

# Employment and Labor Law Research Using Michigan Business Court Opinions

By Ruth S. Stevens

**M**ichigan's business courts were established as a result of the efforts of forward-looking attorneys and judges who sought to improve the process of resolving business disputes and to "enhanc[e] the consistency, predictability, and accuracy of decisions in business cases."<sup>1</sup> As a result of a 2012 state statute mandating the creation of business courts in all Michigan counties with three or more circuit judges, the pilot courts established in Macomb, Kent, and Oakland counties have now been joined by business courts in 15 other circuits.<sup>2</sup> Business courts, which operate as a special docket within a circuit court, have been widely praised for their streamlined handling of commercial litigation.<sup>3</sup> Importantly, they also serve as a model for opening up the workings of Michigan trial courts to attorneys and the general public alike.

Broadly speaking, business courts in Michigan have jurisdiction over "business and commercial disputes in which equitable or declaratory relief is sought or in which the matter otherwise meets circuit court jurisdictional requirements."<sup>4</sup> The business court statute defines "business or commercial disputes" with reference to the parties involved and the nature of claims raised and excludes some claims that might otherwise be categorized as business and commercial disputes.<sup>5</sup> Notably, for purposes of labor and employment law, claims for employment discrimination, civil rights claims, workers' compensation claims, and most wrongful discharge claims are excluded from the court's jurisdiction. The court, however, has jurisdiction over employment claims based on contract, such as breach of noncompete, no solicitation, and confidentiality agreements.

One of the innovations implemented as part of the business court model was a requirement that business court judges make

their decisions publicly available.<sup>6</sup> As a result, attorneys have a valuable window into how Michigan law is actually being interpreted and applied across the state. As Kent County Circuit Judge Christopher Yates has noted, "Like stars in the night sky that guide sailors at sea, the published decisions of the [specialized business docket] judge serve as a roadmap for attorneys and litigants..."<sup>7</sup> Given that relatively few cases go to trial and even fewer lead to appellate court opinions, the growing collection of business court opinions is an invaluable guide to how courts are likely to rule in many recurring types of disputes.

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The business court opinions are organized in an easy-to-use format on the Michigan Courts website.<sup>8</sup> Opinions can be searched by circuit (e.g., to locate the decisions of a particular judge), by category of case, and by keyword. Categories include contracts; directors, officers, managers, and shareholders; finance and capital structure; information technology; real estate; labor and employment; and other areas of business law. More than 100 opinions are available under the category of labor and employment law alone. A search within this category yields a chronological list of opin-

ions relating to topics such as trade secrets and enforcement of employment contracts and noncompete agreements. Business courts may also, on occasion, rule on issues outside of their primary jurisdiction if those claims are attached to a claim that is assigned to the business court docket.<sup>9</sup>

Opinions represent various procedural stages of the court's caseload. The researcher can locate business court rulings on pretrial matters such as motions for preliminary injunctions, motions for summary disposition, and motions related to discovery as well as final rulings after trial. Thus, the researcher can home in not just on decisions in cases with similar legal issues, but also on cases with similar procedural postures. Not surprisingly, many of the opinions contain court rulings on motions for summary disposition.

The options for keyword searching of opinions are limited when compared to commercial sites. For example, using the keyword search function to search by the name of an individual judge yields mixed results. Basic term searching of the text of opinions is quite effective, however.

The business court opinions database offers an important vehicle for understanding how laws are currently being applied to a variety of factual situations. With the help of the opinion database, an attorney can appear at a business court hearing fully versed in how the court and others around the state have approached similar legal issues. Knowledge of business court rulings is equally as important when advising clients. In addition, although the opinions themselves are not binding precedent, they serve as a source of citations to key statutes and caselaw. As the caseloads of business courts grow and the body of cases that has been decided increases, the business court opinion database will only become more valuable as a tool for attorneys who practice in the area of commercial law. ■



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## ENDNOTES

1. Toering, *The New Michigan Business Court Legislation: Twelve Years in the Making*, ABA (September 19, 2018) <[https://www.americanbar.org/groups/business\\_law/publications/blt/2013/01/03\\_toering/](https://www.americanbar.org/groups/business_law/publications/blt/2013/01/03_toering/)> [<https://perma.cc/DAJ7-R72H>]. All websites cited in this article were accessed April 26, 2019.
2. MCL 600.8031 *et seq.* and Michigan Courts, *Business Courts* <<https://courts.michigan.gov/administration/admin/op/business-courts/pages/business-courts.aspx>>.
3. Halcom, *Strictly business: Data on new court model indicate shorter time to resolve cases*, Crain's Detroit Business (October 26, 2014) <<https://www.craindetroit.com/article/20141026/NEWS/310269969/data-on-new-court-model-indicate-shorter-time-to-resolve-cases>> [<https://perma.cc/U4V5-FUR3>] and Foster, Hurford & Toering, *Business Courts, Arbitration, and Pre-suit Mediation: A Modest Proposal for the Strategic Resolution of Business Disputes*, 35 Mich Bus L J 21, 23 (Fall 2015) <<https://higherlogicdownload.s3.amazonaws.com/MICHBAR/ebd9d274-5344-4c99-8e26-d13f998c7236/UploadedImages/pdfs/journal/Fall2015.pdf>> [<https://perma.cc/BFA6-YXS6>].
4. MCL 600.8035. See MCL 600.8031 for further definition of types of cases within the jurisdiction of a business court.
5. MCL 600.8031. There may be some variation in how the phrase "business [and] commercial dispute" is interpreted in different circuits. See Toering, *It's My First Business Court Case, What Should I Expect?*, 95 Mich B J 46 (June 2016) <<http://www.michbar.org/file/barjournal/article/documents/pdf4article2881.pdf>> [<https://perma.cc/A34P-NVYH>] and local administrative orders for each court available at Michigan Courts, *Business Courts*.
6. MCL 600.8039.
7. Yates, *Specialized Business Dockets: An Experiment in Efficiency*, Kent County, Michigan <[https://www.accesskent.com/Courts/17hcc/pdfs/Experiment\\_Efficiency.pdf](https://www.accesskent.com/Courts/17hcc/pdfs/Experiment_Efficiency.pdf)> [<https://perma.cc/6XPC-VLKF>].
8. Michigan Courts, *Business Courts Opinion Search* <[https://courts.michigan.gov/opinions\\_orders/businesscourtssearch/pages/default.aspx](https://courts.michigan.gov/opinions_orders/businesscourtssearch/pages/default.aspx)>.
9. MCL 600.8035(3) and MCL 600.8035(6).

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