

## **Texas Rules of Civil Procedure Rules 352 to 360**

### **Rule 352. The Business Court Generally**

Chapter 25A, Government Code, and Parts I, II, III, and VI of these rules govern the procedures in the business court. If there is any conflict between Parts I, II, and VI and Part III, Part III controls.

### **Rule 353. Fees for Business Court Actions**

The Office of Court Administration and the business court must publish a schedule of business court fees. Parties must pay the fees as specified in the schedule, 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**

(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.

### **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:
  - (A) 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
  - (B) 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.

## **Rule 356. Action Transferred to the Business Court**

(a) *Transfer Request.* On its own initiative, a court may request the presiding judge for the administrative judicial region in which the court is located to transfer an 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.

(b) *Notice and Hearing.* The court must notify all parties of the transfer request and, if any party objects, must set a hearing on the transfer request in consultation with the regional presiding judge. The regional presiding judge must self-assign to the court,

conduct a hearing on the request, and rule on the request.

(c) *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. A party may challenge the regional presiding judge's denial of a motion to transfer by filing a petition for writ of mandamus in the court of appeals district for the requesting 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) *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.

### **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 court 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:

(a) 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

(b) the business court must not allow or require a participant to appear electronically for a jury trial.

### **Rule 359. Making a Record**

Each judge of the business court must appoint an official court reporter from a pool selected by the Office of Court Administration. A court reporter for the business court may serve more than one judge. Unless otherwise requested by the parties, a court may make a record by electronic recording consistent with Texas Rule of Appellate Procedure 13.

## **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.

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