Haynes and Boone Obtains Complete Victory for VHSC Cement at Texas Supreme Court in Trade Secret Dispute

By Mark Trachtenberg, Nina Cortell, Ben L. Mesches, Ryan Paulsen, Andrew Guthrie, Mike Hatchell | June 22, 2020

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A Haynes Boone appellate team led by Partner Mark Trachtenberg persuaded the Texas Supreme Court on June 19 to vacate a $16.5 million judgment and deny injunctive relief in a highly contentious trade secret dispute.

The suit was filed after the assets of a failed partnership, EMC Products,LP, were sold to VHSC in a foreclosure sale. Following the foreclosure, EMC Products LP and related parties sued VHSC, their former limited partners, and their former business manager, Buddy Pike, for allegedly appropriating EMC's trade secrets along with other claims including breach of fiduciary duty, tortious interference, and conspiracy. A jury in 2014 found for plaintiffs, and the trial court entered judgment for more than $20 million (later reduced to $16.5 million).

VHSC hired Haynes Boone after the jury verdict. Following a six-year appellate battle, the Texas Supreme Court vindicated VHSC, holding that the plaintiffs failed to present legally sufficient evidence of damages and that EMC was not entitled to a permanent injunction for trade-secrets misappropriation.

"In this case no evidence existed of any damages because the testimony was conclusory," Texas Supreme Court Justice Brett Busby wrote for the court.

"We are very pleased by this complete victory for our clients," Trachtenberg said. "The Texas Supreme Court's opinion confirms that damages awards cannot rest on conclusory and speculative expert testimony, and that the judgment against our clients never should have been entered in the first place."

Trachtenberg was assisted in the matter by Haynes Boone Partners Nina Cortell and Ben Mesches; Counsel Ryan Paulsen and Mike Hatchell; Associate Andrew Guthrie; and paralegal Denise Stilz.

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The following publications reported on the case:

Law360 (Subscription required)

Southeast Texas Record

The Texas Lawbook (Subscription required)

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