

Report on the Tennessee Supreme Court's Business Litigation Pilot Project

JUNE 1, 2016

HISTORY

The Tennessee Supreme Court, by order entered in March, 2015, established the Business Court Pilot Project. The Supreme Court initiated this docket to handle the complex litigation needs of existing and future businesses in Tennessee by providing expedited resolution of business cases by an experienced judge with expertise in handling complex commercial cases. Chancellor Ellen Hobbs Lyle of Davidson County Chancery Court, Part III, presides over the Business Docket. The specialized pilot docket began accepting cases on May 1, 2015.

BENEFITS OF THE BUSINESS PILOT PROJECT

The Business Court Pilot Project provides a well-organized, predictable process for the litigants. The goal is the efficient administration of justice — saving time and money for litigants.

Some of the key features of the project:

- Proactive case management by the court
- Pre-hearing judicial review of pleadings, briefs, and the law for efficient use of parties' time in court
- Appointed times for hearings so parties do not wait for other cases to be concluded
- Hearings conducted by telephone when appropriate
- Rulings within 30 days of hearings
- Consolidation of motion hearings
- Ruling on the papers when appropriate
- Employment of robust case litigation plan
- Use of alternative dispute resolution
- Use of technology including electronic filing
- Respect for litigants' time and resources

58
CASES TRANSFERRED TO BUSINESS PILOT PROJECT
IN THE FIRST YEAR



CASES

The Pilot Project includes a wide range of cases with contractual and corporate disputes being the most prevalent conflicts. Many litigants seek immediate action in the form of expedited discovery, injunctive relief, and accountings. Requested monetary relief in cases has ranged from \$100,000 to more than \$15 million.

Some specific examples of businesses that the project has assisted:

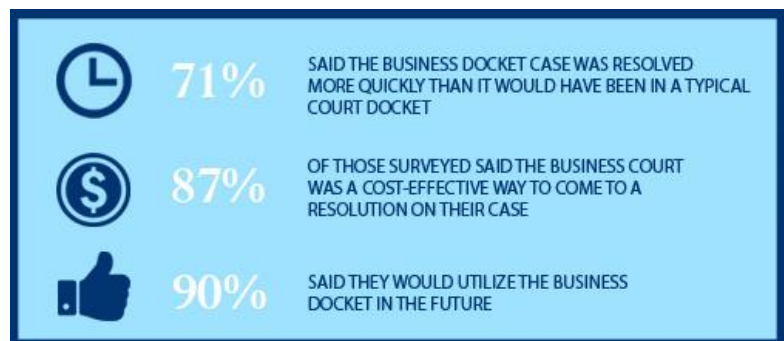
- Television production company
- Musical instrument manufacturer
- Information technology integrator and consulting companies
- Healthcare services company
- Healthcare financial investment company
- Brewer, distributor, and seller of craft beers
- Inventor of proprietary technology
- Medical practices
- Real estate development and investment firms
- Entrepreneur, restaurateur, chef

PROCESS

To participate in the Pilot Project, a party files a request for designation, and all cases must receive approval by the Chief Justice of the Tennessee Supreme Court for transfer.

Litigants have the opportunity to evaluate the processes and share their experience with the Business Pilot

Project after resolution of the case by completing a 31-question survey designed to elicit feedback that will be used to enhance the experience for future litigants. The survey addresses discovery processes, cost effectiveness, timely resolutions, case management practices, and seeks general improvement suggestions.



ADVISORY COMMISSION

Key to the implementation of the pilot was the establishment of a Business Court Rules Advisory Commission composed of eight attorneys – including in-house corporate counsel as well as recognized private attorneys with combined business litigation experience of over 150 years. The Commission is chaired by Tennessee Court of Appeals Judge Neal McBrayer and is tasked with studying the activities of the Pilot Project, creating a data repository, and reviewing monthly updates from the Chancellor.

To date, the Commission has developed a survey to gauge the experience of each litigant and attorney taking part in the pilot, evaluated survey responses, reported to the Chief Justice concerning attorney experience, and made recommendations on procedures and case criteria. The Commission is currently considering next steps for the pilot.

Members of the Business Court Rules Advisory Commission are:

Judge Neal McBrayer, Chairperson

Court of Appeals, Middle Section
Nashville

Celeste H. Herbert

Jones, Meadows & Wall
Knoxville

David A. Golden

Eastman Chemical Company
Kingsport

Tim Warnock

Riley, Warnock & Jacobson
Nashville

Pat Moskal

Bradley Arant Boult Cummings LLP
Nashville



Members of the Advisory Commission, from left: Scott Carey, Pat Moskal, William Tate, Judge Neal McBrayer, Tim Warnock, and Celeste H. Herbert are members of the Business Court Rules Commission. Not pictured: Jef Feibelman, David A. Golden, and Charles Tuggle.

Scott Carey

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
Nashville

William H. Tate

Howard Tate Sowell Wilson Leathers & Johnson PLLC
Nashville

Jef Feibelman

Burch, Porter & Johnson PLLC
Memphis

Charles Tuggle

First Horizon National Corporation
Memphis

For more information, read the entire [Report from Davison County Pilot](#).

RESULTS

Parties who have participated in the Business Litigation Pilot Project have overwhelmingly offered favorable reviews of all elements of the project. Central to the Pilot Project is a survey offered to all litigants that asks them to evaluate their experience.

Here's what litigants are saying about the Pilot Project:

"The process was much more streamlined and efficient.

The Judge is very active in pushing the case toward trial and getting the parties to cooperate with one another on discovery matters."

"The Court allowed the parties to segment and order briefing of legal issues in a way that made sense within the context of the case and ultimately led to the resolution of the case prior to any written discovery or depositions."

"(It) provides a level of certainty with respect to the person to who parties will direct efforts and the court seemed responsive to the particular needs of the case."

"The Court allowed customized briefing and case management, which ultimately led to resolution before expenditure of unnecessary time and expense in discover."
