

Texas Supreme Court Hears Haynes Boone Energy Contract Case Before Newly Appointed Chief Justice Blacklock

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PRACTICES Appellate, Oil and Gas Litigation, Litigation

Haynes Boone [Appellate](#) Partner [Polly Fohn](#) argued before the Supreme Court of Texas in [American Midstream LLC v. Rainbow Energy Marketing Corporation](#), a case involving the proper construction of a pipeline transportation agreement between two energy companies. The argument was the first presided over by newly appointed Chief Justice Jimmy Blacklock, who took over that role after an 11-year run by former Chief Justice Nathan Hecht.

Houston Partner Polly Fohn represented American Midstream, which is appealing a judgment that it had breached a contract governing how Rainbow Energy Marketing could ship gas on American Midstream's pipeline.

In the Jan. 13 oral argument, Fohn explained certain operational flow orders (OFOs) issued by Transco, the interconnecting pipeline operator, excused American Midstream's performance on certain days under the terms of Section 9.1 of the agreement. She argued the trial court incorrectly interpreted Section 9.1 of the contract by inserting the term "scheduled" and focusing on scheduled imbalances rather than physical imbalances.

Fohn also argued that American Midstream's actions did not constitute repudiation and that Rainbow's lost profits damages model was speculative and based on a business strategy that Rainbow never employed.

Watch Fohn's argument to the Texas Supreme Court in the video below.

