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Tom Hagy
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The Wild, Wild West of Corporate Litigation: Will Texas Unseat Delaware as the Preferred Forum for Business Disputes?

Jenna Johnson, Amy E. Tryon, and Tim Hudson

Abstract: The highly anticipated Texas business courts are set to open on September 1, 2024. As the opening date for these new courts nears, practitioners and clients alike can only speculate as to whether this new forum for Texas business litigation will hold up to the promise of providing a robust body of business law, and whether these new courts can compete with the Delaware Court of Chancery—the forum often thought of as the go-to for business disputes. The Delaware Court of Chancery has a rich history and decades-long reputation as the preeminent forum for commercial cases due to its experienced judges, well-reasoned and quick decisions, and robust body of case law. While Delaware is home to many companies as their state of incorporation, many companies have recently moved their corporate headquarters to Texas. And with Texas’s similarly pro-business reputation, only time will tell if the advent of the newly formed business courts and their prospective advantages will see Texas become a favored forum for business litigation.

Introduction

The highly anticipated Texas business courts were officially created in June 2023 when Governor Greg Abbott signed HB 19 into law, and they are now set to open on September 1, 2024. Questions continue to swirl around the new court—both logistically from a

procedural perspective and from a constitutional standpoint. But as the opening date for these new courts nears, practitioners and clients alike can only speculate as to whether this new forum for Texas business litigation will hold up to the promise of providing a robust body of business law, and whether these new courts can compete with the Delaware Court of Chancery—the forum often thought of as the go-to for business disputes.

Texas is certainly not the first state besides Delaware to create a specialized court or division for commercial proceedings. In fact, it is the thirtieth state to adopt some version of a business court model.¹ But given Texas’s pro-business reputation—as evidenced by the slew of companies moving their corporate headquarters to Texas, including tech giants like Tesla, Oracle, Caterpillar, and Hewlett Packard²—can the creation of Texas business courts disrupt Delaware as the preeminent forum for commercial litigation?

Overview of the Forthcoming Texas Business Courts

Jurisdictional Requirements

As the name suggests, the business court will preside over cases involving a wide array of commercial business disputes, from corporate governance actions to securities litigation. Business courts will have civil jurisdiction concurrent with district courts in civil actions in which the amount in controversy exceeds either \$5 million or \$10 million (excluding interest, statutory damages, exemplary damages, penalties, attorney’s fees, and court costs) in certain types of cases. Importantly, the \$5 million amount in controversy applies to corporate governance, derivative proceedings, and securities litigation, and other actions “arising out of” the Business Organizations Code,³ but if a party is a publicly traded company, the amount in controversy requirement does not apply.⁴ The \$10 million amount in controversy applies when the action arises out of a qualified transaction or out of a contract or commercial transaction (excluding insurance contracts) in which the parties agreed “in contract or subsequent agreement” to the business court having jurisdiction over the dispute⁵ and to actions arising

out of violations of the Finance or Business & Commerce Code by an organization or officer acting on behalf of an organization (excluding certain financial organizations like banks).⁶

Relatedly, the business court's supplemental jurisdiction extends to any other claim "related to a case or controversy within the court's jurisdiction that forms part of the same case or controversy."⁷ However, for a supplemental jurisdiction claim to actually proceed in the business court, both the parties and the judge must agree.⁸ If the parties do not agree for the claim to proceed in the business court, that claim may instead proceed in a court of original jurisdiction concurrently with any related claims pending in the business court.⁹

If the business court decides on motion or *sua sponte* that it lacks jurisdiction over an action, it must provide at least "10 days' notice of the court's intent to transfer or dismiss and provide an opportunity to be heard on any objection," and either transfer the action to a district or county court of proper venue or dismiss the case without prejudice to refiling.¹⁰

Initial Divisions and Newly Created Appeals Court

Although the enacting legislation provides for 11 business court divisions that parallel Texas's other 11 judicial administrative districts,¹¹ when the business courts open in September 2024, only five of those districts will be operating.¹² Those districts cover the major metropolitan areas of Texas: Austin, Dallas, Fort Worth, Houston, and San Antonio.¹³ The remaining districts will either have judges appointed in July 2026,¹⁴ or may be abolished for lack of funding.¹⁵ Additionally, the legislature created a new Fifteenth Court of Appeals that will sit in Austin and have exclusive jurisdiction over appeals and original proceedings involving the business courts.

