

## Haynes and Boone Appellate Team Helps Client Reverse \$110 Million Judgment

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December 16, 2020 Kent Rutter, Nina Cortell, Chris Knight, Mike Hatchell

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**PRACTICES** Finance, Litigation, Appellate

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A Haynes Boone legal team led by Partner Anne Johnson persuaded a Texas appellate court to overturn a \$110 million fraud verdict against client BBVA.

The suit was brought against BBVA by a borrower, David Bagwell, who claimed that a BBVA employee made misrepresentations during loan renewal negotiations. Bagwell alleged that, at the time the employee represented that his loans were not being sold, the bank was in the process of selling them—an action permitted by the loan documents. Bagwell claimed that the employee’s representation caused him to lose out on various business opportunities.

A jury in 2017 found in favor of Bagwell, and the trial court entered a \$98 million judgment, which, with interest, had grown to \$110 million.

Haynes Boone’s appellate team was hired by BBVA after the jury verdict in December 2017. BBVA argued to the Fifth Court of Appeals in Dallas that the judgment had to be reversed for a number of reasons, including that Bagwell’s claims were barred by the statute of frauds and the statute of limitations, and that the evidence conclusively negated the element of justifiable reliance, which is required in a fraud claim. The court heard oral argument in late January 2020.

On December 14, a three-justice panel of the appellate court unanimously reversed the judgment and ruled that Bagwell take nothing on his claim. The court held that Bagwell’s fraud claim failed because he could not have justifiably relied on the bank employee’s representation as a matter of law. After all, the court reasoned, Bagwell (a sophisticated real estate developer) had signed loan documents that gave BBVA “the authority to sell Bagwell’s loans at any time, without notice to him.” In light of this and other contractual language—as well as other “red flags” identified by the court—Bagwell could not justifiably rely on the claimed misrepresentation. “In the absence of justifiable reliance, [Bagwell’s] fraud claim fails,” the panel wrote in its [14-page opinion](#).

Johnson was assisted by a Haynes Boone team that included Partners [Kent Rutter](#) and [Nina Cortell](#); Associate [Chris Knight](#); and Counsel [Mike Hatchell](#).

With one of the largest full-time appellate teams of any national law firm, Haynes Boone’s lawyers 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.

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 commend for providing superior client service.