

WilmerHale Wins Major Victory for Former Corporate Officer

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A WilmerHale team successfully persuaded a federal appeals court to overturn all convictions of Douglas Lake, former chief strategy officer of Westar Energy, in a case that prosecutors had called the “Kansas Enron.” The court made clear that the central wire fraud counts and related money laundering charges cannot be retried. The *Wall Street Journal* called the decision a “stunning reversal of a high-profile government prosecution.” The *New York Times* termed it “the latest in a recent series of setbacks for the government in white-collar cases” - citing last August’s decision in the Enron barge case, in which WilmerHale also secured acquittal for its client on appeal.

The prosecution’s charges centered on executive compensation and allegedly faulty reporting of personal use of corporate airplanes. The first trial, in 2004, ended in a hung jury. In September 2005, a second jury convicted Mr. Lake and former Westar CEO David Wittig on charges of conspiracy, wire fraud, money laundering, and circumvention of internal corporate controls. The district court sentenced Mr. Lake to 15 years in prison, imposed a fine and restitution totaling \$7.75 million, and ordered a substantial forfeiture.

On appeal WilmerHale first successfully convinced the court of appeals to overrule the trial court and permit Mr. Lake to remain free pending the outcome of his appeal. Then, working closely with counsel for Mr. Wittig, the WilmerHale team crafted briefs demonstrating that the trial was marred by significant legal and procedural errors and failures of proof. On January 5, a three-judge panel of the US Court of Appeals for the Tenth Circuit - including two former prosecutors - agreed that there was insufficient evidence to support the wire fraud and money laundering charges, and that the other convictions could not stand in light of the errors at trial.

WilmerHale Partner [Seth Waxman](#) argued the case. Other members of the WilmerHale team included partner Edward DuMont, former counsel Theo Chuang, and associates Demian Ahn, [Michael Spence](#) and [Daniel Volchok](#).