Judges and Written Opinions

Similar to the Delaware Courts of Chancery, the Texas business courts will be presided over by appointed—not elected—judges.¹⁶ To be appointed, the judge must have 10 years of experience practicing complex civil business litigation or business transaction law or

serving as a judge of a Texas state court with civil jurisdiction, or any combination thereof.¹⁷ Judges will serve two-year terms and may be reappointed.¹⁸ If there is more than one judge in a division, the business court clerk will assign the action to the judges randomly.¹⁹

The Texas business court judges will issue written opinions in order to build a precedent of Texas business law.²⁰ Although the enacted legislation did not mandate written opinions, it provided that the Texas Supreme Court will “adopt rules for the issuance of written opinions” by business courts.²¹ Those rules, also set to take effect on September 1, 2024, provide that a business court judge must issue an opinion in connection with a dispositive ruling at a party’s request, and on an issue “important to the jurisprudence of the state, regardless of request.”²² Additionally, a business court judge has discretion to issue a written opinion in connection with any order in the case.²³

Jury Trials Available

Unlike the bench trials that occur at the Delaware Court of Chancery, jury trials will be available in the Texas business courts. A party in business court has the right to a trial by jury when required by the constitution.²⁴ Venue selection clauses in written contracts will be honored in the business courts when determining the appropriate county for trial.²⁵ For other cases originally filed in the business court, the plaintiff may choose any county for trial that would have been appropriate under Texas’s general venue statute.²⁶ Cases removed to the business court will hold trial in the county where the action was originally filed. The parties may also agree to hold a jury trial in a different county.²⁷

Removal and Transfer Procedures

A party may remove a case to the business court.²⁸ The parties may agree to the removal “at any time during the pendency of the action.”²⁹ But when not all parties have agreed, the notice of removal must be filed within 30 days after the party discovered or reasonably should have discovered facts establishing the business court’s jurisdiction or, if an application for temporary injunction

is pending when the party discovered or should have discovered jurisdictional facts—30 days after the application is granted, denied, or denied as a matter of law.³⁰

Interestingly, a judge may also move to transfer an action to an operating division of the business courts³¹ after notifying the parties, holding a hearing, and determining that transfer to the business court will facilitate the fair and efficient administration of justice.³²

Overview of Delaware Court of Chancery

Unlike the emerging Texas business courts, the Delaware Court of Chancery has a storied and centuries-old history. The Delaware Court of Chancery was created in 1792³³ to create courts of equity jurisdiction, separate and apart from courts providing common law jurisdiction.³⁴ The creation of a separate court of equity represented a departure from other states in eighteenth-century America, which had done away with their chancery courts by that time or never established them.³⁵ Yet, some historians credit Delaware's maintenance of an equity-based court as the groundwork for the Delaware Court of Chancery that is known today as a nationally recognized forum for corporate disputes.³⁶ Indeed, the advent of corporate disputes in the Delaware Chancery Court dates back to early twentieth century; but for the past 40 years, the Delaware Chancery Court has solidified itself as a go-to forum for corporate disputes. This is due, in large part, to the reasoned and relatively quickly issued opinions.

