

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

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

PRACTICES Appellate

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 Stiliz.

With one of the largest full-time appellate teams of any national law firm, Haynes Boone can match clients with appellate lawyers who offer personal experience with specific industries, procedural issues, and courts. Team members have argued appeals before the U.S. Supreme Court, the federal circuit courts of appeals, the Texas Supreme Court, and the Texas courts of appeals, setting precedent for our clients in jurisdictions from coast to coast.

Haynes Boone is an international corporate law firm with offices in Texas, New York, California, Charlotte, Chicago, Denver, Washington, D.C., London, Mexico City and Shanghai, providing a full spectrum of legal services in energy, technology, financial services and private equity. With more than 575 lawyers, Haynes Boone is ranked among the largest U.S.-based firms by *The National Law Journal*, *The American Lawyer* and *The Lawyer*. It also was recognized across the board for excellence in the BTI Consulting Group's 2020 "A-Team" report, which identifies the law firms that in-house counsel single out for providing superior client service.

The following publications reported on the case:

[Law360](#) (Subscription required)

[Southeast Texas Record](#)

[The Texas Lawbook](#) (Subscription required)