Supreme Court of Texas

Misc. Docket No. 26-9083

Preliminary Approval of Amendments to the Business Court Rules and Rules of Judicial Administration 11 and 13

ORDERED that:

1. The Court invites public comments on proposed amendments to the business court rules and Rules of Judicial Administration 11 and 13.

2. Comments regarding the amendments to the business court rules should be submitted in writing to rulescomments@txcourts.gov by February 1, 2027.

3. Comments regarding the amendments to Rules of Judicial Administration 11 and 13 should be submitted in writing to rulescomments@txcourts.gov by April 1, 2027.

4. The Court will issue an order finalizing the amendments after the close of the comment period. The Court may change the amendments in response to public comments.

5. The Clerk is directed to:

   a. file a copy of this order with the Secretary of State;

   b. send a copy of this order to the Governor, the Lieutenant Governor, and each elected member of the Legislature; and

   c. submit a copy of this order for publication in the *Texas Register*.

6. The State Bar of Texas is directed to:

   a. cause a copy of this order to be sent to each registered member of the State Bar of Texas by email; and

   b. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*.

Dated: November 20, 2026.

James D. Blacklock, Chief Justice

Debra H. Lehrmann, Justice

John P. Devine, Justice

J. Brett Busby, Justice

Jane N. Bland, Justice

Rebeca A. Huddle, Justice

Evan A. Young, Justice

James P. Sullivan, Justice

Kyle D. Hawkins, Justice

Texas Rules of Civil Procedure

RULE 354. ACTION ORIGINALLY FILED IN THE BUSINESS COURT

(a) *Pleading Requirements*. For an action originally filed in the business court, an original pleading that sets forth a claim for relief—whether an original petition, counterclaim, cross-claim, or third party claim—must, in addition to the pleading requirements specified in Part II of these rules, plead facts to establish the business court's authority to hear the action. An original petition must also plead facts to establish venue in a county in an operating division of the business court.

(b) *Clerk Duties*. The business court clerk must assign the action to a division of the business court. If the division has more than one judge, then the clerk must randomly assign the action to a specific judge within that division.

~~(c) *Challenges.*~~

~~(1) To Venue. A motion challenging venue must comply with Rules 86 and 87.~~

~~(2) To Authority. A motion challenging the business court's authority to hear an action must be filed within 30 days of the movant's appearance.~~

~~(d) *Transfer or Dismissal.*~~

~~(1) Venue Transfer. If the business court determines, on a party's motion, that the division's geographic territory does not include a county of proper venue for the action, the business court must:~~

~~(A) if an operating division of the business court includes a county of proper venue, transfer the action to that division; or~~

~~(B) if there is not an operating division of the business court that includes a county of proper venue, at the request of the party filing the action, transfer the action to a district court or county court at law in a county of proper venue.~~

~~(2) Authority. If the business court determines, on a party's motion or its own initiative, that it does not have the authority to hear the action, the business court must:~~

~~(A) if the determination was made on its own initiative, provide at least 10 days' notice of the intent to transfer or dismiss and an opportunity to be heard on any objection; and~~

~~(B) at the request of the party filing the action:~~

~~(i) transfer the action to a district court or county court at law in a county of proper venue; or~~

~~(ii) dismiss the action without prejudice to the parties' claims.~~

Notes and Comments

Comment to 2024 change: Rule 354 is adopted to implement Texas Government Code Sections 25A.006(a)-(c) and 25A.020(a)(2). Texas Government Code Section 25A.004 specifies the business court's authority to hear an action.

Comment to 2027 change: Rule 354 is amended to move the venue and authority provisions to new Rule 361.

RULE 355. ACTION REMOVED TO THE BUSINESS COURT

(a) *Notice of Removal Required.* A party to an action originally filed in a district court or county court at law may remove the action to the business court by filing a notice of removal with:

(1) the court from which removal is sought; and

(2) the business court.

(b) *Notice Contents.* The notice must:

(1) state whether all parties agree to the removal;

(2) plead facts to establish:

(A) the business court's authority to hear the action; and

(B) venue in a county in an operating division of the business court; and

(3) contain a copy of the district court's or county court at law's docket sheet and all process, pleadings, and orders in the action.

(c) *Notice Deadline.*

(1) When Agreed. A party may file a notice of removal reflecting the agreement of all parties at any time during the pendency of the action.

(2) When Not Agreed. If all parties have not agreed to remove the action, the notice of removal must be filed within 30 days after the following, whichever date is later:

(A) the date the party requesting removal of the action was served with process;

(B) ~~within 30 days after~~ the date the party requesting removal of the action discovered, or reasonably should have discovered, facts establishing the business court's authority to hear the action; or

(C) if an application for temporary injunction is pending on the date the party requesting removal of the action discovered, or reasonably should have discovered, facts establishing the business court's authority to hear the action, ~~within 30 days after~~ the date the application is granted, denied, or denied by operation of law.