Today, the Court of Chancery has the jurisdiction to hear all matters relating to equity. Accordingly, its docket deals “largely of corporate issues, trusts, estates, other fiduciary matters, disputes involving the purchase of land and questions of title to real estate as well as commercial and contractual matters.”³⁷

Considering the corporate tax and other benefits of incorporating in Delaware,³⁸ together with the expediency of the Delaware Court of Chancery, it is almost no wonder that nearly 70 percent of Fortune 500 companies and over 50 percent of all U.S. publicly traded companies are incorporated in the small coastal state.³⁹ In 2020 alone, an additional 250,000 new businesses registered in the

state, making the new total number of businesses over 1.6 million.⁴⁰ By 2022, that number had reached 1.9 million business entities incorporated under Delaware law.⁴¹ In fact, Delaware is “home” to several big names like Google, Tesla, Walmart, Amazon, Disney, and American Express, among many others.⁴²

Jurisdiction

As a court of equity, the Delaware Chancery Court has jurisdiction over “all matters and causes in equity” and matters conferred by statute.⁴³ The court does not have jurisdiction over criminal matters or legal claims where monetary damages are a sufficient remedy.⁴⁴ However, if a cause of action involves both equitable and legal claims, the Court of Chancery may exercise discretion to resolve the legal claims under the “clean up doctrine.”⁴⁵ Therefore, the Court of Chancery can award damages. Of note, however, the court lacks the subject matter jurisdiction to award punitive damages.⁴⁶ In determining whether to consider legal claims under the cleanup doctrine, the court considers myriad factors, “especially whether the facts implicating the legal and equitable claims are so intertwined that severing the legal and equitable claims would be undesirable or impossible.”⁴⁷

Appointed “Business Law Experts” as Chancellors and Fact Finders

Companies flock to the Delaware Court of Chancery for a multitude of reasons, chief among them: the court offers unparalleled experience and a celebrated reputation for effectively handling corporate litigation and resolving complex business disputes.⁴⁸ In fact, the Court of Chancery is consistently ranked as the best in the nation.⁴⁹ The court’s chancellors and magistrates in chancery are heralded as “business law experts.”⁵⁰ And, because the Delaware Court of Chancery does not have juries, parties are guaranteed to have a knowledgeable and experienced decision-maker as the trier of law and fact.⁵¹ The use of judges also permits the Court of Chancery to decide cases more quickly.⁵² Generally, one judge will handle a case from start to finish,⁵³ and will issue a written

opinion at the conclusion of the case.⁵⁴ Delaware's Court of Chancery's opinions are renowned and closely followed by practitioners across the United States.⁵⁵

Importantly, these chancellors and magistrates are appointed on a merit-based system rather than by election.⁵⁶ The chancellors are appointed by the governor, with the advice and consent of the Delaware Senate.⁵⁷ The judges serve 12-year terms and are subject to reappointment by the governor.⁵⁸ The chancellors "must be learned in the law and must be Delaware citizens."⁵⁹ Magistrates are "selected by and serve at the pleasure of the chancellor."⁶⁰ Delaware's constitution also "mandates that Delaware courts maintain balance between the major political parties" with the goal of providing a body of case law that does not lean heavily toward any political affiliation.⁶¹ The mandated balance between political parties and judges who are appointed rather than elected allows the court to preserve impartiality, which is both a point of pride for the court and something that out-of-state corporations have come to expect.⁶² The Court of Chancery is currently comprised of one chancellor, six vice chancellors, and three magistrates in chancery.⁶³ While the magistrates hear real property disputes among individuals as well as guardianship and trust administration cases, the chancellors and vice chancellors focus their time and attention on corporate and commercial disputes.⁶⁴ Members of the court strive to keep current on recent business developments by frequently interacting with shareholder groups, corporate directors, attorneys in the field, corporate litigants, and academics around the country.⁶⁵

