

## Haynes and Boone Files Amici Briefs in Key First Amendment Case

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June 23, 2020 Natasha Breaux

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PRACTICES Appellate

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A Haynes Boone appellate team filed amici curiae briefs on behalf of First Amendment scholars and organizations in a high-profile case before the U.S. Court of Appeals for the Ninth Circuit, which issued a ruling June 19, siding with the amici's position in the matter.

At issue in the case was the constitutionality of a California statute, AB 1687, that targets age discrimination in the entertainment industry by prohibiting websites from reporting entertainment professionals' ages and birthdays. IMDb.com Inc., the publisher of the Internet Movie Database, sued to block the law.

Partners M.C. Sungaila and Polly Fohn and Associate [Natasha Breaux](#) authored an amici brief to the United States District Court for the Northern District of California on behalf of the Reporters Committee for the Freedom of the Press, the First Amendment Lawyers Association (FALA), and numerous legal scholars including Dean Erwin Chemerinsky, which likewise argued that AB 1687's suppression of truthful information violates the free speech clause of the First Amendment. If the law were not struck down, the amici noted, there would be virtually no limit on the government's ability to suppress the reporting of true facts by other sources, including the media. The district court agreed, enjoining the statute from taking effect, and the government appealed.

On appeal, the Haynes Boone team filed another amici brief on behalf of the Reporters Committee for the Freedom of the Press and legal scholars.

The Ninth Circuit affirmed that the statute is unconstitutional, holding that it is a content-based restriction on speech that is subject to strict scrutiny. The court rejected the government's argument that the speech should receive reduced protection because it is commercial, facilitates illegal conduct, or implicates private matters. Although the purported goal of reducing age discrimination is a compelling government interest, the court reasoned, the statute doesn't survive strict scrutiny because the statute is neither the least restrictive means to accomplish that goal, nor is it narrowly tailored.

*The Recorder* [reported on](#) the ruling and quoted M.C. Sungaila.

"The court's decision reaffirms the First Amendment's scope and importance in the online context, and offers guidance about the appropriate interplay between efforts to address discrimination and free speech guarantees," she said.

Sungaila has briefed and argued appeals raising cutting-edge and core business issues. Clients call on her to craft approaches to emerging legal issues across multiple cases and jurisdictions and to provide pretrial and trial consultations in cases where an appeal by either side appears inevitable or a "key case" outcome might impact a whole series of cases for a client.

With one of the largest full-time appellate teams of any national law firm, Haynes Boone can match clients with appellate lawyers who offer personal experience with specific industries, procedural issues, and courts. Team members have argued appeals before the U.S. Supreme Court, the federal circuit courts of appeals, the Texas Supreme Court, and the Texas courts of appeals, setting precedent for our clients in jurisdictions from coast to coast.

Haynes Boone is an international corporate law firm with offices in Texas, New York, California, Charlotte, Chicago, Denver, Washington, D.C., London, Mexico City and Shanghai, providing a full spectrum of legal services in energy, technology, financial services and private equity. With more than 575 lawyers, Haynes Boone is ranked among the largest U.S.-based firms by *The National Law Journal*, *The American Lawyer* and *The Lawyer*. It also was recognized across the board for excellence in the BTI Consulting Group's 2020 "A-Team" report, which identifies the law firms that in-house counsel single out for providing superior client service.