

# Haynes Boone Wins Dismissal for ProPublica and Houston Chronicle in First Amendment Case

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**PRACTICES** Anti-SLAPP and First Amendment Rights, Intellectual Property Litigation, Media and Entertainment Litigation

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The Media Law Practice Group at Haynes Boone has won dismissal of a defamation case involving a joint article written by *ProPublica* and the *Houston Chronicle*. The case, decided by the Court of Appeals for the First District of Texas, involved a 2018 investigative article concerning prominent heart surgeon Dr. O. Howard "Bud" Frazier.

Dr. Frazier alleged the publications' reporting on his research and patient outcomes was false and damaged his reputation.

In a ruling that cements important First Amendment protections for the press, the appeals court upheld the substantial truth defense invoked by Haynes Boone under Texas's anti-SLAPP law, the Citizens Participation Act. The court found the article's core allegations about Frazier's research practices, disclosure of conflicts of interest and patient outcomes were substantially true.

"This case was critical to upholding investigative journalism's vital role in holding powerful figures accountable, especially in matters of public health," said [Laura Prather](#), chair of Haynes Boone's [Media Law Practice Group](#). "The truth and responsible reporting practices will prevail over meritless defamation claims seeking to silence watchdog journalism on issues of public concern."

Prather led the appellate team alongside Media Law Counsel [Catherine Robb](#).

The 2018 article by *ProPublica* and the *Houston Chronicle*, titled "[A Pioneering Heart Surgeon's Secret History of Research Violations, Conflicts of Interest and Poor Outcomes](#)," reported that Frazier implanted experimental heart pumps in ineligible patients contrary to research trial criteria, failed to properly disclose potential financial conflicts with device makers and had high mortality rates among Medicare patients receiving the devices compared to national averages.

The Haynes Boone Media and Entertainment 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.