

# The Texas Lawbook

Free Speech, Due Process and Trial by Jury

## Business Court: January 2026 Decisions

FEBRUARY 10, 2026 | **BY ZACK C. EWING & SOFIA MICHAEL**

If January is any indication, it's going to be another blockbuster year for the Court.

The Court penned three opinions. The first decision of the year was Sun Metals Group, where the Court confirmed its prior remand of a case back to district court on the grounds that the removal to Business Court was untimely. The second was Fiberwave, where the Court granted summary judgment against the plaintiff's defamation claim since the complained of statement was objectively unverifiable. Finally, in Quintero, the Court used one of its favorite tools, Rule 166(g), to efficiently narrow the case, tossing various claims premised on the plaintiff's claimed membership in an LLC, among other issues.

The Court also gave us an early contender for quote of the year as it warned parties against changing their story between pleadings, stating, "Litigants cannot change horses midstream."

### **Quintero v. Urban Infraconstruction, 2026 Tex. Bus. 3 (1st Div.) (mem. op.)**

#### *The Decision*

The Court used Rule 166(g) to significantly narrow the scope of litigation surrounding claims based on Quintero's alleged status as a member of Urban Infraconstruction LLC, as well as related breach of contract, fraud and unjust enrichment claims. By applying Rule 166(g), the Court identified legal issues that could be resolved as a matter of law before trial, ultimately granting partial judgment in favor of the defendants. Rule

166(g) has proven to be a go-to tool of the Texas Business Court to quickly and efficiently dispose of legal issues in the early life of case.

#### *What Happened*

Quintero and ATS Concrete Services brought suit against Urban Infraconstruction and Tamrakar, the sole member and operator of Urban, in a dispute that centered Quintero's alleged status as a member or partner in Urban, the existence and enforceability of an oral partnership agreement and related claims for breach of contract, fraud, unjust enrichment and declaratory relief.

#### *Quintero's Claimed Membership in Urban*

A key issue in the case was whether Quintero was actually a member of Urban. Quintero claimed membership based on his capital contributions and alleged oral agreements. However, the Court found no evidence in the company's governing documents or records to support this. The Court emphasized that simply making a capital contribution does not, by itself, establish membership in an LLC. Section 101.103 of the TBOC provides three ways in which a person may become a member of an LLC, and capital contribution is not among them. Nor, the Court determined, is there any case law establishing that evidence of a capital contribution constitutes admission as a member of a company. Instead, the Court pointed to *Sohani v. Sunesara*, where the First Court of Appeals rejected

Sunesara's argument that he was entitled to LLC profits based on his testimony of contribution. The Business Court found that Sunesara's testimony about his contributions was no different from Quintero's proffered evidence of Urban's balance sheet, which reflected Quintero's deposit. The Court also found that to the extent Quintero claimed a partnership was formed with Tamrakar, the same problems would prove fatal.

As a result of the Court's finding that Quintero was not a member of Urban, it dismissed all claims predicated on such membership, including demands for accounting, inspection of records and breach of fiduciary duty.

### *Breach of Contract*

Quintero also sued the defendants for breach of contract, citing an alleged agreement governing the Urban partnership and a second partnership agreement purportedly governing ATS. Quintero claimed that he, Tamrakar and a third party agreed to form a partnership to perform construction services, contribute capital and share profits. He maintained that the three individuals agreed to quit their jobs and work at the Urban partnership at a reduced salary and to make contributions. According to Quintero, the agreement also provided for payments to Quintero to build a home in Mexico, buy ranch land outside of Dallas, pay private school tuition for Quintero's children and make charitable donations to his church and hometown in Mexico.

The only written evidence Quintero proffered of these promises was a kids' menu from Hoffbrau Steak & Grill House with a handwritten bullet point list. According to the petition, the failure to keep these alleged promises formed the basis for the plaintiffs' breach claim. However, the plaintiffs later claimed that certain of these promises were not actually part of the partnership agreement. The Court rejected this attempt to walk back the vague terms, stating, "Litigants cannot change horses midstream."

The Court found these terms too

indefinite to be enforceable since they lacked specificity regarding performance deadlines, amount, value or size. Thus, the Court dismissed the breach of contract claims related to the alleged Urban partnership agreement

### *Defendants' Limitations Defense*

The court found that Quintero's fraud and unjust enrichment claims relating to Urban were time-barred. Evidence showed Quintero knew or should have known by 2016 that he was not being treated as a partner or member and that Tamrakar had not fulfilled alleged promises. Since the lawsuit was not filed until 2025, well beyond the applicable statutes of limitations, these claims were dismissed.

### *Defendants' Declaratory Judgment Counterclaim*

The defendants' counterclaim for declaratory judgment was also dismissed. The Court held that this counterclaim merely repackaged the defenses to the plaintiffs' claims, rendering it impermissible as a matter of law.

The plaintiffs' claims for breach of contract, breach of fiduciary duty and fraud relating to one plaintiff and alternative claim for quantum meruit, and the defendants' claim for conversion, remain pending and will proceed to jury trial as set.

The decision came from Judge Andrea K. Bouressa of the Texas Business Court, First Division.

