

Alert | Appeals & Legal Issues



July 2024

Introducing Texas’s Fifteenth Court of Appeals

Go-To Guide:

- Legislature makes structural changes to Texas Judiciary
- Newly created Fifteenth Court has exclusive jurisdiction over certain cases
- Fifteenth Court and related Business Trial Courts open for business on Sept. 1, 2024

Texas’s new Fifteenth Court of Appeals will begin operating Sept. 1, 2024. Since the Fifteenth Court has state-wide exclusive intermediate appellate jurisdiction over certain issues and structurally changes the state appellate system, parties litigating in Texas should familiarize themselves with this court’s unique features.

Jurisdiction

Unlike the jurisdiction of all other Texas courts of appeals, the Fifteenth Court of Appeals is authorized to hear cases adjudicated across the state. Each of the preexisting 14 courts of appeals has appellate jurisdiction over the civil cases within its “district”. Tex. Gov’t Code 22.220(A). The districts for the preexisting 14 courts of appeals comprise designated counties that elect the justices to the specific

appellate court.¹ However, the Fifteenth Court’s judicial district “is composed of all counties in this state.” Tex. Gov’t Code 25A.003(a).

The Fifteenth Court has exclusive intermediate appellate jurisdiction over the following categories of matters arising out of a civil case:

- 1) appeal from an order or judgment of a new Texas business trial court;
- 2) challenge to the constitutionality or validity of a state statute or rule; and
- 3) appeal by or against the state, state subdivisions, or state employees in their official capacity, except for certain types of litigation, such as personal injury and eminent domain.

See Tex. Gov’t Code § 22.220(d)(1) for the detailed list of matters excluded from the Fifteenth Court’s jurisdiction. The Fifteenth Court has authority to hear original proceedings concerning matters within its defined jurisdiction but lacks jurisdiction over criminal proceedings.

Beginning Sept. 1, 2024, all matters in the three categories listed above must be appealed to the Fifteenth Court. Since every category of the Fifteenth Court’s jurisdiction is exclusive, all pending Texas civil appeals in categories 2 and 3 are to be transferred to the Fifteenth Court on Sept. 1, 2024.² The other courts of appeals are requesting that parties indicate whether they fit within that exclusive jurisdiction at the initiation of appeals.

The business trial courts are also scheduled to begin handling cases Sept. 1, 2024. They have jurisdiction over certain business disputes with more than \$10 million (or \$5 million in special circumstances) in controversy. Therefore, the Fifteenth Court will not have a full caseload until enough time has passed for business-court cases to ripen into appeals.

Justices

Gov. Abbott appointed the initial three justices: Chief Justice Scott A. Brister, Justice Scott K. Field, and Justice April L. Farris. All three justices are experienced and well regarded, having previously served as justices on Texas courts of appeals. Chief Justice Brister also served on the Texas Supreme Court. In 2027, the court will expand to five justices to be chosen in statewide elections, like the justices of the Texas Supreme Court.

Challenges and Benefits

Proponents of the Fifteenth Court, and the business trial courts that will feed into it, cite at least two broad benefits of these new courts. First, they are intended to specialize in complex business litigation and will likely have more time to devote to each case. This could provide some of the benefits of commercial arbitration without the costs, and some of the benefits of Delaware courts without having to litigate out of state. This could benefit the development of Texas business jurisprudence, and the parties, because by rule for the first time, state trial courts, i.e., the business courts, will be required to author opinions when deciding issues important to the jurisprudence of the state and also in connection with a dispositive ruling

¹ The exceptions include (1) legislated docket equalization through which the Texas Supreme Court periodically transfers appeals from the appellate courts with heavier dockets to those with capacity to handle more appeals, and (2) statutes that identify specific appellate courts to decide certain issues.

