

James Holmes’s testimony before the Texas Legislature (specifically, the Judiciary & Civil Jurisprudence Committee of the House of Representatives) on March 22, 2023, in favor of House Bill 19 and the “Business Court” for Texas:

I have lived in Texas my entire life, rarely spending time away from my State. I graduated from the University of Texas School of Law and then worked for the Texas Supreme Court as a Briefing Attorney. I practice commercial law, including a large amount of trial and appellate work. I frequently serve as my clients’ sole trial *and appellate* counsel. It’s “one stop shopping” when clients come to my firm.

Before going further, I must add that I have voted for and have raised money for judicial candidates in both parties [Republican and Democrat], and I will continue to do so.

My 30-year legal career convinces me that Texas needs the Business Court because too often in commercial litigation – actually, in the vast majority of commercial cases – a simple “contract dispute” over a relatively small sum becomes the *false basis* for “extra-contractual theories and claims” carrying punitive damages, thereby resulting in a protracted legal dispute over tens of millions of dollars. After usually six to 10 years of costly trial and appellate litigation, most of the extra-contractual theories and claims fail under legal analysis and are therefore dismissed: but at what a tremendous cost and delay.

This very pattern caused the following cases to become more protracted and expensive – for the litigants, and for state resources – than each case ever should have been:

Energy Transfer Partners, L.P. v. Enter. Prods. Partners, L.P., 593 S.W.3d 732 (Tex. 2020).

Stephens v. Three Finger Black Shale Partnership, 580 S.W.3d 687 (Tex. App. – Eastland 2019, pet. denied).

Allen v. Devon Energy Holdings, L.L.C., 367 S.W.3d 355 (Tex. App.—Houston [1st Dist.] 2012, judgm’t set aside by agr.).

With several different jurisdictional grants, House Bill 19 would place cases like these in the Business Court – for the benefit of litigants, state resources, and business communities within Texas.

I should further state that these sorts of cases are the most hard-fought and contentious cases I have ever experienced. All parties walk away from them embittered, with lasting hard feelings. One side is literally digging out of the other side’s bank account dollars for compensation – but this involves taking from that bank account hard-earned money or a life’s savings. There is no insurance policy behind this sort of litigation, in most cases. Usually, each side is what we call “self-insured” – in other words, each side is expending its own money to prosecute or defend the case, and its own money to settle the case or, more commonly, to continue fighting it.

I ask your Committee the take stock of the human cost in these sorts of cases – which never cease to surprise me with how hard-fought they can be. Business Courts will shorten these cases, causing them to last just a few months or years – rather than a full decade. Business Courts will give the parties greater certainty of the ultimate outcome, thereby facilitating early resolutions to these wasteful cases.

Thank you.