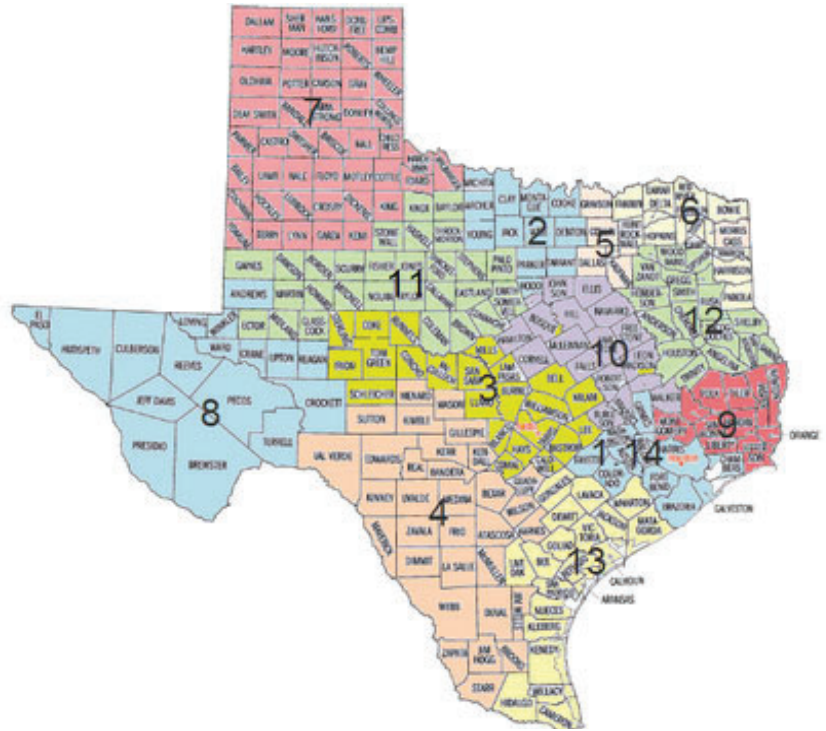


# A Texas Appellate Judge's View of Employment Law Cases

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## Overview of our intermediate courts of appeal:

- 14 courts of appeal
- No discretionary review – consider all appeals
- Jurisdiction over civil, criminal, and family appeals from our state and county district courts
- Elected through partisan elections

# Employment cases as percentage of docket (approximate)

1<sup>st</sup> & 14<sup>th</sup> (Houston): 10-15% (based on Dallas figure)

2<sup>nd</sup> (Fort Worth): 1-5%

3<sup>rd</sup> (Austin): 5-10%

4<sup>th</sup> (San Antonio): <5%

5<sup>th</sup> (Dallas): 10-15%

6<sup>th</sup> (Texarkana): 1%

7<sup>th</sup> (Amarillo): <1%

8<sup>th</sup> (El Paso) 15%

9<sup>th</sup> (Beaumont) 5-10%

10<sup>th</sup> (Waco): 1%

11<sup>th</sup> (Eastland): 1%

12<sup>th</sup> (Tyler): <1%

13<sup>th</sup> (Corpus Christi): 5-10%

## Takeaway:

- Justices on these courts don't see a lot of employment law
- ... and many of these cases are non-competes / non-disclosure cases, not "traditional" employment law.
- So, err on the side of more information rather than less – don't assume we know anything.

# 2018 elections changed the partisan makeup of the 1<sup>st</sup>, 3<sup>rd</sup>, 5<sup>th</sup>, and 14<sup>th</sup> COA:

- <https://www.texastribune.org/2018/11/08/texas-courts-appeals-2018-midterms-beto-orourke/>
- <https://www.law360.com/articles/1100293/newly-blue-texas-appeals-courts-could-benefit-plaintiffs>
- <https://www.dallasnews.com/news/2018/11/11/conservative-texas-appellate-court-flips-blue-overnight-after-19-years-without-a-democrat-on-the-bench/>
- <https://www.statesman.com/news/20181106/democrats-sweep-3rd-court-of-appeals-races>

## 1st Court of Appeals (Houston)

| Place | Pre-2018 Election       | Jan. 2019-current                 |
|-------|-------------------------|-----------------------------------|
| 1     | Sherry Radack           | Sherry Radack (R) (Chief Justice) |
| 2     | Jane Bland (R)          | Gordon Goodman (D)                |
| 3     | Russell Lloyd (R)       | Russell Lloyd (R)                 |
| 4     | Evelyn Keyes (R)        | Evelyn Keyes (R)                  |
| 5     | Laura Higley (R) (Ret.) | open                              |
| 6     | Harvey Brown (R)        | Sarah Beth Landau (D)             |
| 7     | Terry Jennings (D)      | Julie Countiss (D)                |
| 8     | Michael Massengale (R)  | Richard Hightower (D)             |
| 9     | Jennifer Caughey (R)    | Peter Kelly (D)                   |

Also available as part of the eCourse

[2020 eConference on State and Federal Appeals](#)

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