Speedy Rulings Despite High-Volume Docket

The structure and limited jurisdiction of the Court of Chancery permits it to hear a large volume of cases. The court "on average, receives and disposes of 800 to 1,000 civil actions a year, with the vast majority involving business disputes."⁶⁶ In fact, "litigants can seek (and obtain) an expert ruling from the court within days or weeks, if necessary."⁶⁷ The Court of Chancery does not have a standardizing briefing schedule, which permits the court great flexibility and the ability to meet the particular needs of the parties based on the nature of each case.⁶⁸ In fact, the court's flexibility is a

great benefit to the parties themselves as well, giving them leeway to determine the best way to litigate their claims.⁶⁹ The expertise of the court also enables efficiency and speed: “This expertise enables ... the Court of Chancery ... to respond in a matter of weeks, if not days, to requests for preliminary injunctive and other equitable relief in connection with challenges to complex mergers and acquisitions and other major corporate transactions.”⁷⁰

Internal Affairs Doctrine Drives Robust Body of Law

The fact that so many companies are incorporated in Delaware is instrumental to the size and success of Delaware’s Court of Chancery. The Court of Chancery applies Delaware law to many important corporate and commercial disputes, which can at times be outcome determinative.⁷¹ When determining which state’s law will govern a corporate transaction or business dispute, courts apply choice-of-law principles.⁷² The “internal affairs doctrine” is one of those principles, and dictates that a court must apply the law of the state of incorporation to issues of internal corporate affairs.⁷³ The Court of Chancery notes that “[a]n important public policy served by the internal affairs doctrine is to ensure the uniform treatment of directors, officers, and stockholders across jurisdictions.”⁷⁴ The combination of the internal affairs doctrine and the other established body of case law in the Delaware Court of Chancery leads to reliability and predictability in the court. The court is renowned for “its central role in developing an efficient and predictable body of corporation law.”⁷⁵ Notably, Delaware’s well-known General Corporation Law is an enabling statute that, among other things, gives directors broad discretion in their managerial duties with fiduciary duty review under the purview of the Court.⁷⁶ Of course, it is a benefit to the small state to maintain the Court of Chancery’s reputation as the authority on business issues: “Delaware has an important policy interest in having its courts speak first on emerging issues of Delaware corporate law, such as going-private transactions and options backdating, creating a jurisprudence upon which directors and stockholders may rely with confidence.”⁷⁷

In the words of former Chancellor William B. Chandler III: “The Court of Chancery remains the nation’s premier business

court by maintaining internal standards of excellence, by working with the Executive and Legislative branches of Delaware government to improve business law itself and its application through the Court, and by interaction with our consumers, corporate owners, decision-makers and the corporate Bar.”⁷⁸ Through its expertise, professionalism, expediency, flexibility, and dedication to staying at the forefront of business law, the Delaware Court of Chancery demonstrates that it will be hard to beat as a court for businesses all over the world.

Will Texas Supplant or Compete with Delaware as a Preferred Forum for Complex Business Litigation?

Given Delaware’s vast body of corporate case law and sheer number of companies incorporated there, it may be difficult (or impossible) for any state, including Texas, to usurp its historical position of the foremost business litigation forum in the country. However, with many companies moving their headquarters to Texas, the business courts may offer a new choice of forum, even if those companies are also incorporated in Delaware.

To that end, the Texas business courts will offer several potential benefits that the Delaware Chancery Court does not, including the opportunity to sue on a purely monetary claim (as long as it otherwise meets the business court’s jurisdictional requirements) without the need for an equitable component of the case. And, unlike in the Delaware Chancery Court, jury trials will be available for corporate litigants who prefer to tell their story to a jury.

Also notable, while the Delaware Court of Chancery lacks jurisdiction over punitive damages claims, there is nothing in the Texas statute indicating that exemplary damages are unavailable (although they may not be used to meet the amount in controversy requirement).⁷⁹ Even so, the lofty amount in controversy requirements applicable to the Texas business court suggests that it may be difficult for litigants to pursue their claims in the Texas business court, particularly if equitable relief and potential damages under the cleanup doctrine are available in Delaware.

