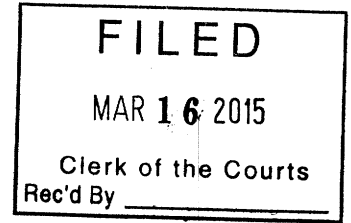


IN THE SUPREME COURT OF TENNESSEE



No. ADM2015-00467

**ORDER ESTABLISHING
THE DAVIDSON COUNTY BUSINESS COURT PILOT PROJECT**

Pursuant to the inherent power of this Court, and in performing its duty to provide for the orderly administration of justice in accordance with Tennessee Code Annotated section 16-3-502 and Supreme Court Rule 11(I), the Court hereby creates the Davidson County Business Court Pilot Project (“Business Court”) to meet the litigation needs of existing and future businesses in this State.

A number of specialized trial courts, such as probate, domestic, juvenile, and criminal, have been created in Tennessee. The interests of business litigants, however, have not been adequately addressed. Creation of the Business Court, dedicated to handling complex business cases, fills this gap. In taking this step, Tennessee joins some twenty-six other states, including Alabama, Florida, Georgia, North Carolina, South Carolina and West Virginia, where creation of specialized business courts has proven an effective tool for business retention, economic development, and enhanced effectiveness of the judicial system.

This order creates a specialized trial court to provide expedited resolution of business cases by a judge who is experienced and has expertise in handling complex business and commercial disputes, and who will provide proactive, hands-on case

management with realistic, meaningful deadlines and procedures adapted to the needs of each case for customized, quality outcomes. The Business Court will develop a body of rulings from which lawyers and litigants can better predict and assess outcomes in business cases. Non-business case dockets, as well, will benefit from the removal of complex and time-consuming business cases from the general docket.

To launch this initiative, the Tennessee Supreme Court designates the existing Davidson County Chancery Court Part III to serve as the Business Court; to gather data and information; and to identify best practices for development of potential future Tennessee Business Courts.

The Business Court is established as follows:

1. Eligible Cases – The criteria for assignment or transfer to the Business Court are these:
 - a. Civil cases filed on or after May 1, 2015, and
 - b. Cases in which at least \$50,000 compensatory damages are alleged, or claims seeking primarily injunctive or declaratory relief, and
 - c. Cases which satisfy one or more of the following:
 - i. relate to the internal affairs of businesses (i.e., corporations, limited liability companies, general partnerships, limited liability partnerships, sole proprietorships, professional associations, real estate investment trusts, and joint ventures), including the rights or obligations between or among shareholders, partners, and

- members, or the liability or indemnity of officers, directors, managers, trustees or partners;
- ii. involve claims of breach of contract, fraud, misrepresentation, breach of fiduciary duty or statutory violations between businesses arising out of business transactions or relationships;
 - iii. constitute a shareholder derivative or commercial class action;
 - iv. involve commercial real property disputes other than residential landlord-tenant disputes and foreclosures;
 - v. involve business claims between or among two or more business entities or individuals as to their business or investment activities relating to contracts, transactions, or relationships between or among them;
 - vi. arise from technology licensing agreements, including software and biotechnology licensing agreements, or any agreement involving the licensing of any intellectual property right, including patent rights;
 - vii. constitute an action alleging violations of a noncompete, non-solicitation, or confidentiality agreement, or an antitrust, trade secret, or securities-related action;
 - viii. commercial construction contract disputes and/or commercial construction defect claims.

2. Excluded Cases – The following cases are excluded from the Business Court:

- a. personal injury or wrongful death;
- b. professional malpractice claims, other than those brought in connection with the rendering of professional services to a business enterprise;
- c. residential landlord-tenant matters, including residential foreclosure actions;
- d. employee/employer disputes, except where pendent or incidental to the matters listed in Section 2 above;
- e. health care liability;
- f. the sole claim is a professional fee dispute;
- g. where the State of Tennessee is a party;
- h. administrative appeals from a State or County Agency, including tax and zoning matters.

3. Case Assignment

a. Request for Designation to the Business Court

- i. Within 60 days of the date of service of a complaint on a defendant, any party may file with the Business Court a *Request for Designation* of the case to the Business Court. Upon the recommendation of the Business Court Judge, the Chief Justice shall determine whether a case meets the eligibility criteria set forth above. If the case meets the eligibility criteria, the Chief Justice may transfer the case to the Business Court. All

objections to assignment of the case to the Business Court, except eligibility, must be filed with the Chief Justice within 30 days of the entry of the order transferring the case to the Business Court.

ii. The filing of a *Request for Designation* certifies that the case meets the criteria for assignment to the Business Court provided above in Sections 1 and 2 and shall be in a form approved by this Court.

b. Cases Outside of Davidson County – In addition to Section 3(a), cases filed in any other county in Tennessee on or after May 1, 2015 may be transferred at the discretion of the Chief Justice to the Business Court if all parties file with the Chief Justice: (1) a motion to transfer the case to the Business Court and (2) a *Joint Consent and Waiver of Venue Form* in a form approved by this Court.

4. Rules and Procedures

The Tennessee Rules of Civil Procedure and the Tennessee Rules of Evidence shall apply to the Business Court. In addition, the Business Court shall have broad discretion to establish Rules of the Business Court, consistent with Rule 18, Rules of the Supreme Court, and to develop case management procedures to allow for more efficient handling of cases and produce quicker resolutions with reduced litigation pursuant to Rule 16 of the Tennessee Rules of Civil Procedure.

5. Technology

Technology, particularly electronic filing and video conferencing, as it becomes available in Davidson County Chancery Court, shall be used in the Business Court. Noteworthy and informative Business Court decisions shall be posted on the website of the Davidson County Clerk and Master's Office to assist lawyers and litigants in assessing and predicting outcomes in business issues.

6. Performance Evaluations

In an effort to more effectively meet the litigation needs of existing and future businesses in this State, this Court shall create performance evaluation forms to be completed by the attorneys and litigants in the Business Court for submission to the Administrative Office of the Courts, which shall report the results thereof to the Tennessee Supreme Court. These performance evaluations shall serve as a valuable tool to evaluate and identify the effectiveness, efficiency, and best practices of the Business Court.

It is so Ordered.


SHARON G. LEE, CHIEF JUSTICE