(d) *Effect of Notice.* A notice of removal to the business court is not subject to due order of pleading rules. Filing a notice of removal does not waive a defect in venue or constitute an appearance waiving a challenge to personal jurisdiction.

(e) *Clerk Duties.* On receipt of a notice of removal, the clerk of the court from which removal is sought must immediately transfer the action to the business court. The business court clerk must assign the action to the appropriate operating division of the business court. If the division has more than one judge, then the clerk must randomly assign the action to a specific judge within that division.

~~(f) *Remand.*~~

~~(1) When Required. If the business court determines, on motion or its own initiative, that removal was improper, the business court must remand the action to the court from which the action was removed.~~

~~(2) Motion to Remand.~~

~~(A) A party may file a motion to remand the action in the business court based on improper removal. Except as provided in (B), the motion must be filed within 30 days after the notice of removal is filed.~~

~~(B) If a party is served with process after the notice of removal is filed, the party seeking remand must file a motion to remand within 30 days after the party enters an appearance.~~

~~(3) On Business Court's Own Initiative. The business court must provide the parties 10 days' notice of its intent to remand on its own initiative and an opportunity to be heard on any objection.~~

Notes and Comments

Comment to 2024 change: Rule 355 is adopted to implement Texas Government Code Section 25A.006(d)-(g), (i)-(j) and Section 25A.020(a).

Comment to 2027 change: Rule 355 is amended to implement changes to Texas Government Code Section 25A.006(f) and to move the remand provisions to new Rule 361.

RULE 356. ACTION TRANSFERRED BY THE REGIONAL PRESIGING JUDGE TO THE BUSINESS COURT

(a) *Transfer Request.*

(1) ~~On its own initiative,~~On District or County Court Initiative. In an action commenced on or after September 1, 2024, a district or county court may, on its own initiative and with notice to all parties, request by an order of referral that the regional presiding judge for the administrative judicial region in which the district or county court is located ~~to~~ transfer ~~an~~the action pending in the court to the business court if the business court has the authority to hear the action. ~~In this rule, the "regional presiding judge" means the presiding judge for the administrative judicial region in which the court is located~~.

(2) On Agreed Motion. In an action commenced before September 1, 2024, the parties may, by agreed motion, request that the regional presiding judge transfer the action to the business court. The motion must plead facts to establish the business court's authority to hear the action and venue in a county in an operating division of the business court. The parties must file the motion in the district or county court where the action is pending. Upon such filing, the district or county court must, by an order of referral, promptly notify the regional presiding judge of the request.

(b) *Consultation.* The regional presiding judge must consult the presiding judge of business court as to the business court's capacity to accept the transfer.

(~~b~~c) ~~*Notice and* *Hearing*~~. ~~The court must notify all parties of the transfer request and, i~~If any party objects to the transfer, the regional presiding judge must ~~set a hearing on the transfer request in consultation with the regional presiding judge. The regional presiding judge must~~ self-assign to the district or county court, conduct a hearing on the transfer request, and promptly rule on the ~~request~~order of referral.

(~~c~~d) *Transfer.* The regional presiding judge may transfer the action to the business court if the regional presiding judge finds the transfer will facilitate the fair and efficient administration of justice and, if the action

was commenced before September 1, 2024, the presiding judge of the business court accepts the transfer. The regional presiding judge should prioritize complex civil actions of longer duration that have proven difficult for a district or county court to resolve because of the other demands on the district or county court's caseload.

(e) *Business Court Acceptance.*

(1) Factors. In evaluating whether to accept the transfer, the presiding judge of the business court must consider:

(A) the business court's authority; and

(B) the business court's capacity to accept the transfer without impairing the business court's efficiency and effectiveness.

(2) Record; Briefing; Conference. The business court may:

(A) require the parties to submit the relevant records;

(B) require the parties to submit additional briefing; and

(C) confer with the parties.

(f) *Challenge.* A party may challenge the regional presiding judge's ~~denial of a motion to~~ruling denying transfer by filing a petition for writ of mandamus in the court of appeals district for the ~~requesting~~ district or county court's county.

~~(d) *Remand*. A party may seek remand from the business court under Rule 355 within 30 days after transfer of the case.~~

(~~e~~g) *Clerk Duties*. The business court clerk must assign the action to the appropriate operating division of the business court. If the division has more than one judge, then the clerk must randomly assign the action to a specific judge within that division.

Notes and Comments

Comment to 2024 change: Rule 356 is adopted to implement Texas Government Code Section 25A.006(k).

Comment to 2027 change: Rule 359 is amended to implement Texas Government Code Section 25A.021 and to move the remand provision to new Rule 361.

RULE 360. WRITTEN OPINIONS IN BUSINESS COURT ACTIONS

(a) *When Required*. A business court judge must issue a written opinion:

(1) in connection with a dispositive ruling, on the request of a party; ~~and~~

(2) on an issue important to the jurisprudence of the state, regardless of request~~.~~; and

(3) as necessary to provide guidance on the evolving usage of and practice before the business court, regardless of request.