Conclusion

Although the Texas Supreme Court has recently adopted several new Texas Rules of Civil Procedure to govern procedure in the business courts, confusion still exists as to exactly how those procedures will play out in practice. Gaps in procedure not addressed by statute or the new rules will likely result in anticipated growing pains from a logistical standpoint. Compared to the decades of established practice in the Delaware Court of Chancery, parties litigating in Delaware can likely anticipate more predictability of procedure and practice, while still maintaining the flexibility afforded by the Court of Chancery.

With the nascent Texas business courts still on the horizon—and likely constitutional challenges ahead of it, too—only time will tell whether the Texas business court will provide the same sophistication and expertise for which the Delaware Court of Chancery is renowned.

* * *

Note: This article should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult your own lawyer on any specific legal questions you may have concerning your situation.

Notes

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1. Adolfo Pesquera, *Look Out Delaware, Business Courts Are Coming to Texas*, LAW.COM (June 2, 2023), <https://www.law.com/texas-lawyer/2023/06/02/look-out-delaware-business-courts-are-coming-to-texas/#:~:text=Texas%20will%20become%20the%2030th,of%20the%20state's%20254%20counties.>

2. *Why Are Businesses Moving to Texas?* CRE KNOWLEDGE BASE, <https://crekb.com/moving-to-texas/>.

3. Tex. Gov't Code Ann. § 25A.004(b).

4. *Id.* § 25A.004(c).

5. *Id.* § 25A.004(d)(1), (2).

6. *Id.* § 25A.004(d)(3).

7. *Id.* § 25A.004(f) (“A claim within the business court’s supplemental jurisdiction may proceed in the business court only on the agreement of all parties to the claim and a judge of the division of the court before which the action is pending.”).

8. *Id.* § 25A.004(f) (“A claim within the business court’s supplemental jurisdiction may proceed in the business court only on the agreement of all parties to the claim and a judge of the division of the court before which the action is pending.”).

9. *Id.* § 25A.004(f).

10. Tex. R. Civ. P. 354(d)(2) (effective Sept. 1, 2024).

11. *See id.* § 25A.003(a)-(m)

12. *See id.* §§ 25A.003(c), (e), (f), (j), (m); Tex. Gov. Code §§ 74.042(b), (d), (e), (i), (l); Tex. H.B. 19, 88th Leg. (Tex. 2023), § Section 6(a).

13. *See* Tex. Gov't Code §§ 25A.003(c), (e), (f), (j), (m); Tex. Gov. Code §§ 74.042(b), (d), (e), (i), (l).

14. *See* Tex. H.B. 19, 88th Leg. (Tex. 2023), § 6(b).

15. *See* Tex. H.B. 19, 88th Leg. (Tex. 2023), § 6(b); Tex. Gov't Code Ann. § 25A.003(d), (g), (h), (i), (k), (l).

16. *Id.* § 25A.009(a).

17. *Id.* § 25A.008(a).

18. *Id.* § 25A.009(b), (c).

19. Tex. R. Civ. P. 354 (effective Sept. 1, 2024).

20. *See id.* § 25A.016.

