

Winston Helps Atlantic Richfield Company Achieve a Major Victory in the Supreme Court of Illinois—Plaintiffs Don't Have a Claim Without an Injury

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Yesterday, in conjunction with co-counsel and joint defense counsel from Arnold & Porter, Jones Day, Manatt, Phelps & Phillips, and Bartlit Beck, Winston helped win a long-fought victory for client Atlantic Richfield Company, and a number of other defendants. The case began over 19 years ago and dealt with a class of Plaintiffs who weren't alleging any actual out-of-pocket harm but instead a hypothetical economic obligation—that they acknowledged they would never have to pay—based on testing required by the State because of lead pigments used in paint long ago. Plaintiffs' claims centered on the need to have their children screened for potential lead poisoning. But Plaintiffs weren't alleging any actual physical injury to their children and they never paid for the lead screening; Medicaid did.

Over almost twenty years, the case traveled repeatedly to the Illinois Appellate Court. Now, however, the Supreme Court of Illinois has had its say, reversing the Appellate Court's most recent decision and unanimously affirming the trial court's grant of summary judgment in favor of Atlantic Richfield and its co-defendants. The Court held that plaintiffs who do not suffer any economic loss cannot maintain a tort action that is based on a claim that alleges solely an economic injury and no physical injury or property damage.

This important decision reaffirms a fundamental principle of our tort system that prevents a flood of litigation based on purely hypothetical economic losses that a plaintiff will never actually realize. The Supreme Court found that if "plaintiffs cannot prove economic injury, that is, if plaintiffs have incurred no economic loss due to defendants' conduct, they have no claim at all."

Winston's Co-Executive Chairman, Dan Webb, argued the case in the Supreme Court of Illinois, assisted by Winston Partners Matthew Carter and Scott Ahmad, and Winston Associates Libby Deshaies and Amelia Garza-Mattia, and with the support of co-counsel at Arnold & Porter and the joint defense group.

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