

TEXAS LAWYER

Delaware or Texas? Business Court Dismisses Coinbase Shareholder Suit

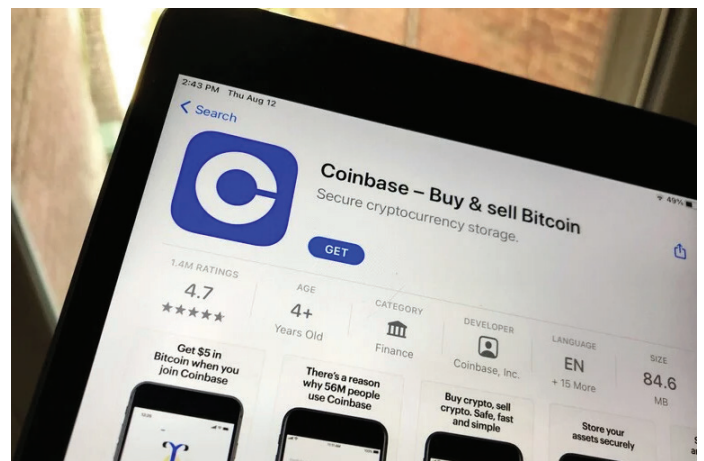
By Laura Lorek
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A Texas Business Court judge has dismissed a shareholder lawsuit directed at the executives of Coinbase Global Inc., stating that under Texas law—not Delaware’s—it is determined whether an investor can take legal action on the company’s behalf since the cryptocurrency exchange has reincorporated in Texas.

Judge Andrea K. Bouressa of the Texas Business Court’s first division dismissed the case without prejudice, stating that under Texas law a shareholder has the right to bring a derivative action on behalf of a Texas corporation, even if the claims in question arose under the law of another state.

When the Texas Business Court threw out the shareholder derivative action against Coinbase’s leadership, it was a significant win for **Latham & Watkins**.

Members of the Latham team involved in the case in Texas were **Taj Clayton, Scott Thomas, Carson Young**, together with partners **Andrew Clubok, Susan Engel** and **Morgan Whitworth**, and associates **Shannon McLaughlin** and **Roark Luskin**. The law firm declined



Coinbase app on the Appstore.

to comment and directed all questions to Coinbase media, which had not yet replied to a request for comment on Tuesday.

Saadia Hashmi, a partner at Brown Law Firm and lawyer for plaintiff Gary Guillaume, did not immediately respond to a request for comment Tuesday.

Bouressa’s decision turned on a key difference between the two states.

In Delaware, a shareholder need not ask the board to act first if the shareholder can prove that making such a request would have been futile. In Texas, however, a written demand must be made to the board in all cases, and

there must be a 90-day waiting period before suit can be filed, with no exception for futility.

The ruling gives companies that have moved from Delaware to Texas a definite answer to a long-standing question. Shareholders taking legal action over conduct from the Delaware period will still have to meet Texas' more stringent demand rule; this eliminates a frequently used route for bringing derivative suits and gives boards the opportunity to respond before any litigation.

On April 16, shareholder Guillaume filed a lawsuit in the Dallas County district court against Coinbase CEO Brian Armstrong and others. He claimed misconduct between April 2021 and June 2023, when Coinbase was still incorporated in Delaware. The company moved its incorporation to Texas in December 2025. Guillaume did not make a demand on the board, on the ground that such a demand would have been pointless under Delaware law.

Bouressa said Delaware law applies to the merits of Guillaume's claims; however, she treated the right to bring the action as a

separate issue. According to her, the authority of a shareholder to sue on behalf of the corporation should be determined by the law of the state of incorporation on the day the suit is filed, just as a board's decision to bring the same suit would be.

Bouressa said this bright-line rule offers "clarity and certainty," especially when claims span periods before and after a reincorporation.

Bouressa rejected Guillaume's appeal to a Coinbase regulatory filing which stated that the action would not "extinguish or adversely affect" shareholders' right to bring derivative suits based on conduct that took place before conversion. Bouressa pointed out that the filing made no promise regarding the continuation of Delaware law. She also noted that Guillaume had not shown any harm from having to make the demand and had not argued that Texas law permits companies to contract around the demand requirement.

Bouressa also refused to follow the 2011 decision by a federal bankruptcy court, which applied Delaware law to standing, on the grounds that it provided no analysis.