21. Tex. Gov't Code Ann. § 25A.016.

22. Tex. R. Civ. P. 359(a) (effective Sept. 1, 2024).

23. Tex. R. Civ. P. 359(b) (effective Sept. 1, 2024).

24. *Id.* § 25A.015(a).
25. *Id.* § 25A.015(c).
26. *Id.* § 25A.015(b).
27. *Id.* § 25A.015(e).
28. *Id.* § 25A.006(d).
29. *Id.* § 25A.006(f).
30. *Id.* § 25A.006(f)(1), (2).
31. *Id.* § 25A.006(k).
32. *Id.*
33. William T. Quillen & Michael Hanahan, *A Short History of the Delaware Court of Chancery—1792-1992*, 18 DEL. J. CORP. L. 819, 822 (1993).
34. *Id.*
35. *Id.* at 825.
36. *Id.* at 831.
37. DEL. CT., *Jurisdiction of the Court of Chancery*, <https://courts.delaware.gov/chancery/jurisdiction.aspx>.
38. See Chauncey Crail, Rob Watts & Jane Haskins, *Why Incorporate in Delaware? Benefits & Considerations*, FORBES (Feb. 15, 2024), <https://www.forbes.com/advisor/business/incorporating-in-delaware/>.
39. See *Why Delaware Corporate Law Matters So Much*, HARV. BUS. SERVS. (Dec. 11, 2023), <https://www.delawareinc.com/blog/why-delaware-corporate-law-matters-so-much/>.
40. Crail et al., *supra* note 38.
41. Mary F. Dugan & Richard D. Kirk, *The Delaware Court of Chancery Remains Essential to Delaware*, DELAWARE ONLINE (June 9, 2023 at 3:59 a.m.), <https://www.delawareonline.com/story/opinion/columnists/2023/06/09/delaware-court-of-chancery-remains-essential-to-delaware/70281796007/>.
42. Crail et al., *supra* note 38.
43. DEL. CODE ANN. Tit. 10, § 341; see also Lewis H. Lazarus & Katherine J. Neikirk, *Litigating in the Court of Chancery*, 31 DEL. LAW, 2013 at 16, 16.
44. Lazarus & Neikirk, *supra* note 43, at 16.
45. *Id.*
46. *Id.*
47. *Id.*

48. See *Litigation in the Delaware Court of Chancery and the Delaware Supreme Court*, DELAWARE.GOV, <https://corplaw.delaware.gov/delaware-court-chancery-supreme-court/>.

49. See Gregory Varallo & John Mark Zeberkiewicz, *Delaware Private Arbitration: An Explanation of Delaware's Chancery Arbitration Program and Its Benefits*, 11 DEPAUL BUS. & COM. L.J. 483, 487 (2013); see also U.S. CHAMBER INST. FOR LEGAL REFORM, 2019 LAWSUIT CLIMATE SURVEY RANKING THE STATES: A SURVEY OF THE FAIRNESS AND REASONABLENESS OF STATE LIABILITY SYSTEMS, 1 (2019), https://institutelegalreform.com/wp-content/uploads/2020/10/2019_Lawsuit_Climate_Survey_-_Ranking_the_States.pdf (ranking Delaware #1 overall for state liability systems as well as #1 for Judicial Competence, and Quality of Appellate Review).

50. Varallo & Zeberkiewicz, *supra* note 49, at 487.

51. See DELAWARE.GOV, *supra* note 48; see also Paul Sponaugle & Jeremy Reed, *What Is the Delaware Court of Chancery*, DELAWAREINC.COM (June 19, 2023), <https://www.delawareinc.com/blog/what-is-the-delaware-court-of-chancery/> (“This tends to make the decisions of the Chancellors more predictable than decisions made by juries, and makes businesses more confident of a decision based on law and precedent rather than emotions and prejudices.”)

52. Crail et al., *supra* note 38.

53. Donald F. Parsons Jr. & Joseph R. Slights III, *The History of Delaware's Business Courts*, MORRIS JAMES LLP, <https://www.morrisjames.com/assets/htmldocuments/History%20of%20Delaware%20Business%20Courts.pdf>; see also DELAWARE.GOV, *supra* note 48 (“The assigned judge oversees the litigation and manages the schedule until the case's conclusion.”).

54. See DELAWARE.GOV, *supra* note 48 (“The Court of Chancery's tradition of written opinions stretches back more than a hundred years. The quantity and quality of the Court of Chancery's opinions confer a substantive advantage on Delaware business entities by providing them with a thorough and predictable body of interpretive case law.”); see also Parsons & Slights, *supra* note 53; Sponaugle & Reed, *supra* note 51.

55. Lazarus & Neikirk, *supra* note 43, at 16.

56. See Varallo & Zeberkiewicz, *supra* note 49, at 487; see also Sponaugle & Reed, *supra* note 51 (noting that “because the Chancellors are skilled and experienced in corporate law; thus there is no need to

educate an uninformed jury on the intricacies of Delaware corporate law, which saves time and legal fees”).

