Beck Redden's Pfeiffer Leads Charge to Overturn Fifth Circuit Decision

When **Beck Redden** partner and appellate specialist **Connie Pfeiffer** led the charge to overturn a Fifth Circuit decision, the path to victory was nearly certain to be long and arduous, the firm said in a release.

The Fifth Circuit had just decided a critical question interpreting the Texas Constitution, holding that homeowners with constitutionally defective liens on their homestead must file suit to set the lien aside within four years of originating a home equity loan. (*See* Priester v. JP Morgan Chase Bank, N.A., 708 F.3d 667, 674 (5th Cir. 2013). Yet overturning *Priester* would prove challenging, because out-of-state lenders could usually remove Texas homeowner suits to federal court, where *Priester* was binding.

The release continues:

> Beck Redden was first hired to handle a homeowner's Fifth Circuit appeal immediately following *Priester* and to seek the Fifth Circuit's certification of the Texas constitutional questions, even though the Fifth Circuit rarely certifies a question it has already decided. The Fifth Circuit adhered to that policy, holding that it could not revisit *Priester* or seek the Texas Supreme Court's guidance. In the wake of *Priester*, nearly all homeowner suits were removed to federal court and promptly dismissed.
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> Beck Redden was then hired in one of the few cases remaining in state court. It stepped in mid-way in an appeal before Houston's Fourteenth Court of Appeals, but the court fell in step with the growing line of cases following *Priester* and dismissing homeowner claims as time-barred.

At last in the Texas Supreme Court, Beck Redden handled every aspect of the briefing, argument, and strategy. Connie Pfeiffer authored the briefs and presented oral argument, working with her appellate partner **Russell S. Post** and trial lawyers Chip Lane and Anh Thu Dinh of The Lane Law Firm.

The Texas Supreme Court voted 6 to 3 to overturn the Fifth Circuit's decision in *Priester* and five Texas appellate decisions reaching the same holdings (*See* Wood v. HSBC Bank USA, N.A. ___ S.W.3d ___ (Tex. May 20, 2016). The Majority followed the Constitution's plain text to hold "that liens securing constitutionally noncompliant home-equity loans are invalid until cured and thus not subject to any statute of limitations." The practical effect of the Supreme Court's decision is that homeowners will not face foreclosure unless their lender has complied with the Texas Constitution to create a valid lien. The decision upholds the Constitution's careful protections for homeowners by ensuring that invalid liens do not become valid and enforceable merely with the passage of time.