

PRACTICE OVERVIEW

MEDIA AND FIRST AMENDMENT

The Haynes Boone Media and Entertainment Law Practice Group is nationally ranked by *Chambers USA*. With offices across America (and beyond), Haynes Boone is able to provide a full range of litigation, counseling, and advocacy services in all aspects of media and entertainment law nationwide. We provide a broad array of services to content providers in connection with media, intellectual property, cybersecurity, data privacy, and related issues. Our expertise includes libel, newsgathering torts, Anti-SLAPP, invasion of privacy, copyright, trademark, theft of idea, right of publicity, and misappropriation matters, data privacy and security, AI-related issues, advertising and promotions laws, and public information matters.

OUR SERVICES INCLUDE:

INDUSTRY KNOWLEDGE AND CUTTING-EDGE DEVELOPMENTS

Each of the lawyers in our Media and Entertainment Law Practice Group has significant industry expertise and a practical understanding and knowledge of the problems and issues media and entertainment clients face.

Our lawyers stay abreast of current developments by holding leadership roles in and participating in numerous professional organizations related to representations of clients in the media and entertainment industry, including the Media Law Resource Center, the International Trademark Association, the American Bar Association Forum on Communications Law, and more. In addition, our media and entertainment lawyers also help shape public policy in the area of media and entertainment law by serving on the boards of directors for various trade organizations and think tanks (e.g. MLRC, INTA), Bar associations (e.g. ABA Forum on Communications Law), public policy and advocacy organizations (e.g. Public Participation Project, Freedom of Information Foundation of Texas), and by volunteering for organizations such as the Reporters Committee for Freedom of the Press, Society of Professional Journalists, Texas Association of Broadcasters, the Texas Press Association, and more.

LITIGATION AND APPEALS

- Libel, Invasion of Privacy, Defamation, and Related Business Tort Litigation
- Anti-SLAPP cases
- Intellectual Property matters: Copyright and Trademark Infringement Litigation, Theft of Idea, Misappropriation, and Right of Publicity
- Online Speech, including Communications Decency Act, Children's Online Privacy Protection Act, and Social Media laws
- Response to Subpoenas and Journalists' Privilege Issues
- Access to court proceedings and public documents
- Data Privacy and Security issues
- Advertising, Marketing, and Promotions Law
- Artificial Intelligence concerns

ANTI-SLAPP: NATIONAL AND INTERNATIONAL EXPERTISE

Haynes Boone has deep expertise at a national and international level in Anti-SLAPP litigation and legislation, including:

- Testifying before Congress on federal Anti-SLAPP legislation
- Serving as an ABA Advisor to Uniform Law Commission on Model Anti-SLAPP Act and on the ULC enactment committee
- Assisting Coalition Against SLAPPs in Europe (CASE) and UK Anti-SLAPP working group in implementation of EU-wide Anti-SLAPP Directive and UK Anti-SLAPP protections
- Creating and co-chairing national committee on Anti-SLAPP laws with Media Law Resource Center
- Instrumental in passage and defense of Texas Anti-SLAPP law and other state Anti-SLAPP laws
- Presenting and speaking at international and national conferences on Anti-SLAPP laws
- Writing multiple Anti-SLAPP law review articles and editorials
- Defending innumerable Anti-SLAPP cases in multiple jurisdictions at the trial and appellate court level

COUNSELING

- Vetting, Clearance, and Pre-Publication Review and Counseling
- Newsroom Seminars on Intellectual Property Issues, Social Media, and Newsgathering Concerns
- Data Privacy and Security, and AI Seminars and Counseling
- Newsgathering Advice, including use of Drones
- Copyright, Trademark, Service Mark, Trade Dress Advice, and Fair Use Analysis
- Journalists' Privilege Issues, including Issues Relating to Protection of Confidential Sources
- Courtroom Access Issues, including Federal and State Open Government Matters and the Sealing of Court Records
- Social Media Policies and Advice
- Advertising, Marketing, and Promotions Counseling
- Freelance Writer and Photographer Contracts
- Responding to Retraction Demands

MEDIA AND ENTERTAINMENT TRANSACTIONS PRACTICE

The media and entertainment transactions group specializes in all transactions related to the media and entertainment industry such as the following:

- Television and Motion Picture Production transactions
- Media Broadcast and Distribution transactions
- Live Event Productions
- Sponsorship and Endorsement transactions
- Media and Entertainment Industry Technology transactions
- Corporate Finance transactions
- Mergers and Acquisitions
- Streaming Media transactions

Our commercial transactions work focuses on relationships between all parties involved in the development, production, ownership, and distribution of media and entertainment.

