

Haynes Boone Wins Jury Verdict for Condo Developer

April 11, 2023 Ernest Martin, Emily Buchanan, Kathleen "Kate" Repko, Andrew Guthrie

PRACTICES Insurance Recovery Appeals, Appellate, Litigation

A Haynes Boone litigation team helped client Curtis Park Group LLC win a jury verdict, finding that its insurer breached its Builders' Risk policy and acted in bad faith by denying coverage for losses that arose during the construction of a large, four-building condominium project in Denver. The jury rejected the insurer's argument that a construction defect exclusion applied to bar coverage and that Curtis Park deliberately concealed information from the insurer.

Following a seven-day trial in federal court in Colorado, the jury, on April 4, 2023, concluded that Allied World Specialty Insurance Co. had breached an insurance contract with Curtis Park and, further, that Allied had acted in bad faith in denying coverage.

The bad faith finding paves the way for Curtis Park to recover double its damages plus attorneys' fees and prejudgment interest and costs, equaling about \$11 million in damages.

"The client's victory was all the more sweet not only because it awarded contract and bad faith damages but also because it vindicated Curtis Park, which had been vilified by its own carrier through its accusation that Curtis Park and its agents deliberately concealed information – an accusation the jury rejected," said Partner [Ernest Martin Jr.](#), who led the trial team and is chair of the firm's Insurance Recovery Group. "Bad-faith findings at trial are very hard to come by, and we are honored to have achieved this fantastic result for such a deserving client."

The trial team included Haynes Boone Litigation Associates [Emily Buchanan](#) and [Kate Repko](#) and Appellate Partner [Andrew Guthrie](#).

Curtis Park's losses stemmed from a podium slab that served as a suspended foundation above the parking garage. The slab started to sag in December 2017, halting construction as it was nearing completion. Extensive repairs were required which led to delays in concluding the project, and Curtis Park submitted an insurance claim valued at \$3.8 million. Allied failed to timely and properly investigate the claim, requiring Curtis Park to file suit in early 2020. The COVID-19 pandemic required that discovery be conducted remotely, including through Zoom depositions. Numerous discovery, evidentiary, and legal challenges arose, including the disqualification of Allied's original lead counsel for his claims handling role.

The Haynes Boone team surmounted these and other legal battles at every turn. The jury deliberated for about three hours before returning the verdict in Curtis Park's favor.

Haynes Boone is an international corporate law firm with 19 offices spanning Texas, New York, California, Charlotte, Chicago, Denver, Virginia, Washington, D.C., London, Mexico City and Shanghai, providing a full spectrum of legal services in energy, technology, financial services and private equity. With about 650 lawyers, Haynes Boone is ranked among the largest U.S.-based firms by *The National Law Journal*, *The American Lawyer* and *The Lawyer*. It was recognized in the BTI Consulting Group's 2022 "A-Team" report, which identifies the law firms that in-house counsel commend for providing superior client service.

