

**U.S. Department of Labor Stung by Legal Loss to Small Employer;
Landmark Case for Fair Labor Standards Act**

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***In South Texas, a Small Business Wins Big Against the Federal Government***

**HOUSTON, TX (February 18, 2013) –** Anunprecedented legal move by a small South Texas employer who sued the U.S. Department of Labor has resulted in a green light for U.S. businesses to operate with significantly less government regulation. In a landmark labor ruling late last week, a judge in the U.S. District Court for the Southern District of Texas ruled in favor of the small employer, leaving the Obama Department of Labor to rethink its strong-arm tactics against American business owners.

According to attorneys [Dan Pipitone](http://www.chamberlainlaw.com/attorneys-49.html) and [Annette Idalski](http://www.chamberlainlaw.com/attorneys-143.html) who counseled the owner of Corpus Christi, Texas-based Gate Guard Services in its unprecedented move as a private company to file suit against the DOL, the Judge’s decision gives hope to small business owners who have been forced to capitulate to DOL demands. “In cases such as this, most small companies have no recourse against an opponent with limitless financial resources,” said Idalski. “American businesses need to know they have the right – and now precedent – to challenge the government’s decisions. This verdict is a precedent-setting fair labor victory for employers and a notable rebuke of the DOL’s recent and all too common attempts at over-reaching enforcement against honest and proper U.S. businesses.”

The case (Gate Guard Services L.P. v. Hilda L. Solis, Secretary of Labor, United States Department of Labor - Civil Action No. V-10-91), [Memorandum Opinion & Order](http://www.chamberlainlaw.com/assets/attachments/Memorandum%20Opinion%20and%20Order.pdf), began in 2010 when agents from the United States Department of Labor walked into the Corpus Christi, Texas office of Gate Guard Services, a provider of gate attendants to oil field operators, and informed owner Bert Steindorf he had “misclassified” his workers as independent contractors rather than “employees.” Steindorf was ordered to immediately compensate 400 contractors at the federal minimum wage for 24 hours each day they were assigned to an oil field operation with no deductions for sleep time, meal time or the time the contractors spend doing personal activities. Additionally, the department ordered Steindorf to pay $6.19 million in owed back wages, which included overtime payments, accumulated from July 2008.

This past Thursday, three years after the DOL’s visit to Steindorf’s business, United States District Judge John D. Rainey ruled against the U.S. Department of Labor and for American business owners, marking the first time the DOL lost an “employee classification” case since its enactment in 1938. “The ruling speaks volumes for the independent businessman,” according to Steindorf. “I applaud the findings of the judge and I very much respect the judicial system.”

*The Importance of the Opinion*

According to Pipitone, “This judicial victory is important for two reasons. First, the energy production sector and its independent service companies rely heavily upon the use of independent contractors, and this method of doing business has been preserved. Secondly, individuals and independent businesses can prevail over the Government and capitulation to the shifting policy mandates of a particular administration is not required when questions exist concerning their propriety.”

“This case is a victory for businesses nationwide, but perhaps none more immediately impacted than in the energy sector. More and more energy companies, particularly in the shale revolution, are choosing to hire independent contractors rather than employees in order to reduce expenses simply because the cost of taxes and benefits incurred by Obamacare are prohibitive,” said Idalski. “The re-classification sought by the current DOL would greatly increase costs for energy start-ups, with those costs passed along to oil and gas operators and, ultimately, consumers.”

Under the Obama DOL, this type of misclassification investigation has become commonplace among small and large businesses nationwide. According to Pipitone, “the Department of Labor has made a significant financial investment in doggedly pursuing these cases and prosecuting small business owners such as Mr. Steindorf. Rather than await the Department of Labor’s initiation of a lawsuit where and when it chose, this small business owner went on the offensive to save his business and to do the right thing not only for himself, but in reality, for the greater energy industry.”

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**FOR INTERVIEWS, CONTACT:**

Chris Wailes

Pierpont Communications

cwailes@piercom.com

713.627.2223 (office)

713.585.5144 (mobile)