² The limited exception to the exclusive nature of the Fifteenth Court’s jurisdiction over certain appeals is in instances where the Texas Supreme Court has concurrent or exclusive jurisdiction. Tex. Gov’t Code § 25A.007(a).

upon request of a party. Second, an intermediate appellate court with statewide accountability will soon handle appeals involving the Texas state government and statewide elected officials.

However, there are important unresolved issues about how the business courts and Fifteenth Court will operate, so some parties may not want to be the pioneers that hash out these issues.

Most fundamentally, the Texas Supreme Court has requested expedited briefing on the merits in an appeal asserting that the Fifteenth Court is unconstitutional in *In re Dallas County, Texas and Marian Brown*. The briefing is currently scheduled to be completed Aug. 2, 2024, a month before the new courts will begin handling cases. The high court will likely expedite resolution of the appeal; however, there may be other constitutional challenges in the future, such that uncertainty may linger into 2025 or beyond.

Authors

This GT Alert was prepared by:

- Dale Wainwright | +1 512.320.7226 | Dale.Wainwright@gtlaw.com
- Justin Bernstein | +1 512.320.7240 | bernsteinju@gtlaw.com

Albany. Amsterdam. Atlanta. Austin. Berlin.† Boston. Charlotte. Chicago. Dallas. Delaware. Denver. Fort Lauderdale. Houston. Kingdom of Saudi Arabia.‡ Las Vegas. London.* Long Island. Los Angeles. Mexico City.+ Miami. Milan.¶ Minneapolis. New Jersey. New York. Northern Virginia. Orange County. Orlando. Philadelphia. Phoenix. Portland. Sacramento. Salt Lake City. San Diego. San Francisco. Seoul.∞ Shanghai. Silicon Valley. Singapore.‡ Tallahassee. Tampa. Tel Aviv.^ Tokyo.‡ United Arab Emirates.< Warsaw.~ Washington, D.C.. West Palm Beach. Westchester County.

*This Greenberg Traurig Alert is issued for informational purposes only and is not intended to be construed or used as general legal advice nor as a solicitation of any type. Please contact the author(s) or your Greenberg Traurig contact if you have questions regarding the currency of this information. The hiring of a lawyer is an important decision. Before you decide, ask for written information about the lawyer's legal qualifications and experience. Greenberg Traurig is a service mark and trade name of Greenberg Traurig, LLP and Greenberg Traurig, P.A. †Greenberg Traurig's Berlin office is operated by Greenberg Traurig Germany, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. *Operates as a separate UK registered legal entity. ‡Greenberg Traurig operates in the Kingdom of Saudi Arabia through Greenberg Traurig Khalid Al-Thebity Law Firm, a professional limited liability company, licensed to practice law by the Ministry of Justice. +Greenberg Traurig's Mexico City office is operated by Greenberg Traurig, S.C., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ¶Greenberg Traurig's Milan office is operated by Greenberg Traurig Santa Maria, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ∞Operates as Greenberg Traurig LLP Foreign Legal Consultant Office. †Greenberg Traurig's Singapore office is operated by Greenberg Traurig Singapore LLP which is licensed as a foreign law practice in Singapore. ^Greenberg Traurig's Tel Aviv office is a branch of Greenberg Traurig, P.A., Florida, USA. ‡Greenberg Traurig's Tokyo Office is operated by GT Tokyo Horitsu Jimusho and Greenberg Traurig Gaikokuhojimubengoshi Jimusho, affiliates of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. <Greenberg Traurig's United Arab Emirates office is operated by Greenberg Traurig Limited. ~Greenberg Traurig's Warsaw office is operated by GREENBERG TRAUIG Nowakowska-Zimoch Wysockiński sp.k., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. Certain partners in GREENBERG TRAUIG Nowakowska-Zimoch Wysockiński sp.k. are also shareholders in Greenberg Traurig, P.A. Images in this advertisement do not depict Greenberg Traurig attorneys, clients, staff or facilities. No aspect of this advertisement has been approved by the Supreme Court of New Jersey. ©2024 Greenberg Traurig, LLP. All rights reserved.*