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**For Immediate Release**

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## Texas Supreme Court Rules in Favor of Locke Lord Client in Case Addressing Arbitrator Neutrality

**(DALLAS) MAY 27, 2014** – The Texas Supreme Court on Friday issued a decision in favor of Locke Lord client Illinova Generating Company – a subsidiary of Dynegy Inc. – in *Tenaska Energy Inc. v. Ponderosa Pine Energy LLC*. The Court’s opinion is significant because it reaffirms the duty of a neutral arbitrator to fully disclose all non-trivial facts and relationships with parties and their counsel that might create a reasonable impression of the arbitrator’s partiality.

The underlying case concerned a \$125 million arbitration award in Ponderosa Pine Energy’s favor over the purchase of a Cleburne power plant, which was sold to Ponderosa by a joint venture that included Illinova and Tenaska Energy. [Brad Weber](#), Co-Chair of Locke Lord’s Antitrust Practice Group, led a trial team, including Associate [Brad Knapp](#), that convinced a Dallas trial court to vacate the award. They effectively argued that one of the three neutral arbitrators in the case was evidently partial due to his attempt to minimize relationships between Ponderosa’s counsel and a legal services company the arbitrator was actively marketing to their firm, both before and during the arbitration.

The Dallas Court of Appeals later reversed that judgment and confirmed the award in a far-reaching opinion that stated evident partiality grounds for significant non-disclosures are waived if you fail to ask a “few basic questions” of the arbitrator.

The Texas Supreme Court’s ruling sided in favor of Illinova, stating in its opinion that the arbitrator had a duty to disclose previous dealings with the firm that recommended his appointment and that his failure to do so created a reasonable impression of his evident partiality. According to the opinion, the arbitrator was obligated to reveal not only his dealings with the firm generally, but also his relationships with specific lawyers in the firm. [Mike Hatchell](#), Chair of Locke Lord’s Appellate Group, led Illinova’s appeal to the Texas Supreme Court.

As a result of the Texas Supreme Court’s decision, the parties will be required to submit their dispute to a new arbitration panel for rehearing in accordance with the arbitration agreement between the parties in their purchase agreement.

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