

Positioning the Facts to Demonstrate Plaintiff Suffered No Substantial Damages Undercuts Litigation and Scores a Victory for Client

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Where we started: A landowner in Louisiana claimed our client, a large environment consultant, provided bad advice about whether a sizeable tract of property could feasibly be very valuable as a wetlands mitigation bank. Based on the consultant's assessment, the landowner invested money and resources into developing its land in preparation for the state to designate it as mitigation bank property. The state declined to do so and the landowner filed litigation against our client for millions of dollars of lost profit/opportunity costs.

Our strategy – plus more: Our lawyers confirmed that the consultant performed a study and produced a report stating that the land could be very valuable as a mitigation bank. In what was a vigorously contested lawsuit, however, we demonstrated that the landowner sold the property in question for about the same amount it had invested in developing it. Consequently, in summary judgment, we pressed the landowner to show rock-solid documentation that it had actually spent more money in development than it had gained in the sale of the property, which they could not do. We positioned the facts so that the other side would not have been able to show any substantial damages if the litigation went to trial.

Upshot: By using procedural tactics and a clearly reasoned argument before the litigation went to trial, we undercut their claims of significant damages – and their case – to achieve the best possible outcome for our client: The landowner recognized defeat, and after three years of dormancy, the case was deemed abandoned, entirely releasing our client from the litigation.