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Judge Socks Labor Department With Costs of Failed Lawsuit

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Andrew Ramonas, *The National Law Journal*

Department of Labor headquarters at the Frances Perkins Building in Washington, D.C.

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The U.S. Department of Labor must pay more than \$565,000 in attorney fees to an oilfield services company it accused of wage-and-hour violations totaling more than \$6 million, a federal judge has ruled.

Judge John Rainey of the U.S. District for the Southern District of Texas wrote ruled on Monday that the department should have given up its case against Gate Guard Services L.P. of Corpus Christi. Officials, who opened their investigation in 2010, alleged the business improperly classified 400 gate attendants as independent contractors.

The agency would have learned that the guards weren't employees had it talked to more than just a few of them, Rainey wrote in a 24-page order. Because the probe was not "substantially justified," Gate Guard was entitled to recover its attorney fees, he said.

"The DOL failed to act in a reasonable manner both before and during the course of this litigation," Rainey wrote.

Jason Surbey, a department spokesman, said the agency saw the decision and was "reviewing our options." Last year, the agency insisted in a court filing that it "acted reasonably during the investigation and subsequent litigation." Colleen Nabhan and other lawyers in the agency's Office of the Solicitor in Dallas handled the case.

Atlanta lawyer Annette Idalski, lead counsel for Gate Guard, said the ruling shows that companies don't necessarily risk high litigation costs if they refuse settlements they consider unjustified.

"I think this is going to be an excellent precedent for all employers," said Idalski, a shareholder at Chamberlain, Hrdlicka, White, Williams & Aughtry.

Judge Socks Labor Department With Costs of Failed Lawsuit, Continued

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