

## In The News

# Government to Pay \$1.5 MM in Attorney Fees in FLSA Suit

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*Texas Lawyer*

The U.S. Department of Labor has agreed to pay \$1.5 million in attorney fees to a Corpus Christi company and its owner after the U.S. Court of Appeals for the Fifth Circuit sanctioned the federal government for bad faith and ruled that it owed fees to the company.

The wage and hour division of the U.S. Department of Labor will pay the money to Gate Guard Services and owner Bert Steindorf by Sept. 30, according to a Sept. 17 settlement and release agreement between the government and Gate Guard and Steindorf. The money is for attorney fees, expenses and costs.

Daniel Pipitone, a shareholder in Munsch Hardt Kopf & Harr who negotiated the settlement on behalf of clients Steindorf and Gate Guard, said the payment will be in the form of a check, not a wire transfer, at Steindorf's insistence.

"He wanted something tangible," Pipitone said. "He should. He had a long battle that really struck him in so many ways. His own government to which he contributed was coming after him."

The Department of Labor alleged in a 2010 complaint that Gate Guard violated overtime laws. But according to a ruling in July issued by a three-judge Fifth Circuit panel, when the DOL investigated Gate Guard for alleged Fair Labor Standards Act (FLSA) violations, the federal agency violated its own internal procedures and ethical litigation practices.

The Fifth Circuit sanctioned the federal government for bad faith and found that it owed attorney fees and travel expenses to Gate Guard. But instead of having U.S. District Senior Judge John Rainey of the Southern District of Texas determine the exact amount of fees and expenses, the DOL negotiated a settlement with Pipitone.

Earlier, in April 2014, Rainey had ruled that the DOL owed \$565,227 in attorney and paralegal fees and travel expenses to Gate Guard. In 2013, Rainey granted Gate Guard's motion for summary judgment and dismissed all claims that the DOL brought against it in the FLSA enforcement action.

Pipitone said the \$1.5 million the government is paying covers the \$1.3 million in attorney fees Steindorf has paid over the years plus "\$200,000 in what I'm going to call essentially an enhancement."

On Sept. 17, the plaintiffs and the government filed a notice of settlement in Gate Guard Service v. Perez indicating they will file a stipulation of dismissal with the court once the settlement is finalized.

A lawyer for the government, Mary Cobb, who works for the office of the solicitor at the DOL in Dallas, did not immediately return a telephone message.

By: Brenda Sapino Jeffreys

## Primary Contacts



**Daniel Pipitone**

Houston

713.222.4060

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

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