

## Haynes Boone Secures Texas Supreme Court Win for American Midstream, Reversing \$6 Million Judgment

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May 23, 2025 Polly Fohn, Mark Trachtenberg

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**PRACTICES** Appellate, Energy Litigation, Litigation

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The Supreme Court of Texas ruled in favor of Haynes Boone client American Midstream, reversing a \$6 million judgment and reinstating the company’s counterclaim as well as its claim for attorneys’ fees.

Rainbow Energy Marketing Corp. sued American Midstream in 2017 for breach of contract, fraud and negligent misrepresentation after terminating a gas transportation agreement. The trial court awarded Rainbow more than \$6 million in lost profits.

In her Jan. 13 argument, Houston-based Appellate Partner [Polly Fohn](#) successfully argued the trial court improperly inserted the terms “scheduled” and “physical” into the contract, distorting the original bargain and misapplying Texas contract interpretation principles.

“The trial court was wrong to blue-pencil the words ‘physical’ and ‘scheduled’ into the parties’ agreement,” Justice James P. Sullivan wrote in the opinion. “These two words created a cascade of errors that we now correct.”

The Court also rejected Rainbow’s repudiation, tort claims and speculative lost profits model.

Partner [Mark Trachtenberg](#) led the appellate team with support from Associate Kaylen Strench.

“This is a decisive win for our client and a strong affirmation of Texas contract law,” Trachtenberg said. “The Court’s opinion reinforces that parties are bound by the words they agree to, not by terms added later through litigation.”

The case, [American Midstream LLC v. Rainbow Energy Marketing Corporation](#), was heard on petition for review from the First Court of Appeals in Houston. Jackson Walker attorneys Joseph A. “Tré” Fischer, Richard A. Howell, Luke Gilman and Jennifer Caughey assisted in representing American Midstream at trial and on appeal.

Haynes Boone’s [Appellate Practice Group](#) is nationally recognized for winning precedent-setting appeals and shaping litigation strategy at every stage of trial. Ranked Band 1 in Chambers USA, the group is known by clients and peers alike for its collaborative approach, empirically driven strategy and success in bet-the-company appeals.