

Susman Godfrey Wins for Vitol in \$4 Billion Litigation with Puerto Rico Utility

Susman Godfrey LLP won a major victory this week for its client, Vitol, when a federal court in San Juan, Puerto Rico rejected claims by the Puerto Rico Electric Power Authority (PREPA) to void six fuel-oil supply contracts and recover \$3.89 billion. The court also ruled that Vitol was entitled to recover \$28.4 million, plus interest, on its counterclaim.

This litigation began more than a decade ago, in 2009, when PREPA filed the first of two lawsuits against Vitol in Commonwealth Court in San Juan, with the second case filed in 2012. In the lawsuits, PREPA claimed that six fuel-oil supply contracts with Vitol, in effect between 2005 and 2009 and awarded through competitive bids, should be declared void, retroactively, based on alleged violations of Puerto Rico's public-contracting law and alleged misrepresentations. PREPA sought to recover \$3.89 billion from Vitol in the litigation, representing the full value of payments that PREPA made under the contracts.

In a 42-page opinion issued this week, after extensive briefing and oral argument, United States District Judge Laura Taylor Swain rejected PREPA's claims against Vitol, citing "the absence of any legal basis for invalidating any of the contracts at issue." The court held that PREPA failed to prove any of the alleged violations of Puerto Rico's public contracting law or any of its alleged misrepresentations, and that PREPA's claims were deficient both factually and legally. The court noted that Vitol "fully performed its delivery obligations under the contracts."

In addition to rejecting PREPA's affirmative claims against Vitol, the court ruled that Vitol was entitled to judgment on its counterclaim against PREPA for \$28.4 million, plus interest, for fuel oil that PREPA failed to pay for shortly before it filed the litigation.

"We are delighted to achieve this important victory for Vitol," said Susman Godfrey partner [Alex Kaplan](#), who has worked on the matter since the firm was retained in January 2013. "It was an unusually long road to get here, but credit to Vitol for having the determination to see this through."

This dispute has a lengthy and complex procedural history, as noted in the court's opinion, including a "volley of removals and remands," with litigation in both the U.S. District Court for the District of Puerto Rico and the Commonwealth Courts of San Juan, appellate practice before the U.S. Court of Appeals for the First Circuit and the U.S. Supreme Court, and contested proceedings in connection with the federal bankruptcy reorganization of Puerto Rico.

"At every turn, PREPA has sought to deny Vitol access to a federal forum for this litigation, but we ultimately prevailed on the jurisdictional issues – and that cleared the way for a merits decision in federal court," said Susman Godfrey co-managing partner [Neal Manne](#). "Our firm thrives in complicated, high-value disputes, and this case is another great example."

Manne, Kaplan and O'Black were profiled in *The American Lawyer's* "[Litigators of the Week](#)" for this win. The win was also profiled in [Law360](#) and [Texas Lawbook](#).

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In addition to Manne and Kaplan, the Susman Godfrey team included partner Weston O'Black and associates Michael Kelso and Florence Chen.

Susman Godfrey worked closely over the years with co-counsel in Puerto Rico: Eduardo Zayas-Marxauch at McConnell Valdez LLC and Andres Lopez of the Law Offices of Andres W. Lopez.