

Business Divorce? Consider the N.C. Business Court to Resolve Your Dispute

Even in good times, a company can experience internal conflicts among its owners. If a business split occurs, surviving the business breakup can be a challenge; and, in a tough economy, the inevitable contractual disputes with vendors or customers can drain business resources. When a fair or reasonable solution cannot be found early, litigation is often commenced, which can be costly and time-consuming, especially when complex business cases are involved. In North Carolina, businesses are fortunate to have the North Carolina Business Court available when complex disputes, internal strife, or corporate "divorces" occur. The Business Court provides a forum to resolve a dispute efficiently and effectively so the business can move forward.

The first state-wide business court in the nation was established in 1996, in Greensboro, North Carolina. A local business and corporate attorney, Ben Tennille, became the first judge and is now the Chief Special Superior Court Judge for Complex Business Cases. The Business Court expanded in 2005, adding Judge Albert Diaz in Charlotte and Judge John Jolly in Raleigh. Since its inception, the Business Court has handled 795 cases, from the Wachovia Bank shareholder disputes of national interest, to the more common breakup of a family business.

In Greensboro, the Elon University School of Law partnered with the Business Court to establish a state-of-the-art electronic courtroom in the Elon Law School building, complete with computer-operated electronic and video

capabilities. Pleadings and documents are filed electronically and available for review at www.ncbusinesscourt.net.

The Business Court has several advantages over litigation at the county courthouse. First, the Business Court offers electronic filing and computerized courtrooms for more efficient case management and exchange of information. Also, the appointment of one judge for a case, and a judge who deals with business disputes every day, is a major improvement to the "judge of the week" carousel in Superior Court. In addition, the Business Court judges are familiar with the nuances of internal corporate disputes, as well as the complexities of a "deal gone bad," the unfair and deceptive handiwork of an unethical business, and the heavy-handed tactics of a behemoth.

The parties also have a major role in charting out a sensible schedule for the course of a Business Court case, promoting efficiency and predictability. Early mediation is an option in the Business Court.

The Business Court judges have law clerks to help with research and communications with the parties. The continuity of one judge, aided by a law clerk, can produce written decisions during the course of the case that might resolve an important legal issue – so the parties can re-evaluate their positions and get the case settled.

The Business Court has mandatory jurisdiction over many disputes including issues of corporate governance concerning "involuntary dissolution of a corporation, mergers and

acquisitions, breach of duty of directors, election or removal of directors, enforcement or interpretation of shareholder agreements, and derivative actions." *N.C. Gen. Stat. §7A-45.4(a)(1)*. Other mandatory cases include those involving "Securities law... Antitrust law... State trademark or unfair competition law... Intellectual property law... The Internet, electronic commerce, and biotechnology.... [and] Tax law..." *N.C. Gen. Stat. §7A-45.4(a)(2-7)*. The Business Court may also handle other complex business cases. *Rule 2.1, General Rules of Practice*.

In any dispute, external or internal, business owners should consult an attorney early. If you are faced with a business dispute, an experienced business litigation attorney can explain and explore the options for an early and effective resolution of the dispute, with or without a lawsuit. And, if litigation is necessary, the North Carolina Business Court provides efficiency and flexibility in the management of complex business cases. It may be your best option to resolve your dispute so your business can get back to business.

Jack B. Bayliss, Jr. is a business litigation attorney with Carruthers & Roth, P.A. Jack has extensive experience practicing before the North Carolina Business Court. He may be reached at 336.478.1178 or jbayliss@crlaw.com.



Jack B. Bayliss, Jr.

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CARRUTHERS & ROTH, P.A.
ATTORNEYS AT LAW

235 N. EDGEWORTH ST. • GREENSBORO, NC 27401 • PH: 336.379.8651 • FAX: 336.273.7885

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