

Haynes and Boone Wins Mandamus Relief in Overturning 'Death Penalty' Sanctions Against Client

May 10, 2019

PRACTICES Appellate

A Haynes Boone appellate team led by Houston Partner Polly Fohn won mandamus relief on May 9, persuading a Texas appellate court to overturn “death penalty” discovery sanctions against client TAH Investments, LLC.

TAH hired Fohn after a Houston trial judge issued the sanctions for an alleged failure to timely disclose relevant documents. The sanctions order struck one of TAH’s key defenses in the suit, which was filed by an employee of a hotel owned by TAH.

TAH filed a mandamus petition with the Fourteenth Court of Appeals, persuading the court that the trial judge did not meet the predicate standards for the entry of death penalty sanctions. The petition cited a Texas Supreme Court opinion holding that “[d]iscovery sanctions cannot be used to adjudicate the merits of a party’s claims or defenses unless a party’s hindrance of the discovery process justifies a presumption that its claims or defenses lack merit.”

The Fourteenth Court of Appeals ruled that the record, in fact, “does not support any such presumption of a lack of merit.”

Fohn, who was named a "Rising Star" by *Texas Super Lawyers Rising Stars*, Thomson Reuters, 2013-2019, has argued before the Fifth U.S. Circuit Court of Appeals and Texas appellate courts and has been involved in appeals of some of the largest jury verdicts in Texas.