



## BELL NUNNALLY APPELLATE TEAM OF WHITLEY, HENDERSON SECURE \$5M TRUSTS AND ESTATES JUDGMENT

October 12, 2018

**On August 31, the Supreme Court of Texas ended an eight-year trusts and estates dispute rooted in breach of fiduciary duty and gross negligence involving the management of a trust. After requesting briefs on the merits from both sides, the court rejected the trustee's request to lower a judgment of over \$5 million in favor of the trust's beneficiary and Bell Nunnally client. Partner Beverly A. Whitley and associate Yakema L. Henderson comprised the appellate team for the trustee.**

The personal trusts at issue hold millions of dollars in assets, including with producing and non-producing oil and gas properties. The trusts were passed to the beneficiary by family members and served as the beneficiary's principal source of income.

In 2005, when the trustee sought to sell some of the trust's assets, a trust officer engineered what the court concluded was an improper sale and a breach of fiduciary duty, undervaluing the assets to benefit a prospective client interested in their acquisition. The buyer later sold the assets – obtained for just \$530,000 – for more than \$5 million. The individual actions of the trust officer were compounded by the failure of his company to follow established policies and standards, exacerbating the harm done to the beneficiary and costing far more than just the inadequate sales price.

"We are pleased that the Texas Supreme Court rejected the defense's challenge to the court of appeals holding that repeated mistakes and purposeful failures to follow company policies and standard procedures constitute gross negligence," said Whitley.

Whitley, who has more than 25 years of appellate experience, leads the Bell Nunnally Supreme Court and Appellate practice. Henderson, the newest member of the practice team, formerly clerked with the Colorado Supreme Court.



In addition to the Bell Nunnally appellate team, the trustee's lower court judgment was obtained by partners Christopher B. Trowbridge and Alana K. Ackels.

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Beverly A. Whitley