Marilyn Lahr of the Law Offices of Marilyn Kay Lahr represented ATS Concrete Services and Esteban Quintero. Anup Tamrakar and Urban Infraconstruction were represented by Timothy Rothberg and William Shurtleff of Rothberg Shurtleff Dang.

## **Fiberwave v. AT&T Enterprises, 2026 Tex. Bus. 2. (1st Div.) (mem. op.)**

### *The Decision*

The Court granted summary judgment of Fiberwave's defamation claims against AT&T. The Court found the alleged defamatory statements were non-verifiable opinions and that Fiberwave failed to show any of the statements were false, such that Fiberwave could not establish any actionable defamation claim.

### *What Happened*

Fiberwave sued AT&T for defamation based on statements that Fiberwave claimed implied its business was not conducted with integrity. AT&T moved for traditional summary judgment, contending Fiberwave proffered no evidence that AT&T published a false and defamatory statement. The Court agreed, finding the statements in question were not objectively verifiable and thus as a matter of law were not defamatory.

Fiberwave argued that under *Cullum v. White*, a Texas Court of Appeals defamation case, honesty, integrity and ethics are objectively verifiable such that this defamation claim could be actionable. However, the Business Court rejected this proposition, highlighting that the defendant in *Cullum* published "facts" in support of its campaign to impugn the plaintiffs' honesty; thus, *Cullum* was distinguishable and could not support the proposition that a general denunciation of ethics in the absence of a factual context would be actionable. The Court noted that here, crucially, there was no allegation of any verifiable act or omission by Fiberwave.

In addition, Fiberwave's sole evidence of the purported falsity of AT&T's statement was a declaration from its CEO asserting that Fiberwave does, in fact, operate with integrity. The Court found this evidence to be insufficient, as it was "missing [] a yard stick (i.e., verifiable facts) by which any reasonable fact-finder could measure the veracity of the conclusory statements." Because of this absence, the Court found the declaration had no

evidentiary value and confirmed that the implications of AT&T's statements reflected only non-verifiable opinions. And even if these opinions could be proven, the CEO's declaration was so conclusory as to amount to no evidence.

The Court also found Fiberwave failed to prove the requisite degree of fault (negligence). Fiberwave's response failed to produce evidence or even argue that AT&T knew or should have known that the statements were false and defamatory. This provided a second and separate basis for the Court to grant summary judgment for AT&T.

The decision came from Judge Andrea K. Bouressa of the Texas Business Court, First Division.

Byron Henry of Henry Hill and James Shields, Bart Higgins, Brian Shields, and Sasha Begovic of Shields Legal Group represented Fiberwave, Inc. and Chris Percy. Allison Cook, Brett Rosenthal, Margaret Terwey, Tyler Bexley, Kendal Simpson, Peter Marketos, Whitney Wendel, and William Hamilton of Reese Marketos LLP represented AT&T Enterprises, LLC. Dallas Flick, Michael Lang, David Wishnew, and Matthew Muckleroy of Crawford Wishnew Lang represented Spearhead Networks Tech, Inc. and Faisal Chaudhry.

## **Sun Metals Group v. Yu, 2026 Tex. Bus. 1 (1st. Div)**

### *The Decision*

The Court denied reconsideration of its order remanding the case back to district court due to the untimeliness of the removal. The Court also declined to take permissive interlocutory appeal of that order.

### *What Happened*

This case centers the scope and timing of removal to the Texas Business Court under Chapter 25A of the Texas Government Code. The defendants, Shuangcheng Yu et al., sought reconsideration of the Court's earlier order remanding the case to district court, arguing that the

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Court erred in considering the value of claims defendants characterized as “supplemental” when calculating the amount in controversy for jurisdictional purposes, which established the date on which they had knowledge of the facts giving rise to jurisdiction. The Court rejected this argument, upholding its earlier finding emphasizing that the statutory term “action” refers to the entire lawsuit, not discrete claims or causes of action. The Court emphasized that this interpretation comports with both the Business Court’s own precedent and appellate authority, which hold that jurisdiction under Section 25A.004(b) encompasses all claims and parties in the action unless specifically carved out by statute, rejecting the defendants’ interpretation of the legislature’s jurisdictional grant as limited to itemized claims.

Because of this, the Court reaffirmed its consideration of the cumulative value of all the joined parties’ claims in determining timeliness and confirmed that the defendants’ notice of removal was filed outside of the requisite 30-day window.

The court also declined the defendants’ request to file a permissive interlocutory appeal, finding no substantial ground for difference of opinion on the legal questions presented and concluding that an appeal would not materially advance the litigation. The case was thus ordered to remain remanded to the district court for further proceedings.

The decision came from Judge Andrea K. Bouressa of the Texas Business Court, First Division.

Oscar Rey Rodriguez of the Law Office of O. Rey Rodriguez and Tracy Lin represented Sun Metals Group. Patrick Fang, David Ritter and Paul Stevenson of Ritter Spencer Cheng represented Sunmetals Products of America; Sunmetals Products De Mexico, S.A. De C.V.; Mengling Sun; and Shuangcheng Yi.

*Zack C. Ewing is a litigation partner at Kirkland & Ellis in Austin. He regularly appears in the Texas Business Court, in addition to serving as trial counsel in state and federal courts across the country.*

*Sofia Michael is a litigation associate at Kirkland & Ellis in Austin.*