by that party.
Time: 9AM	If Jury: the jury fee must be paid no later than 90 days before the trial setting or the right to a jury will be DEEMED WAIVED and the case will proceed to bench trial.
Cases may be called to trial on the trial date or any date within 14 days thereafter.	If Jury, County where trial is to be commenced: _____ ____ This is the county of proper venue <i>or</i> ____ The parties have agreed to this county per Tex. Gov't Code § 25A.015. A reset or continuance of the trial setting does not alter any deadline established by this order.

PRETRIAL HEARING Date: Time: 9AM	Parties must confer on the following at least 14 days before the pretrial hearing: witness lists, exhibit lists, demonstrative exhibits, deposition excerpts to be offered on direct examination, motions in limine, and proposed jury charges. All agreed pre-marked exhibits, deposition testimony to be offered on direct examination, and proposed jury charges in Word format must be provided to the Court before or at the pretrial conference.
AMENDED PLEADINGS (CLAIMS) Date:	Pleadings asserting new claims for affirmative relief must be filed and served by this date.
AMENDED PLEADINGS (DEFENSES) Date:	Pleadings asserting new affirmative defenses must be filed and served by this date.
JOINDER Date:	No parties may be joined after this date except upon motion for leave showing good cause. This deadline does not alter the requirements of Texas Rule of Civil Procedure 38. Any party joined before this deadline or thereafter by order of the Court must be served a copy of this Order by the party moving for joinder.
ARBITRATION Date:	All motions to compel arbitration must be filed and heard by this date.
*FACT DISCOVERY Date:	Fact discovery closes on this date.
*EXPERT DESIGNATIONS (PARTIES WITH BURDEN/PROOF) Date:	Parties bearing the burden of proof on a claim or defense must designate experts by this date.

<p>*EXPERT DESIGNATIONS (PARTIES WITHOUT BURDEN/PROOF)</p> <p>Date:</p>	<p>Parties not bearing the burden of proof on a claim or defense must designate experts by this date.</p>
<p>*REBUTTAL EXPERT DESIGNATIONS</p> <p>Date:</p>	<p>All rebuttal expert designations are due on this date.</p>
<p>*EXPERT DISCOVERY</p> <p>Date:</p>	<p>All expert discovery closes on this date.</p>
<p>*MEDIATION</p> <p>Date:</p>	<p>Mediation is required except on leave of court. The parties and their attorneys shall participate in mediation on or before this date. The parties may select a mediator by agreement or may request appointment of a mediator by the Court.</p> <p>Parties who fail to mediate by this date will be limited to 3 hours of trial time in a jury trial or 2 hours of trial time in a bench trial.</p>
<p>DISPOSITIVE MOTIONS</p> <p>Date:</p>	<p>Except where otherwise provided by statute or rule, dispositive motions must be filed and heard by this date.</p>
<p>MOTIONS TO STRIKE/ EXCLUDE</p> <p>Date:</p>	<p>Any objection or motion to exclude or limit expert testimony must be filed and heard by this date.</p>

ENTERED: _____

PRESIDING JUDGE

AGREED: