

## Press Release

# Munsch Hardt Attorney Wins Appeal Against U.S. Department of Labor

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The U.S. Department of Labor (DOL) is once again being held accountable for over-reaching its authority, and acting in 'bad faith' in a wrongful employee misclassification case against Corpus Christi-based Gate Guard Services, L.P. Today, the Fifth Circuit Federal Court of Appeals ruled the government's conduct was tantamount to bad faith and sufficiently egregious to warrant an award of attorney fees, under the Equal Access to Justice Act.

In April 2014, the DOL was ordered to pay nearly \$600,000 in attorney fees and expenses to Gate Guard by the U.S. District Court for the Southern District of Texas Victoria Division. This was a result of the agency's wrongful employee misclassification case against Gate Guard. This week's appellate ruling upholds that original ruling, and further declares that attorney fees will be determined and awarded to Gate Guard "as a sanction for the government's bad faith."

"If an employer is unjustly accused of independent contractor misclassification by the DOL, this unprecedented ruling will give them added protection to defend that business model, and will have wide-ranging implications in sectors that use contractors, such as the oil and gas and construction industries," said Daniel Pipitone of Texas-based Munsch Hardt Kopf & Harr, P.C. who has served as lead counsel on the case since 2011. "Essentially the DOL is now aware it cannot proceed against business entities unrestrained, and shall be held financially accountable when it abuses its powers."

The case began in 2010 when the DOL investigated Gate Guard for allegedly wrongly misclassifying its employees as independent contractors. The company was ordered to pay more than \$6.2 million dollars in fines and back pay, but a significant decision by Federal District Court Judge John D. Rainey in 2013 ruled in favor of Gate Guard, dismissing the agency's enforcement action and validating the company's business model and use of independent contractors. Following that ruling, Gate Guard owner, Bert Steindorf, sued the government under the Equal Access to Justice Act, to recover attorney fees.

## Primary Contacts



**Daniel Pipitone**

Houston

713.222.4060

[dpipitone@munsch.com](mailto:dpipitone@munsch.com)

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