

**A NEW ERA FOR SUMMARY
JUDGMENT PRACTICE IN TEXAS**

JAROD STEWART, Houston

PATRICK FIELDS, Houston

Appellate Tactics for the Modern Practitioner
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Patrick Fields

Associate

Houston
+1 713 221 2311
pfields@steptoe.com



Patrick Fields is an associate in Steptoe's Commercial Trials & Litigation Group and has represented clients across a broad variety of industries. Some of Patrick's recent matters include representation of a renewable gas company in a corporate control dispute in Delaware Chancery Court; representation of a chemicals company in a multi-front construction dispute in south Texas; representation of a gas gatherer and processor in litigation over NGL volumes in Texas state court; and a cross-border arbitration for a joint venturer disputing control and profits of G&G projects in Mexico. Prior to joining Steptoe, Patrick regularly represented subsidiaries of an oil and gas major in complex commercial indemnity and commercial insurance disputes across the country.

Along with a robust commercial docket, Patrick has experience before administrative agencies and challenges to governmental action, especially with respect to immigration-related matters. He frequently works across the firm's practice groups, including in such recent matters as an immigration habeas action and First Amendment litigation challenging OFAC sanctions.

Following law school, Patrick clerked for the Honorable Leslie H. Southwick of the US Court of Appeals for the Fifth Circuit.

[Click here](#) for full biography.



Jarod Stewart

Partner

Houston
+1 713 221 2306
jstewart@steptoe.com



Jarod Stewart is chair of Steptoe's Commercial Trials & Litigation Group. He is a seasoned litigator and trial lawyer who gets the details right; is responsive; and out-briefs, out-prepares, and out-works the opposition to succeed in litigation and at trial. Jarod has represented plaintiffs and defendants in a wide variety of matters, including business divorces, trade secrets disputes, healthcare litigation, fraudulent-transfer lawsuits, oil and gas disputes, and transnational cases involving Latin America.

Jarod primarily focuses his practice on helping clients in the energy and healthcare industries. He has gone toe-to-toe with outstanding lawyers from across the United States and has won significant victories for his clients in court, arbitration, and administrative proceedings. Clients praise his ability to produce outstanding work product quickly, and to help them navigate thorny legal issues whenever and wherever he is needed.

Jarod's clients know that they can call him at any time to provide guidance and direction on how to navigate disputes at an early stage or throughout hard-fought litigation, including trial and appeal.

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Expert Opinion **Litigation**

A New Era for Summary Judgment Practice in Texas Courts

Moving forward, attorneys must approach summary judgment motions with a new strategic framework and heightened attention to timing, clarity, and procedural posture.

September 24, 2025 at 09:00 AM By **Jarod Stewart & Patrick Fields**



Jarod Stewart, left, and Patrick Fields, right, with Steptoe. Courtesy photos

Effective Sept. 1, 2025, district courts, the business court, and statutory county courts operate under new deadlines for hearing, considering, and ruling on motions for summary judgment. While these new deadlines aim to promote efficiency and predictability for litigants, they also introduce new pressures on courts and practitioners and, due to prompt revisions that are not retroactive, one set of rules applies to motions filed on or after Sept. 1, 2025 while another set applies to motions filed on or after Dec. 4, 2025. Moving forward, attorneys must approach summary judgment motions with a new strategic framework and heightened attention to timing, clarity, and procedural posture.

A Fixed Timeline for Judicial Action—New Deadlines for Considering Motions and Issuing Written Rulings

The new rules are not a result of judicial rulemaking but rather part of a package of administrative reforms to the state judiciary that were passed in Texas' 89th Legislative Session.

Senate Bill 293, known primarily for adjusting judiciary employee pay, also created new Section 23.303 of the Texas Government Code. This statute, passed during the regular session, commands that courts “shall, with respect to a motion for summary judgment: (1) hear oral argument on the motion or consider the motion without oral argument not later than the 45th day after the date the response to the motion was filed; and (2) file ... a written ruling on the motion not later than the 90th day after the date the motion was argued or considered.”

Upon passage, judges and practitioners raised concerns about the turnaround times being keyed to the filing of the response and the lack of flexibility imposed by Section 23.303. In a special session, the 89th Texas Legislature acted quickly to ameliorate those concerns and passed House Bill 16. HB 16 modifies the timeline for judicial action, requiring courts “set the motion for hearing by oral argument or by submission on a date not later than: (A) the 60th day after the date the motion was filed; or (B) the 90th day after the date the motion was filed ... on a showing of good cause ... if the movant consents [or for general docket management].” HB 16 leaves in place the requirement for a written ruling within 90 days of the motion being heard or considered. It also provides that the timing requirements “do not apply to a motion for summary judgment that is withdrawn.”

