

Business Courts

The Association of Corporate Counsel urges states to consider wherever appropriate the advantages of specialized procedures for resolution of business disputes. ACC believes that the most effective way to realize such advantages is for states to create business courts or specialized court divisions or parts dedicated to business litigation.

The United States has a large and sophisticated business community with unique legal needs. Businesses have increasingly turned to other forums to resolve their disputes, to avoid the difficulties often encountered in overburdened state courts. The United States should have public state court systems that can resolve commercial disputes efficiently. Business courts result in more cost-effective and timely case processing and an improvement in the quality of dispositions. They therefore foster a more favorable environment for creating and maintaining businesses, and as a result enhance the economic well-being of the nation.

Business courts ease pressure on overcrowded state court systems. Removing complex commercial cases from other parts of the courts allows those parts to function more efficiently and reduces the possibility that a few complicated commercial cases will displace the time and attention that the many other cases pending in those parts should receive. The legal issues in commercial litigation are often complex. Efficient resolution of these disputes requires the expertise of judges experienced in these areas and skilled at handling these cases.

Business courts can effectively utilize the following types of features to facilitate dispute resolution:

1. Advanced case management techniques, including close judicial oversight of each stage of litigation and case tracking by type and complexity.
2. State of the art technology.
3. Court-annexed alternative dispute resolution to encourage early case settlement.
4. Cooperation among counsel and with the court in achieving a cost-effective resolution of the dispute.

On June 13, 1996, the Board of Directors of the American Corporate Counsel Association (predecessor to ACC) adopted a policy statement supporting the creation of business courts. At the time that statement was adopted, four states had created business courts and a number of additional states were considering the concept. Since that time, 12 additional states have created business courts, and such courts now exist in 16 states. The business community in the United States and its legal counsel have had numerous opportunities during the past 13 years to observe and evaluate the operations of business courts and the contributions they have made to state courts. The experience of the states which have created business courts has been positive and presents a strong argument for expanding the use of such courts.