PUBLIC POLICY AND ADVOCACY WORK

Haynes Boone attorneys provide a one-of-a-kind, 360-degree approach to representing clients by not only providing pre-litigation counseling and defending them in the courtroom, but also by identifying, anticipating, and effectuating public policy changes that need to be made to better protect the industry and freedom of expression rights as a whole. In doing so, the lawyers in our Media and Entertainment Law Practice Group have been instrumental in the passage and defense of historic First Amendment and Open Government legislation in Texas and beyond, including:

- Texas' Neutral Reportage privilege (eff. May 29, 2015)
- Texas' Retraction Statute (Defamation Mitigation Act—eff. June 14, 2013)
- Texas' Anti-SLAPP Statute (The Texas Citizens Participation Act—eff. June 17, 2011)
- Texas' Reporter's Privilege (The Texas Free Flow of Information Act—eff. May 13, 2009)
- Texas Open Government-related legislation (including the expansion of the Texas Public Information Act to include electronic communications on personal devices, calculation of business days, increasing criminal justice transparency reform measures, and improvements to the Texas Open Meetings Act)

“Nationally Ranked First Amendment Litigation Practice by *Chambers USA*”

LEADERSHIP TEAM



**Laura Lee Prather | Partner
Chair - Media Law Practice**
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Recognized nationally and internationally as a fearless freedom of expression advocate, Laura Lee Prather was awarded The American Lawyer's inaugural Tony Mauro Media Lawyer Award for her tireless and successful efforts advocating for legislation to strengthen First Amendment rights, including zealous advocacy for free speech rights both at the statehouse and the courthouse. Board certified in Civil Appellate Law, Laura represents a broad array of clients at the trial and appellate court level in First Amendment, Anti-SLAPP, and intellectual property disputes. Laura has been recognized for First Amendment Litigation - Nationwide in *Chambers USA*, 2017-2023 (Chambers and Partners). She was also recently named a Fulbright Scholar for efforts to enhance speech and press freedoms globally.



David H. Harper | Partner
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David Harper solves clients' complex business problems and implements their strategies both in the courtroom and the boardroom. A trusted business advisor, he has served as lead counsel for his clients' most significant and complex disputes, including semiconductor fabrication patent and trade secrets, partnership and private equity disputes, oil and gas transactions, public pensions, and disputes about the sale of major businesses. David also represents media and entertainment companies, including on claims of libel, invasion of privacy, licensing, publishing, and distribution disputes.



Thomas J. Williams | Partner
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Tom Williams has extensive experience in business litigation, libel litigation, intellectual property litigation, and media law matters. He has been listed in *The Best Lawyers in America* in every edition of the publication since 1991 and is active in a wide range of professional and civic organizations. He has also represented numerous publishing and broadcasting companies in a variety of matters including defense of libel and invasion of privacy claims, access to public information matters, and free press/fair trial issues.



Catherine Robb | Counsel
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Catherine Robb is counsel in the Intellectual Property Practice Group in the Austin office of Haynes Boone. Catherine represents clients in the broadcast industry. Her practice is focused on commercial and business litigation, First Amendment litigation, pre-publication review and editing, copyright and trademark litigation, general commercial litigation, open government issues, and privacy concerns. She advises clients concerning media law issues for an extensive array of content providers including online and traditional newspapers, magazines, radio and broadcasters, cable television stations, production companies, and music entities.



Darwin J. Bruce | Counsel
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Darwin J. Bruce has extensive domestic and international experience in commercial transactions, media and entertainment transactions, business organization, corporate governance, finance, strategic planning, operations, mergers and acquisitions, and real estate transactions. He has handled several high stakes commercial, corporate and finance transactions in a broad range of industries, including media and entertainment, finance, technology, consumer goods, and real estate. Darwin has been featured in D CEO Magazine in a profile about lead executives operating non-profit companies. Darwin has experience in all phases of business organization and management.

