
Hughes Hubbard & Reed

Hughes Hubbard Wins Second Circuit Appeal on Bonus Claim

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Hughes Hubbard & Reed prevailed at the U.S. Court of Appeals for the Second Circuit, which declined to reinstate a suit brought by a former Lehman Brothers (LBI) securities trader seeking a \$350,000 bonus for work she never performed.

On Jan. 12, 2016, a three-judge panel rejected Mary Ortegon's appeal of a district court decision to affirm summary judgment for Lehman Brothers Trustee Jim Giddens. "As the district court concluded, the contract clearly provides that the bonus is part of Ortegon's compensation for her performance, and not a signing bonus to which Ortegon became entitled simply by agreeing to work for LBI regardless whether she ever commenced performance," the panel wrote.

Ortegon filed a claim against the LBI estate in May 2009, arguing that LBI rescinded Ortegon's job offer before she could start working in January 2007 and wrongly failed to pay her a \$350,000 "guaranteed" bonus after learning she had accused two previous employers of sexual discrimination.

Hughes Hubbard denied the allegations and contended that the firm rescinded the offer over concerns about her reliability and responsibility due to her failure to disclose that she would require substantial time off to pursue an MBA in a different state.

In October 2014, U.S. Bankruptcy Judge Shelley Chapman granted Giddens' motion for summary judgment. In January 2015, U.S. District Judge Valerie Caproni upheld the decision. Meaghan Gragg argued on behalf of Giddens before both courts.

In its ruling, the Second Circuit noted that, since the contract was for at-will employment, LBI had the right to rescind its offer before she began working there regardless of the reason.

"As a matter of contractual interpretation, Ortegon never became an employee of LBI and never commenced performance under the contract," the panel wrote. "Ortegon thus never had any right to the bonus she seeks, and

LBI did not breach any contract when it refused to give it to her."

The victory drew coverage in Law360.

In addition to Gragg, Ned Bassen, Jim Kobak and Gabrielle Genauer worked on the Second Circuit appeal.

Related People



James W. Giddens



Meaghan Gragg



Ned H. Bassen



James B. Kobak, Jr.

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