

Winston Wins Appeal Affirming Dismissal of \$265M Claim Against Oil Company

MAY 17, 2022

On May 5, 2022, a Winston appeal team won a major Fifth Circuit victory, affirming an earlier summary judgment win dismissing claims worth \$265 million against client Occidental Petroleum (Oxy). Partner Paula Hinton and associate Lauren Gailey, who argued the appeal, received a Litigator of the Week “Shout Out” for this success by *The Am Law Litigation Daily*.

In 2006, Oxy ceased its efforts to develop oil production in the Ecuadorian rainforest after its concession was terminated. A group employees let go as a result sued Oxy in federal court, claiming entitlement to 15% of the compensation Oxy was later awarded for the oil concession under a provision of Ecuador’s constitution that requires companies to share their annual profits with their employees. The district court granted Oxy’s motion for summary judgment, agreeing with Winston that the amount of profit to be shared was calculated based on the profit figure reported in the employer’s tax returns, and Oxy had posted a loss in 2006.

On appeal, the Fifth Circuit agreed, accepting Winston’s argument and ruling that Ecuadorian law “could not be plainer”—profit-sharing is calculated based on the profit declared on annual tax returns. Because Oxy’s 2006 tax return “undisputedly attribute[d] no profit” to the company that year, Oxy “owes the employees nothing.”

In addition to Hinton and Gailey, former Winston partners Eric Bloom and John Strasburger and associate Chanslor Gallenstein also played important roles.

1 Min Read

Related Locations

Houston

Washington, DC

Related Capabilities

Litigation/Trials

Related Regions

North America

Related Professionals



Paula Hinton



Lauren Gailey