(b) *When Permitted*. A business court judge may issue a written opinion in connection with any order.

Notes and Comments

Comment to 2027 change: Rule 355 is adopted to implement Texas Government Code Section 25A.0041(a)(4).

RULE 361. VENUE AND AUTHORITY CHALLENGES IN THE BUSINESS COURT

(a) *Venue.*

(1) In General. A motion challenging venue must comply with Rules 86 and 87.

(2) Transfer.

(A) If the business court determines that there is not an operating division of the business court that includes a county of proper venue, the business court must, at the request of the party filing the action, transfer the action to a district court or county court in a county of proper venue.

(B) If the business court determines that the originally assigned division of the business does not include a county of proper venue but another operating division does, the business court must transfer the action to the other division.

(b) *Authority*.

(1) Motion; Timing. A party may file a motion challenging the business court's authority to hear an action. The motion must be filed within 30 days after the following, whichever is later:

(A) the initial pleading's filing;

(B) the notice of removal's filing;

(C) the regional presiding judge's ruling to transfer the action to the business court; or

(D) the date the party challenging the business court's authority was served with process.

(2) Discovery. The business court may allow limited discovery on the question of its authority.

(3) Burden of Proof. The party challenging the business court's authority has the burden of proof.

(4) Decision on Submission Permitted. Challenges relating to the business court's authority may be decided on submission without a hearing.

(5) Timing; Factors. The business court must make a prompt determination of its authority and may consider:

(A) issues of fundamental fairness or the preservation of constitutionally or statutorily protected rights of the parties;

(B) any applicable rules, precedent, and authorities pertaining to the operation of district courts in this state; and

(C) any applicable authority from business and commercial courts operating in other states.

(6) If Lacking Authority.

(A) If the business court determines, on a party's motion, that it does not have the authority to hear an action, the business court must, at the request of the party filing the action:

(i) transfer the action to a district or county court in a county of proper venue;

(ii) remand an action that was improperly removed; or

(iii) dismiss the action without prejudice to the parties' claims.

(B) If the business court determines, on its own initiative, that it does not have the authority to hear an action, the business court must provide at least 10 days' notice of the intent to transfer, remand, or dismiss and an opportunity to be heard on any objection

Notes and Comments

Comment to 2027 change: Rule 361 is adopted to implement Texas Government Code Section 25A.0041. Special appearances are governed by Texas Rule of Civil Procedure 120a.

Texas Rules of Judicial Administration

Rule 11. Pretrial Proceedings in Certain Cases.

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11.2 Definitions.

(a) *Presiding judge* means the presiding judge of an administrative judicial region in which a case is pending;

(b) *Regular judge* means the regular judge of a court in which a case is pending.

(c) *Pretrial judge* means a judge assigned under this rule, including a business court judge.

(d) *Related* means that cases involve common material issues of fact and law.

Notes and Comments

Comment to 2027 changes: Rule 11 is amended to implement changes to Texas Government Code Section 74.162.

Rule 13. Multidistrict Litigation

13.1 Authority and Applicability.

(a) *Authority*. This rule is promulgated under sections 74.161-74.164 of the Texas Government Code and chapter 90 of the Texas Civil Practices and Remedies Code.

(b) *Applicability*. This rule applies to:

(1) civil actions that involve one or more common questions of fact and that were filed in a constitutional county court, a county court at law, a probate court, ~~or~~ a district court, or the business court on or after September 1, 2003;

(2) civil actions filed before September 1, 2003, that involve claims for asbestos- or silica-related injuries, to the extent permitted by chapter 90 of the Texas Civil Practice and remedies Code.

(c) *Other Cases*. Cases to which this rule does not apply are governed by Rule 11 of these rules.

13.2 Definitions. As used in this rule:

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(e) *Pretrial court* means the district court or the business court to which related cases are transferred for consolidated or coordinated pretrial proceedings under this rule.

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13.3 Procedure for Requesting Transfer.

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(l) *Decision*. The MDL Panel may order transfer if three members concur in a written order finding that related cases involve one or more common questions of fact, and that transfer to a specified ~~district~~pretrial court will be for the convenience of the parties and witnesses and will promote the just and efficient conduct of the related cases.

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13.6 Proceedings in Pretrial Court.

(a) *Judges Who May Preside*. The MDL Panel may assign as judge of the pretrial court an~~y~~ active district court judge, an active business court judge, or any former or retired district court, business court, or appellate court judge who is approved by the Chief Justice of the Supreme Court of Texas. An assignment under this rule is not subject to objection under chapter 74 of the Government Code. The judge assigned as judge of the pretrial court has exclusive jurisdiction over each related case transferred pursuant to this rule unless a case is retransferred by the MDL Panel or is finally resolved or remanded to the trial court for trial.

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Notes and Comments

Comment to 2027 changes: Rule 13 is amended to implement changes to Texas Government Code Section 74.162.