57. Sponaugle & Reed, *supra* note 51.

58. Varallo & Zeberkiewicz, *supra* note 49, at 487.

59. *Chancery Court Judicial Officers*, DEL. CTS JUD. BRANCH, <https://courts.delaware.gov/chancery/judges.aspx>.

60. *Id.*

61. See DELAWARE.GOV, *supra* note 48; see also Varallo & Zeberkiewicz, *supra* note 49, at 487 (“In addition, our constitution requires a balance between the major parties on the courts. So politics are effectively removed from the process. You never have more democrats than republicans and vice versa.”).

62. See DELAWARE.GOV, *supra* note 48 (“Further, because most corporate litigation involves Delaware corporations headquartered outside of the State, the Court is not subject to any “hometown” bias. Delaware’s courts offer a level playing field, where corporate stockholders and managers both win and lose cases—on the merits, and not because of politics.”).

63. *Chancery Court Judicial Officers*, *supra* note 59.

64. Parsons & Slights, *supra* note 53.

65. *Id.* (“These interactions provide valuable insights on the fast-moving business and capital markets, in which the complexity of transactions constantly evolves.”).

66. See *id.*, https://www.morrisjames.com/assets/htmldocuments/History_of_Delaware_Business_Courts.pdf; DELAWARE.GOV, *supra* note 48 (“The Court’s limited jurisdiction allows it to consider and dispose of complex matters in an expedited fashion when the circumstances require it, without sacrificing quality and careful attention.”).

67. DELAWARE.GOV, *supra* note 48; see also Crail et al., *supra* note 38 (“While the average civil lawsuit may take a number of years to resolve, Delaware’s use of judges instead of juries and prioritization of corporate-related cases means similar cases can be decided more quickly.”).

68. See DELAWARE.GOV, *supra* note 48 (“The Court of Chancery’s procedural rules do not impose formalistic schedules or procedures and instead allow the Court and the parties to tailor litigation as necessary. The Court also has the discretion to issue equitable remedies customized for the circumstances of a particular case.”); *Delaware Chancery Court Litigation*, COLE SCHOTZ P.C., <https://www.coleschotz.com/>

practices/litigation/chancery-court-litigation/ (“The Delaware Court of Chancery is also known for its expedited proceedings, cases which are assigned the highest priority and proceed to resolution or preliminary injunction on an abbreviated schedule designed to meet the needs of the parties based on the nature of the dispute, sometimes as short as 60-90 days.”); *see also* Lazarus & Neikirk, *supra* note 43, at 16-17 (noting that “[t]he Court expects the parties to agree on the appropriate schedule in expedited and non-expedited proceedings without prodding by the Court.”).

69. Lazarus & Neikirk, *supra* note 43, at 19 (“By choosing not to prescribe rigid rules for every aspect of litigation and by enabling parties to agree on the best way to litigate their matter, the Court sets itself apart.”); *see also id.* (noting that “[t]he Court of Chancery Rules place no limits on the number of interrogatories, document production requests, requests for admission or deposition notices that a party may serve”).

70. Parsons & Slights, *supra* note 53.

71. *See* Theresa L. Kelly, *Draper v. Gardner: Just Another Battle in the Conflicts Revolution?*, 19 DEL. J. CORP. L. 546, 546 (1994).

72. *See id.*

73. *See id.*

74. *Juul Labs, Inc. v. Grove*, 238 A.3d 904, 915 (Del. Ch. 2020).

75. Parsons & Slights, *supra* note 53.

76. *Id.* (noting the Court’s “ongoing effort to reach a reasonably efficient and appropriate balance between judicial intervention to protect the rights of shareholders, and judicial restraint to allow boards and officers to pursue corporate interests without meddlesome judicial interference”).

77. Parsons & Slights, *supra* note 53.

78. *Id.*

79. *See* Tex. Gov’t Code Ann. § 25A.004(b), (d).