MEDIA AND ENTERTAINMENT LAW PRACTICE GROUP PROFESSIONAL RECOGNITION

Chambers USA 2023 Practice Group Rankings:

- 2023 First Amendment Litigation – USA: Nationwide

Chambers USA 2023 Individual Rankings:

- **Laura Prather:** First Amendment Litigation – USA: Nationwide
- **Deborah S. Coldwell:** Franchising – USA: Nationwide
- **Jeffrey Becker:** Intellectual Property: Trademark, Copyright, and Trade Secrets – Texas

Fulbright Scholarship:

- **Laura Prather 2022** – Global Freedom of Expression protections

The Best Lawyers in America 2024

Lawyer of the Year

- **Catherine Robb:** First Amendment Law, Litigation – First Amendment

Best Lawyers

- **Laura Prather:** First Amendment Law, Litigation – First Amendment, Media Law
- **Thomas J. Williams:** First Amendment Law, Litigation – First Amendment, Litigation – Intellectual Property, Commercial Litigation
- **David H. Harper:** Litigation – Intellectual Property
- **Jason P. Bloom:** Copyright Law, Litigation – Intellectual Property
- **Jeffrey Becker:** Litigation – Intellectual Property
- **Lee F. Johnston:** Litigation – Intellectual Property, Litigation – Patent, Commercial Litigation
- **William B. Nash:** Litigation – Intellectual Property, Litigation – Patent
- **Kenneth G. Parker:** Litigation – Intellectual Property, Litigation – Patent, Trademark Law
- **Mark Erickson:** Commercial Litigation, Litigation – Real Estate
- **Deborah S. Coldwell:** Commercial Litigation, Franchise Law

Ones to Watch:

- **Michael A. Gaston-Bell:** Labor and Employment Law – Management, Litigation – Labor and Employment, Employee Benefits (ERISA) Law
- **Michael J. Lambert:** Communications Law, Entertainment and Sports Law, Litigation – Intellectual Property

Tony Mauro Media Lawyer Award:

- **Laura Prather** – 2019 – inaugural award winner

NFOIC Open Government Hall of Fame Inductee:

- **Laura Prather** – 2019

REPRESENTATIVE EXPERIENCE

- On behalf of a coalition of local and national media organizations, Haynes Boone obtained summary judgment in state court, ordering the Texas Department of Public Safety to produce public records related to a school shooting in Uvalde, Texas.
- The Arizona Supreme Court unanimously dismissed a defamation case brought by a former Congressional candidate against Haynes Boone client iHeartMedia because the statements at issue, which were made on a political talk show, were protected under the First Amendment.
- On behalf of ABC News, Haynes Boone challenged the constitutionality of a gag order prohibiting attorneys and others involved in the litigation relating to the tragedy at the Astroworld Festival in November 2021 from speaking publicly about a wide range of topics related to the case.
- Haynes Boone successfully defended nine-day copyright infringement trial brought in federal court by nationally syndicated radio host and book author seeking more than \$13 million in damages by obtaining complete defense victory, declaratory relief in favor of clients, and substantial award of defense costs.
- Haynes Boone argued copyright infringement appeal to the Fifth Circuit and obtained full affirmance of trial court's judgment in favor of entertainment industry clients. Briefed response to petition for writ of certiorari to United States Supreme Court and obtained denial of petition.
- Putting an end to Plaintiff's efforts to forum-shop, a federal court transferred a defamation case improperly brought in Texas by a U.S. Representative from California against NBCUniversal, for statements made in New York about the Congressman's conduct in the District of Columbia.
- A Florida federal court dismissed a defamation case brought against CNN and its employees for reporting on a conspiracy theory relating to the COVID-19 pandemic. The Eleventh Circuit affirmed the decision.
- The Houston Court of Appeals (1st COA) upheld the Anti-SLAPP dismissal of all claims against our client, a Houston area Fox television station, finding minor errors did not render the reporting substantially untrue because the gist or sting of the story was correctly conveyed.
- Arguing that the discovery rule was inapplicable for statements made in mass media, Haynes Boone obtained Anti-SLAPP and Rule 91a dismissals of time-barred defamation claims brought against our clients, the Dallas Morning News and its reporter, for their reporting on Plaintiff's arrest and related criminal proceedings for being a felon in possession of a firearm.
- Haynes Boone successfully defended defamation claim against magazine client regarding article discussing arson murder of prominent Dallas attorney in his garage. When case was initially filed in Florida federal court, we obtained dismissal on personal jurisdiction grounds, and when case was refiled in Texas federal court, we obtained dismissal with prejudice on statute of limitations grounds.
- Obtained summary judgment on behalf of magazine publisher, author, and current and former police officers on First Amendment and statutory grounds in lawsuit asserting claims for libel, libel per se, tortious interference, and intentional infliction of emotional distress.
- Haynes Boone successfully obtained dismissal of production company and podcast distributor in defamation and intentional infliction of emotional distress case brought by Plaintiff who was interviewed about her involvement in the identification of and trial of Charles Harrelson for the assassination of Judge John Wood. The Court granted Defendants' Rule 12(b)(6) motion to dismiss holding Plaintiff's assertions about alleged implications from the podcast were not reasonable interpretations of the podcast or complained of statements.
- Plaintiff filed a lawsuit against production company and distributor claiming they had portrayed him in a false light in a 4-part television series called "The Last Narc" about how Enrique Camarena (DEA Agent) was kidnapped, tortured and murdered in Guadalajara, Jalisco, Mexico. Plaintiff claims he, as Camarena's supervisor at the Guadalajara DEA Field Office, was portrayed as being complicit in the murder of Camarena. The Court granted Haynes Boone's motion and transferred the case from Texas to California. Shortly thereafter, Defendants filed an Anti-SLAPP motion, and Plaintiff dismissed all claims against Defendants.
- Plaintiff filed suit against Williamson County, former Sheriff Robert Chody, and five deputies alleging excessive use of force in his June 2019 arrest. Plaintiff also sued Haynes Boone client, Big Fish Entertainment, LLC, alleging negligence and conspiracy after broadcasting Plaintiff's arrest on "Live PD." The Court held that the production company participating in a ride-along could not be held liable for negligence committed by the police officers and granted our Rule 12(b)(6) Motion to Dismiss all claims against Big Fish.

