

## Forum-Selection Clause Issues Presented by the Texas Business Court

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The introduction of the Texas Business Court (TBC) has created a forum-selection dilemma for businesses and practitioners. On one hand, the new court, which opened on September 1, 2024, is an appealing venue for complex commercial disputes. The TBC offers the promise of specialized judges, fast timetables and a dedicated Court of Appeals focused on significant commercial disputes. On the other hand, the TBC is in its infancy; it has not developed a body of case law, and there are questions regarding its jurisdiction, the application of its rules and whether the promised efficiency will materialize. These unknowns must be considered by any litigant choosing to file or remove cases to the TBC. The uncertainty is particularly daunting for parties considering whether to commit to the court in a forum-selection clause.

Fortunately, a well-crafted and flexible forum-selection clause can alleviate the pressure of this choice. Parties who are considering whether to select an untested forum, or a form of limited jurisdiction, should build flexibility into forum-selection clauses. By doing so, parties can opt for a forum like the TBC while avoiding the pitfalls and uncertainties of that choice.

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