

**Contact**

**Houston**

1200 Smith Street, Suite 1400  
Houston, Texas 77002-4310  
Tel: 713.658.1818  
Fax: 713.658.2553

**Atlanta**

191 Peachtree Street, N.E.,  
Forty-Sixth Floor  
Atlanta, Georgia 30303  
Tel: 404.659.1410  
Fax: 404.659.1852

**Philadelphia**

300 Conshohocken State Road  
Suite 570  
West Conshohocken, PA 19428  
Tel: 610.772.2300  
Fax: 610.772.2305

**San Antonio**

112 East Pecan Street, Suite  
1450  
San Antonio, Texas 78205  
Tel: 210.253.8383  
Fax: 210.253.8384

## Chamberlain Hrdlickas 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 Labors 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 firms 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 Idalskis leadership, Chamberlain Hrdlickas 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 Guards 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 doesnt have to settle unnecessarily out of fear; it can fight and win, and recoup fees.

The case is particularly important in the energy business, where use of well-compensated independent contractors is common. FLSA cases are complex,

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Idalski said, but the case proves that small businesses dont have to surrender to the governments demands when they know they are right.