- Plaintiffs, a doctor and his medical practice, filed a retaliatory lawsuit against Haynes Boone client, Nexstar Broadcasting Group, Inc., alleging defamation after Nexstar's television station, KXAN, published online and broadcast reports about inherent delays and problems with the Texas Medical Board's complaint and investigation procedures. The trial court granted Defendants Anti-SLAPP motion and awarded Nexstar its fees. The Austin Court of Appeals affirmed and, in the process, upheld the constitutionality of the Anti-SLAPP statute.
- Plaintiff filed a lawsuit against Haynes Boone client, non-profit news organization, ProPublica, Inc., alleging defamation and intentional infliction of emotional distress after ProPublica and the Houston Chronicle published a joint article reporting on Plaintiff's career as a heart

surgeon and the questions that had been raised about some of his practices and procedures and his failure to follow protocols in clinical trials. The Houston Court of Appeals (1st COA) overturned the trial court's denial of the Anti-SLAPP motion remanding the case to the trial court for consideration of Defendants' substantial truth evidence and privilege arguments.

- Plaintiff filed suit against Haynes Boone client, CBS Stations Group of Texas, LLC, for defamation based on a year-old news broadcast concerning criminal proceedings surrounding a bank robbery. The trial court granted the Anti-SLAPP motion finding that CBS was not negligent where it reasonably relied on (incorrect) information received from law enforcement. The ruling was upheld by the Dallas Court of Appeals.

REPRESENTATIVE TRANSACTIONAL EXPERIENCE

- Drafted and negotiated domestic and international television production and distribution transactions for media and entertainment programming that consistently reached millions of people around the world on many media platforms throughout the United States, Canada, United Kingdom, South Africa, and South America.
- Drafted and negotiated domestic and international event production transactions for several large-scale events produced by an influential media and entertainment company with each event attracting from 30,000-100,000 attendees, maintaining multiple production sites, and each producing an average economic impact in excess of \$50 million.
- Drafted and negotiated agreements for a \$30 million live event and production facility and handled several venue and hospitality transactions for large scale production events.

- Drafted an Entertainment Transactions Playbook for a client's intellectual property team for use in understanding and negotiating the company's media and entertainment transactions.
- Drafted and negotiated multiple talent agreements, influencer agreements, endorsement agreements, releases, and related transactions with world renowned artists and celebrities for influential companies.
- Drafted and negotiated multiple joint venture and co-production agreements between media and entertainment companies.
- Drafted and negotiated brand merchandising agreements for various clients.
- Drafted and negotiated influencer agreements and endorsement agreements with various athletes and celebrities for their commitment to provide marketing content for various corporate clients.





HAYNES BOONE

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