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SUPREME COURT'S EPA DECISIONS

Shook lawyer wins big at high court



Tristan Duncan, a partner in the energy law practice at Shook Hardy & Bacon LLP in Kansas City, played a role in securing two U.S. Supreme Court wins over the Environmental Protection Agency in the past year for her client, Peabody Energy Corp., the largest coal producer in America.

Her latest win was an unprecedented 5-4 decision by

the court to issue a stay, pending a lower court's review, on new EPA rules related to greenhouse gas emissions. It resulted from a legal challenge put together by 29 states and dozens of corporations, including Peabody.

The attorneys successfully argued that allowing expensive EPA rules to be implemented during the two or three years it would take to rectify all the questions about the legality of the new rules could lead to an essentially meaningless ruling later. It's supported by Duncan's

earlier Supreme Court win in a case called *Michigan v. EPA*, in which the EPA rules were deemed illegal – but all the companies already had been forced to spend money to comply, granting no meaningful relief.

It was one of the last rulings involving Antonin Scalia, who died Feb. 13. So it places a bit more uncertainty on the future of the case, which the Supreme Court probably will take up again once the U.S. Circuit Court in Washington issues a ruling, expected sometime in late summer or early fall.