Other notable aspects of the new legislation:

- SB 293 applies to all motions for summary judgment filed on or after Sept. 1, 2025 without regard to when the underlying action was filed. Courts and practitioners are operating under Section 23.303 and the SB 293 deadlines now.
- HB 16 applies to motions for summary judgment filed on or after the 91st day after the last day of the legislative session, which is Dec. 4, 2025. It is not retroactive—it explicitly provides that a motion “filed before the effective date ... is governed by the law in effect on the date the motion was filed.”
- The statute requires the court clerk to docket the date a motion is considered, by hearing or submission, as a formal mechanism for tracking the deadlines.
- The statute also requires clerks to report their court’s deadline compliance to the judiciary’s Office of Court Administration quarterly. Each court’s compliance with these new deadlines will be reported annually to the public, the governor, and the speaker of the House of Representatives.

- Finally, SB 293 includes an amendment to Chapter 72, Government Code, adding Section 72.0396, which requires biannual reporting of each judge's (1) hours spent in court, and (2) hours spent on case-related duties, administrative work, and continuing education.

Strategic Considerations for Attorneys

Section 23.303 immediately raises potential issues with uncertain outcomes that will need to be resolved over time, but cautious attorneys will be guided by several considerations.

First, attorneys should expect courts to diligently follow the deadlines, which could cause motions and hearings to occur at an accelerated pace over current standards. Practitioners may recall the deadline in Texas Rule of Civil Procedure 91a that requires courts to rule within 45 days after a motion to dismiss is filed. Though that rule's language is mandatory as well, there are effectively no consequences for noncompliance with the Rule 91a deadline, and a court does not lose jurisdiction to rule on the motion after the 45-day deadline passes. *See, e.g., Walker v. Owens*, 492 S.W.3d 787, 790-91 (Tex.App.—Houston [1st Dist.] 2016, no pet.). Although there is no indication that courts will lose jurisdiction over a summary judgment motion for failing to rule within the Section 23.303 deadlines either, there are in fact certain consequences for noncompliance, including the reporting and public disclosure of each court's compliance or noncompliance with the deadlines. While practitioners may have found flexibility in the operation of Rule 91a, at least for the time being, cautious practitioners should expect courts to follow Section 23.303, which may impact case timing and strategy.

Second, attorneys should consider the implications of *required* rulings. From the time a motion is heard or considered, courts are now on 90-day deadlines to rule and may, for instance, summarily deny motions for summary judgment that are pending at the deadline or grant or deny motions at sensitive times during settlement discussions in order to comply with the deadline. Though HB 16 mitigates such concerns by providing that the deadlines do not apply to withdrawn motions, this may not be a surefire way to avoid a ruling if the court prohibits withdrawal, say, after a response is filed and the motion has already been argued or considered (and note, HB 16 does not require courts to permit withdrawal). Additionally, SB 293 does not contain comparable withdrawal language, which may allow for arguments against pausing motion practice once it has started, for motions governed by the existing set of rules.

Third, attorneys should consider new appellate-facing complexities that Section 23.303 may invite. Will, for example, a summary judgment ruling be open to attack as procedurally defective or void if made after the deadline or not in a written ruling? Or does a summary denial exactly at the deadline, apparently to impact compliance statistics, raise due process concerns?

Needless to say, moving forward, practitioners should retool their strategies and expectations in summary judgment motion practice. Some suggestions:

- File early. Courts may be more inclined to give thorough attention to motions filed earlier in the life of a case before trial preparation intensifies and/or the case docket becomes congested.
- Break summary judgment practice into multiple motions. Not having to adjudicate multiple matters in one order may allow courts greater flexibility and focus in addressing specific issues.
- Maximize clarity and precision. Though a long-standing tip for motion practice, clarity and precision may now have even greater import in the new summary judgment environment where courts must operate on strict deadlines. Motions should be concise, well-supported, and easy to digest.
- Consider waiting until HB 16's effective date. HB 16 anchors the deadlines to the day the motion is filed (as opposed to the day a response is filed) and explicitly provides that withdrawal stops the running of the deadlines. If other strategic concerns allow for it, filing a motion under Section 23.303 as amended by HB 16 may offer the movant greater control over motion practice.
- Find new utility for proposed orders. Including a well-drafted proposed order with the motion may assist the court in meeting the deadline.
- Preserve the record. If there is no oral hearing, ensure that the clerk records the date the motion was considered. If a motion is denied at or near the 90-day deadline, attorneys should consider whether the timing may have influenced the outcome.
- Revisit client expectations. Clients should be made aware of the new deadlines and the timing and strategic dynamics they create.
- Monitor public reporting. To the extent that lawyers and clients have a choice in forum for a particular dispute, each court's compliance or noncompliance with the Section 23.303 deadlines could impact forum selection.

The new statute governing summary judgment deadlines should be a positive development for courts, parties, and attorneys, but all involved need to understand the new deadlines, their purpose, and how they operate, in order to maximize the impact of this legislation and the attendant benefits to the administration of justice.

Jarod Stewart *is a partner at Steptoe and chair of the firm's commercial trials & litigation group.*
Patrick Fields *is a commercial litigation associate at Steptoe.*

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