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Chamberlain Hrdlicka's Trial Court Victories For Its Client Gate Guard Services Lead to More Attorneys' Fees by Appeals Court

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A federal appeals court has rebuked the U.S. Department of Labor's decision to pursue Gate Guard Services calling their investigation and litigation tactics "vindictive" and in bad faith. As a result, the Fifth Circuit awards more attorneys' fees to Gate Guard Services under the bad faith standard of the Equal Access to Justice Act.

Annette Idalski, a Chamberlain Hrdlicka shareholder and chair of the firm's Atlanta Employment and Labor Group, was lead counsel of record for Gate Guard Services in the nearly four-year-legal-battle that took place in the United States District Court for the Southern District of Texas, Victoria Division. The DOL levied \$6.2 million in penalties against Gate Guard, an oilfield services company that provides gate attendants to remote oilfield properties. The fine would have crippled Gate Guard, and the small business turned to Chamberlain Hrdlicka to represent it against the unlimited financial resources of the federal government. Under Idalski's leadership, Chamberlain Hrdlicka's Employment and Labor Group interviewed almost 100 gate guards, and determined that Gate Guard clearly met the criteria for independent contractors under the Fair Labor Standards Act (FLSA). The team also uncovered shoddy and abusive investigative tactics used by government investigators. Idalski and her team won summary judgment in 2013 in a landmark decision by Judge John D. Rainey wherein he found that Gate Guard's attendants were independent contractors and not employees.

After winning the underlying case, Chamberlain Hrdlicka sued the government under the Equal Access to Justice Act for attorneys' fees, and was awarded nearly \$600,000. In that decision, the judge chastised the government for destroying evidence, and said it should have dropped the inquiry after realizing there were no violations of the law. The government appealed that decision and lost. On July 2, 2015, the U.S. Court of Appeals for the Fifth Circuit sent a clear message to the DOL by ordering even more attorneys' fees under the bad faith standard of the Equal Access to Justice Act.

"The decision underscores the district court victory for a small business that was hit with \$6 million in penalties for what the U.S. Court of Appeals for the 5th Circuit Judge Edith Jones deemed a 'frivolous' lawsuit," explained Idalski. "In addition, the decision admonishes the government for its overt attack, 'attempting to sanction an innocent business.' This ruling reiterates that when the DOL conducts audits, a business doesn't have to settle unnecessarily out of fear; it can fight and win, and recoup fees."

Chamberlain Hrdlicka's Trial Court Victories For Its Client Gate Guard Services Lead to More Attorneys' Fees by Appeals Court, *Continued*

The case is particularly important in the energy business, where use of well-compensated independent contractors is common. FLSA cases are complex, Idalski said, but the case proves that small businesses don't have to surrender to the government's demands when they know they are right.

