

## Winston Prevails in Maritime Dispute in Fifth Circuit

JULY 16, 2014

On July 16, 2014, in the U.S. Court of Appeals for the Fifth Circuit, Winston prevailed in a case involving the 2008 spill of more than 280,000 gallons of oil into the Mississippi River near New Orleans. The cleanup costs and other damages were estimated at \$100 million.

Under a federal oil-spill statute, American Commercial Lines (ACL), the spiller, was strictly liable for the cleanup and contracted the job to our client, United States Environmental Services (USES). However, after the cleanup was complete, ACL refused to pay.

Relying on the oil-spill statute, USES applied to a federal fund designed to cover delinquent spillers. Once the fund paid, the United States legally stepped into the shoes of USES and sued the spiller to recover the money paid out of the fund. But then, incredibly, the spiller tried to bring USES *back* into the case—to indemnify the spiller for costs the fund had just covered. The district court dismissed this claim as preempted by the oil-spill statute.

Adopting Winston's arguments, the U.S. Court of Appeals for the Fifth Circuit affirmed. As the Court concluded: "ACL may not seek indemnification from ... USES," because, under the oil-spill statute, "the United States ... stands in for ... USES."

For more details on the matter, visit Winston & Strawn's maritime blog, [MaritimeFedWatch](#).

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