Lightfoot

NEWS & INSIGHTS

APPEALS COURT AFFIRMS SUMMARY JUDGMENT IN FAVOR OF LIGHTFOOT CLIENT IN ALLEGED CEMETERY OUTRAGE CASE

September 24, 2018

In a unanimous decision, the Alabama Court of Civil Appeals recently affirmed a Madison County circuit court's decision granting summary judgment to Lightfoot, Franklin & White LLC's client, a cemetery property and service provider.

The plaintiffs had filed suit against the cemetery and a transport company, alleging that their deceased mother's body was damaged during transport from the place of death to the funeral home. They asserted negligence, outrage and fraud claims.

Lightfoot moved for summary judgment and the plaintiffs filed a motion for partial summary judgment, asking the trial court to apply the doctrine of res ipsa loquitur. (The doctrine of res ipsa loquitur presumes negligence if certain factors are met, which lessens a plaintiff's burden at trial.) After briefing and oral argument, the trial court granted Lightfoot's motion for summary judgment and denied the plaintiffs' motion for partial summary judgment.

On appeal, the Alabama Court of Civil Appeals found that the doctrine of res ipsa loquitur did not apply to the claims against Lightfoot's client and that the transport company was not an agent of the client. The appellate court affirmed the trial court's order granting summary judgment on all counts in favor of the cemetery property and service provider.

Lightfoot partner **Terry McCarthy** and of counsel Ivan Cooper, along with associate **Jonathan R. Little**, represented the provider at trial and on appeal.