

## How a Partner-Associate Duo in Houston Helped Change Alabama Tenant Law

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***By Natalie Posgate***

(July 16) – Winston & Strawn partner Paula Hinton has a multitude of achievements under her belt to be proud of.

She's cleared a Waste Management subsidiary from 99 percent of a \$3.8 billion environmental civil penalties lawsuit. She was the first woman to ever practice in the commercial litigation practice group of Vinson & Elkins, where she started her career. She's called some of America's largest corporations clients – the NFL, AT&T, Shell Oil, Jiffy Lube and Krispy Kreme. But a recent pro bono appellate win is fresh on her mind as a proud moment of a different kind.

The win, which relates to a landlord-tenant dispute, pitted a single mother in Hinton's home state of Alabama against a landlord-friendly Alabama state law, and will give low-income tenants better access to justice statewide.

Even better: The case was brought to Hinton's firm by a first-year associate, William Logan.

Logan graduated last spring from Hinton's alma mater, the University of Alabama School of law. He brought the case last fall when he joined

Winston after working at the law school's Civil Law Clinic through a summer fellowship program offered by Winston to incoming associates.

Through its Public Interest Law Fellowship Program, Winston pays incoming first-year associates a stipend to spend the summer providing legal services for a public service organization of their choosing. Logan, who looked at a few other law firms during his job hunt, said this program was something that distinguished Winston from the others.

Since he couldn't start at Winston until he took the Texas Bar Exam, Logan – a husband and father of three – jumped at the opportunity to bring in some income while he studied over the summer. He also jumped at the opportunity to kick

off his legal career doing meaningful work that makes a difference in people's lives.

The case involves Bridgette Morrow, a forty-something single mother who was evicted from her Tuscaloosa home after she asked city inspectors for help with electrical repairs that her landlord refused to make. After attempting



**Paula Hinton**

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to bring claims against her landlord, Pake Realty Company, in a local district court (equivalent to a small claims court in Texas), her claims were dismissed because she had not filed them within 14 days of getting evicted.

When Logan got involved last summer, the law clinic was working on an appeal of Morrow's case to a circuit court in Alabama. By the time Logan was leaving his summer fellowship to join his new post in Winston's Houston office, the circuit judge had ruled in favor of the landlord. Logan found himself still wanting to help with the case.

"It was still pretty raw with me," Logan told The Texas Lawbook. "The whole situation bothered me – especially since this was virtually happening across the entire state. The people this was happening to were people potentially facing homelessness... As a matter of practice, most of them are pro se. It's a very difficult situation for them."

Once at Winston, Logan said he emailed Hinton, a fellow Houston-based UA Law alum who he knew was still "closely associated" with the university. Hinton was immediately receptive to taking on Morrow's case and securing approval from the firm to handle it pro bono.

With the help of the university's civil law clinic and two nonprofit legal organizations (Legal Services Alabama and Alabama Appleseed) Logan and Hinton took an appeal of the circuit court's decision to the Alabama Court of Civil Appeals.

The Court of Civil Appeals reversed the Tuscaloosa Circuit Court's ruling on April 20, an opinion that put an end to the Alabama courts' customary practice of barring evicted tenants from suing their landlords weeks later for improper eviction.

"Quite frankly I'm proud of this [case] because it reminds me of something my father would have done," Hinton said of her father, Alabama trial lawyer James F. Hinton. "At his funeral service in 1984, they said he was legal services in Alabama before there were legal services for the poor in Alabama. I'm proud because it really makes a difference in people's lives."

Logan agrees: "It absolutely is one of those cases that excited me about being a lawyer," he said. "She was being denied... the chance to even be heard."

### **The eviction**

Bridgette Morrow leased a house from S. Lee Pake in 2014 to live in with her two children. According to Hinton and Logan's co-counsel, Caryn Roseman of the Civil Law Clinic, the family's only source of income was child support and death benefits – the latter due to the passing of the father.

Roseman said the leasing contract Pake presented to Morrow was essentially "one of those leases you just get off the Internet," where he had written in that he would lease out the property "as is."

However, "when something breaks, the laws require that the landlord is still supposed to fix things," said Roseman, a staff attorney at the Civil Law Clinic.



