

Haynes Boone Secures Insurance Coverage Victory for XTO Energy

June 1, 2021 Ernest Martin, Carla Green, Greg Van Houten

PRACTICES Insurance Recovery, Litigation, Energy, Power and Natural Resources, Real Estate Litigation, Energy Litigation, Oil and Gas

A Haynes Boone legal team led by Partner [Ernest Martin Jr.](#) won a North Dakota court ruling that paves the way for client XTO Energy, Inc. to secure millions of dollars in insurance coverage for a deadly explosion and fire.

The insurance dispute stems from a 2016 explosion and fire at an oil and gas well in North Dakota that killed one worker and caused severe burn injuries to others. The families of victims sued XTO, the owner and lease operator of the well, and contractors hired by XTO.

Some of the contractors' insurance carriers denied coverage, potentially depriving XTO of policies with combined limits in excess of \$55 million. In motions for summary judgment, the carriers — Berkley National Insurance Co.; Commerce and Industry Insurance Co.; and StarStone National Insurance Co. — alleged a number of coverage defenses, including that XTO was not an "additional insured" under its contractors' insurance policies and that their policies included "pollution exclusions" barring coverage for bodily injury and damages arising from pollutants.

In a May 3, 2021, opinion, U.S. District Judge Daniel L. Hovland of North Dakota ruled that XTO is an additional insured under the policies. He also ruled that the carriers could not deny coverage on the basis of the pollution exclusions, in part due to policy language that the exclusions did not apply to damages arising out of heat, smoke or fumes from a hostile fire.

"This was an incredible victory for XTO, which defeated the arguments that the insurers offered to deny coverage," said Ernest Martin, chair of Haynes Boone's Insurance Recovery Practice Group.

Martin was assisted in the matter by Haynes Boone Partner [Leslie Thorne](#), co-chair of the Litigation Practice, and Associates [Carla Green](#) and [Greg Van Houten](#).

The Insurance Recovery Group repeatedly has been ranked in Band 1 (Texas) by *Chambers USA*, *Chambers & Partners* (2005-2021), and the group also has been ranked among the leading insurance practices nationwide by the *Benchmark Litigation* U.S. directory, published by Euromoney Institutional Investor PLC (2019-2020). Several members of the group, including in Washington, D.C., also have been included in *The Best Lawyers* in America published by Woodward/White, Inc. (2016-2021).

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 600 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 for excellence in the BTI Consulting Group's 2021 "A-Team" report, which identifies the law firms that in-house counsel commend for providing superior client service.