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Exxon Cements Texas As Delaware's Emerging Rival

By **Spencer Brewer**

Law360 (March 11, 2026, 10:55 PM EDT) -- Last year, Vinson & Elkins partner Katherine Frank fielded about one call a week from companies thinking about redomiciling in Texas. Speaking to Law360 the day after ExxonMobil announced its plan to reincorporate in the Lone Star State due to its business-forward courts and policies, Frank said the callers fell into three categories.

The first tended to be founder-led firms, while the second included companies that had been burned by courts in Delaware, the current leader in business formation attraction.

The third included what Frank called "true believers," including companies that already had a headquarters in Texas or which see the state as the future of business.

"This announcement by Exxon has really legitimized the concerns or considerations by widely held public corporations, and it's brought this question to the forefront, particularly for companies like Exxon that are headquartered in Texas," said Frank, a partner in Vinson's capital markets and mergers & acquisitions practice groups.

While Frank suspects the number of calls from Texas-curious companies could increase in the wake of Exxon's blockbuster announcement, she stopped short of predicting a mass exodus from the First State.

"I don't think Delaware's reign is over," she said. "I think some competition has been introduced."

Exxon's decision **marks a major victory** for state lawmakers, who have made a concerted effort to draw companies to incorporate or reincorporate in Texas. Experts told Law360 that the oil giant's decision to leave its longtime home in New Jersey could empower other companies that may want to float similar proposals to their shareholders.

Major companies have changed their legal domicile to the Lone Star State in recent years, including Tesla and Coinbase. Both of those companies, which originated in California, cited factors that pushed them out of their legal home of Delaware. Tesla and its CEO Elon Musk **found themselves on the wrong end** of litigation involving Musk's compensation, and Coinbase cited an "increasingly litigious environment in Delaware" as a **reason for its move**.

Exxon's proposal marks a shift. Tesla and Coinbase jumped ship from Delaware following adverse legal actions, while Exxon was pulled to the state by Texas lawmakers' years-long efforts to introduce friendly corporate laws and establish the business courts, said Michael Toth, research director at Civitas Institute, a think tank affiliated with the University of Texas at Austin.

"If you're a large-cap, U.S. public company, you're looking at [Exxon's decision] as a potential case study," Toth said.

Texas Lawmakers Sweeten The Pot

The establishment of the Texas Business Court in 2024 weighed on the board's decision to make its recommendation, the company told shareholders in its Tuesday proxy statement. The company also pointed to amendments to the Texas Business Organizations Code that bolstered the legal framework for reviewing corporate decisions and standards for directors' and officers' conduct.

"The issues surrounding whether a state is viewed by a company as a favorable domicile can proceed on three fronts — the legislative front, the regulatory front and the judicial front," said Wagner Law Group partner Andrew Oringer, who counts executive compensation among his practice areas.

Last year, Texas Gov. Greg Abbott **signed off on a corporate reform bill** that codifies the "business judgment rule," which provides immunity for corporate directors from personal liability for company decisions. Senate Bill 29 states that the corporation and its shareholders don't have a claim against the director or officer of the entity unless the presumptions can be rebutted, and it's proved that the director's or officer's alleged breach of duty involved fraud or intentional misconduct.

Still, while Texas has made strides in its quest to entice more companies to make the state their legal home, the state can't compete with Delaware when it comes to the extent of developed law, Oringer said.

The business courts only got up and running two years ago, and recently the Texas Business Court **hosted its first jury trial**. The court has heard one internal affairs case to date, but that dealt with a limited liability company.

"What Texas can do is have its laws and rules be pro business and pro executive, and then to comfort people that the development of that law will be consistent with a business-friendly approach," Oringer said.

The rollout of Texas corporate case law will likely be slow, said Vinson & Elkins' Frank, because derivative suits face an extra hurdle than in Delaware. In Delaware, investors can GO straight to court without making a demand on the board to take action if the investors show the demand would be futile, while in Texas an investor has to bring their demand before the board members, who can then form an independent and disinterested committee. A rejection by the committee forecloses the lawsuit.

"As a result, a lot of Texas corporations' derivative litigation stops at the board level and never hits the courts," Frank said.

Additionally, S.B. 29 gave companies the option to set up to a 3% minimum threshold of ownership before a shareholder can bring a derivative claim.

Frank noted that an investor who brought a 2018 case targeting Musk's compensation package had a measly nine Tesla shares.

While that change in the law will likely prove a boon to founder-led companies like Tesla, Exxon explicitly told its shareholders it would not adopt a minimum threshold: in its statement, the company told investors that the company "is not adopting any elective provisions of the Texas corporate statute that could be viewed as weakening shareholder rights as compared to New Jersey law."

Don't Count Delaware Out Yet

Exxon's history stretches back far enough that when it incorporated in New Jersey in 1882, that state was the go-to location for business charters, said Toth, of Civitas Institute.

"That history is somewhat relevant to the story, in the sense that it shows that these things can change," he said.

While Delaware may not possess a monopoly on attracting business formation, the state certainly still has a lot of draw. Many states outside of Texas have also entered the fray in seeking to get companies to redomicile, he said, such as Nevada. Exxon's move will only increase the stakes of that competition, he said.

--Additional reporting by Catherine Marfin, Jeff Montgomery, Dorothy Atkins, Aislinn Keely and José Luis Martínez. Editing by Emily Kokoll.