

Lackey, McGowan Address Covid-19's Effect on Arbitration Proceedings in *The Texas Lawbook*

In the News

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Stinson LLP Partner [Paul Lackey](#) and attorney [Bailey McGowan](#) authored an article for *The Texas Lawbook*, "How Covid Has Left the Road to Arbitration Full of Potholes."

During the height of the pandemic, many courts stopped most in-person hearings and trials and moved to virtual platforms, ensuing a long backlog, especially for jury trials. Now, courts are looking to offload their pandemic dockets, resulting in a significant increase for virtual hearings in arbitration. While these hearings may appear convenient, Lackey and McGowan examine the rocky path of arbitration in the age of virtual hearings.

"Courts are supporting virtual arbitration hearings in a variety of cases, and attorneys should be cautious when drafting arbitration agreements," the attorneys write. They note that the implications of an arbitration clause can reach far beyond the parties in the contract, writing, "Section 7 of the Federal Arbitration Act may allow an arbitrator to compel discovery from third parties. Whether the third parties actually 'must attend before them,' however, is the subject of a circuit split."

Without guidance from Congress or the Supreme Court, it is still unclear how the courts will address this new normal.

"In the end, it is just as much about the ride as it is the destination," the attorneys write. "Attorneys should carefully reconsider their 'standard' arbitration clauses and whether arbitration is really in the best interests of the client in that particular contract."

Lackey is a complex commercial trial attorney and has decades of litigation experience involving large financial institutions, EB-5, real estate, financial services, bankruptcy, and hospitality-related litigation.

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McGowan, a former assistant public defender, focuses on effective client representation through all phases of the litigation process in order to obtain the best result possible.

[Read](#) the full article.

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