**William Logan**

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There were issues with the house from the moment Morrow signed the lease that made it basically unlivable, Morrow's legal team said. The sinks weren't working. A toilet was sitting in the middle of the hall because it had not been installed properly. Morrow made major repairs as a result out of her own pocket, they said.

She eventually got reimbursed for those repairs, but other, more hazardous problems surfaced. The fire extinguisher didn't work. Neither did the smoke alarm. By 2016, loose wiring was causing the electrical system to act up. After unsuccessful attempts to persuade Pake to pay someone to make the repairs, Morrow called the city inspector, who agreed with all the problems Morrow identified. He wrote up a report instructing Pake to make the repairs.

Pake wrote up an eviction notice the day he received the report, Logan said. When he arrived at Morrow's home hand deliver the notice, she was not there. He gave it to her teenager and 20-year-old instead, who were standing outside when he arrived.

"He was brash enough to just give it to the kids," Roseman said, adding that she was taken aback by his "anger" toward the family and determination to "get these people out of the house when they were just trying to live in a habitable house."

### **The legal battle**

Pake then sued for possession in a Tuscaloosa district court. Morrow resolved the eviction matter by moving her family out of the house, and as a result Pake filed for dismissal of his suit.

Meanwhile, Morrow found the civil law clinic, which helped her bring claims against Pake in the district court under the Alabama Uniform Landlord and Tenant Act for, among other things, retaliation and failure to provide habitable housing. But because the trial judge had

dismissed Pake's prior lawsuit with prejudice, he ruled against Morrow's claims, finding that she should have brought them up during the eviction process.

Logan began his summer fellowship at the civil law clinic shortly after this decision and handled her appeal to the circuit court with Roseman and Yuri Linetski, director of the Civil Law Clinic.

Logan said while the team "made good inroads" on the case with the circuit judge, he ultimately ruled for the landlord.

Once Winston approved Logan to continue working on the case, he and Hinton got to straight to work on the appeal to the Alabama Court of Civil Appeals. Logan contacted two nonprofit organizations, Legal Services Alabama and Alabama Appleseed, and asked them to file amicus briefs. Both organizations were happy to help.

"This issue falls within a broader framework of making sure low-income people in Alabama have access to legal representation," said Alabama Appleseed Policy Counsel Phillip Ensler. "This wasn't just going to affect individuals because such a systemic issue would have systemic consequences for how the court ruled. It fell within broader advocacy."

Hinton and Logan said the model act that applied in Morrow's case was problematic. They said it failed to take into account that many of the tenants who would have needs to file action against their landlords would not be legally savvy enough to bring the claims forward within the 14-day post-eviction statute of limitations period.

Michael Forton, who is the director of advocacy for Legal Services Alabama, agreed, pointing out that the window for tenants to respond to the eviction itself is disturbingly even smaller.

"A landlord can basically wait as long as they

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want to file [an eviction],” he said. “A landlord can send the paperwork to a lawyer, the lawyer can review it... they can take as long as they need to get a case ready for filing, but once a tenant gets served, [they] have seven days to answer.

“Because the trial comes up so fast, if you don’t figure out what your counterclaims are and do them correctly within the seven days, that chance is gone.”

A three-judge panel at Alabama’s Civil Court of Appeals agreed with Morrow’s legal team on April 20. In a 20-page opinion, the court reversed the circuit court’s ruling and remanded the case to the trial level, which will give Morrow her day in court.

“Because Pake moved the district court to dismiss the unlawful-detainer action after Morrow had vacated the property – indicating his desire to

withdraw his allegations against her – the district court’s judgment in the unlawful-detainer action did not determine any issues raised therein adversely to Morrow,” the opinion says. “Thus, we also include that, based on Rule 13(a), Morrow’s claims are not barred by the doctrine of res judicata.”

Hinton said her firm is not concluding its efforts in Alabama. This opinion is already motivating Winston to research which other states are following a similar model in their landlord-tenant law and evaluate how the lawyers can provide pro bono assistance.

“We’re seeing if we can take what we learned in Alabama with respect to how tenants are being treated,” Hinton said. “We’re going to do our own research... and reach out to Texas Appleseed or some other groups like Appleseed in states where the model act might exist.”