



Important, complex business litigation is sometimes better handled in North Carolina Business Court rather than standard civil Superior Court.

But pursuing a claim or defending a lawsuit in Business Court involves different procedures and strategic decisions that Ward and Smith's business litigators have considerable experience navigating.

North Carolina Business Court Experience

North Carolina's Business Court was established in 1996, making it among the first such specialized commercial courts established in the country.

Business Court judges issue written rulings that explain the reasoning behind the decision, and document the legal support for it. This helps establish a body of case law that makes the state's commercial legal environment more consistent and predictable, reducing risk.

The same judge handles cases assigned to Business Court from beginning to end, which is not always the case in civil Superior Court. Nearly all Business Court filings are electronic, and cases are mostly handled in a handful of courtrooms — in Raleigh, Charlotte, Greensboro, and Winston-Salem — devoted to Business Court matters.

Business Court rules of procedure also are designed to encourage more collaboration between opposing attorneys, based on the idea that judges should focus on the central issues of the dispute. Business Court judges are appointed, in part, for their knowledge of business law. Business Court judges have, or develop, special expertise in business issues that other Superior Court judges are not likely to have.

How Cases Get into Business Court

State court lawsuits are first filed in civil Superior Court in their county of origin. If one of the parties to the case wants the case heard in Business Court, that party can request the Chief Justice of North Carolina Supreme Court to designate the case to the Business Court. In addition, under state law, certain cases must be handled in Business Court.

Business Court procedures are specifically designed to handle large and complex commercial cases, often involving millions of dollars. The Business Court hears cases involving, among other issues:

- Governance of corporations, partnerships, and limited liability companies
- Securities
- Antitrust law
- Trademark law

- Ownership, use, licensing, lease, installation or performance of intellectual property (including software, data and data security, pharmaceuticals, biotechnology products, and bioscience technology)
- Trade secrets
- Contract disputes of \$1 million or more involving at least one business
- Tax issues involving contested tax cases or constitutional challenges to tax laws

What cases can or must be heard in Business Court are defined under state law, but that does not mean it is always in the best interest of a plaintiff or defendant for a case to go to Business Court.

Business Court Experience Matters

Before requesting that a case be designated to Business Court, it makes sense to consult an experienced business litigator to understand the pros and cons of handling a case there.

On one hand, Business Court procedures are designed to produce a consistent, predictable body of case law. And Business Court judges are often better-versed than other Superior Court judges in business and matters of business law.

However, when a case is designated to Business Court, specific procedural rules apply and hearings will take place in one of the four cities where state business courts are located. While geography is a factor when cases are designated to the Business Court, it is not the only factor, and sometimes a case can end up being heard several hours from a company's offices.

Many motions in Business Court also require full briefings from attorneys, meaning more time (and money) may go into hearing preparation and procedural matters.

Ward and Smith business attorneys are well-positioned to help clients understand whether Business Court is the best venue for a given case.

The firm's attorneys include many regular Business Court practitioners, former Business Court clerks, lawyers who have been asked to help advise the Business Court on its rules of practice, as well as lawyers who have presented to and held leadership positions in the Antitrust and Complex Business Disputes section of the state bar. Ward and Smith has offices in several cities across the state, allowing it to staff a case with attorneys who may be closer to a particular Business Court courtroom.