



## THIRD DIVISION COURT PROCEDURES

In addition to the Texas Rules of Civil Procedure (TRCP) and Business Court Local Rules (BCLR), the following procedures apply to cases in the Third Division of the Texas Business Court. These procedures may be updated from time to time.

### I. Court Contact Information

Parties may reach out to the Third Division's case manager with questions or to set a hearing. Erin Hurley: [erin.hurley@txcourts.gov](mailto:erin.hurley@txcourts.gov) (512) 463-1589.

Court information, rules, procedures, and forms can be found on the [Business Court's website](#).

### II. Case Management

**A. Scheduling Conference.** The BCLR require parties to confer on and jointly file a "Proposed Scheduling Order" using the form provided. The form can be found on the [Third Division page of the Court's website](#). The Court will set a scheduling conference, after which it will issue a Scheduling Order.

**B. Status Conferences.** The Court may set status conferences as needed. Issues causing delay should be brought to the Court's attention promptly, after reasonable efforts to resolve the issue without court intervention.

**C. Pretrial Conference.** The Scheduling Order will provide a deadline for the parties to file a "Proposed Pretrial Order." This form can be found on the [Third Division page of the Court's website](#). The Court will set a pretrial conference, after which it will issue a Pretrial Order.

### III. Discovery

**A. Discovery Generally.** Discovery limitations and deadlines will be governed by the Scheduling Order, TRCP, and BCLR. All documents produced must be marked with a unique Bates Number.

**B. Protective Orders.** The parties must make a serious and reasonable effort to agree on any requested protective order. Example protective orders are posted on the [Third Division page of the Court's website](#). Parties may use or modify an example order or create their own. **A protective order cannot supersede TRCP 76a**, and proposed orders must comply with TRCP 76a and Rule IV(C), below.

**C. Discovery Motions.** Parties must comply with BCLR 4 before filing any discovery motion unless the motion is exempted. Motions to compel must attach the discovery request and any objection or response to the request and should identify the elements of any claims or defenses that will be aided by the requested information.

#### **IV. Motion Practice**

**A. Tables.** All filings with more than 3,000 words (exclusive of the case caption, any tables, signature blocks, certificates, indices, or exhibits) should include a table of contents.

**B. Default Deadlines.** Unless otherwise ordered by the Court, the deadlines for responses and replies are governed by BCLR 5 and the TRCP. Parties may file a joint motion for agreed briefing schedule to alter these deadlines.

**C. Confidential or Protected Information.** Filings containing information that is confidential or otherwise protected by law or order (hereafter, Protected Information) must comply with Local Rule 9 and the following procedures:

- 1.** The filing party must efile a redacted copy of the document(s) that redacts the Protected Information.<sup>1</sup>
- 2.** The filing party should simultaneously serve an unredacted version of the filing (except information required by law to remain redacted) on counsel for all parties under the terms of the governing protective order or any applicable confidentiality agreement.
- 3.** All parties have 5 days after the date of filing to move to temporarily or permanently seal the Protected Information under TRCP 76a.

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<sup>1</sup> Even if the entirety of an exhibit must be redacted, the party should still efile the redacted exhibit.

- (a) If no motion to seal is timely filed, the filing party will efile the unredacted version of the filing.
  - (b) If a motion to seal is timely filed, the filing party will wait until the Court rules on the motion to seal, then file the unredacted version of the filing under seal or not under seal, as dictated by the Court's ruling.
- 4. All motions to seal must comply with Rule 76a, including the requirement for posting public notice at least 14 days before the hearing and providing copies of the posted notice to the clerks of the Business Court and the Supreme Court of Texas. TRCP76a(3)-(4).
  - 5. Documents containing Protected Information may be provided to the Court for *in camera* review pursuant to BCLR 9(b). Doing so does not create a court record and cannot circumvent the process of efilng a redacted copy and later filing an unredacted copy under seal.

**V. Hearings & Submission.**

**A. When Required.** Orders on unopposed motions may be entered without the necessity of a setting. Opposed motions must be set for oral hearing or written submission before a party is entitled to a ruling.

**B. Written Submission.** A party may set a matter for written submission by filing and serving a notice of written submission specifying a submission date at least 21 days after the date of the notice. Except, if the TRCP requires more than 21-days' notice of a hearing, the submission date must comply. A party that receives a notice of written submission may request that the motion be set for oral hearing instead by emailing the request to the court manager and all parties within 3 days of receiving the notice.

**C. Oral Hearing.**

- 1. A party may request an oral hearing by sending an email to the case manager and all other parties providing the following information based on conference with all parties:
  - (a) 3 dates on which all parties are available for a hearing, at least 21 days after the motion was filed;
  - (b) whether the parties prefer an in-person or remote hearing; and

(c) the expected duration of the hearing.

2. If a party has contacted all other parties regarding the above-listed information but has not heard back from one or more parties within 3 business days, the party may request an oral hearing by sending an email to the case manager and all other parties that identifies the nonresponding parties and provides the above-listed information required as to itself and any responding parties.
3. Once the Court receives all of the information required above, it will issue a notice of hearing or instruct the movant to do so.

**D. Court Settings.** The Court may set a matter for written submission or oral hearing *sua sponte*.

**E. Expedited Settings.** If a motion requires action in less than 21 days, the movant may email the court manager, copying all parties, to request an expedited hearing or submission date and shortened briefing deadlines.

**F. Cancelling, Continuing or Rescheduling.** Absent unexpected emergency, parties must file any motion to reschedule a hearing within 3 business days after the date of the notice of hearing. Opposed motions to continue, cancel, or reschedule a hearing must demonstrate good cause and be supported by evidence of same.

## VI. Trial

**A. Trial Time.** Trials will generally be subject to time limits.

**B. Final Judgment.** Unless otherwise ordered, within 5 days after a jury verdict or notice of the Court's rulings in a bench trial, the parties must file either a single proposed judgment agreed as to form or competing proposed judgments. A party may request a hearing on the form of the judgment.

## VII. Settlement

Parties seeking to extend deadlines or court settings based on settlement or settlement negotiations should file an agreed motion with the Court.