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LIGHTFOOT WINS DISMISSAL OF PPP FEE CLASS ACTION SUIT

August 18, 2020

Lightfoot, Franklin & White LLC partners **Sara Anne Ford** and **R. Ashby Pate**, along with associate **Logan T. Matthews**, secured dismissal of a class action complaint against the firm's client and several other banks and lenders. The suit alleged the defendants failed to remit fees owed to various CPA firms, attorneys and other financial institutions for their assistance in helping applicants for Paycheck Protection Program (PPP) loans.

Granting various motions to dismiss, the district court stated, "The central issue of first impression in this case is whether Plaintiff and others like it are entitled to any portion of the fees paid by the federal government to lenders like Defendants who were tasked with handing out hundreds of billions of dollars of 'loans' under the Paycheck Protection Program (PPP). The short answer is 'no.'"

The court noted the issues, which were "comprehensively (and ably) briefed," could be largely decided on the plain language of the CARES Act statute, which mandates reimbursement to "lenders," but merely allows reimbursement (and only up to certain limits) to PPP "agents."

The court wrote: "Indeed, the different language used by Congress in mandating payment of lenders ('shall reimburse') and limiting agent fees ('may not collect') is indicative of an intent not to require lenders to pay agent fees."

Because the CARES Act did not impose any obligation on PPP lenders apart of any formal arrangement they may have had with those PPP agents, the court reasoned, "Defendants have no legal obligation under the CARES Act . . . to pay Plaintiff an 'agent fee' for helping the borrowers get PPP loans from Defendants . . . ."

This was the Lightfoot team's lead argument for dismissal, which, among others, persuaded the court to dismiss all claims against their client.

Law360 **covered the decision** in more detail (subscription required).

Ford's legal practice spans more than three decades. She represents clients in complex commercial litigation and class actions, She has handled everything from shareholder derivative suits to medical device litigation. *The Best Lawyers in America*© has named Ford a "Lawyer of the Year" two times for her mergers and acquisitions litigation work.

Pate routinely takes on some of the firm's most controversial matters involving government officials, including the 2016 judicial ethics prosecution of former Chief Justice Roy Moore. His practice also focuses on commercial and medical devices, catastrophic injury, appeals and international disputes. A trial lawyer at heart — and a former justice on the Supreme Court of the island nation of Palau — he has successfully tried several bench and jury trials to verdict, as well as presided over hundreds of cases as a trial and appellate judge in Palau. He also helped create Palau's first-ever jury trial system.

Matthews serves clients in a variety of practice areas, including product liability, employment and labor law, government litigation, and white-collar defense. He previously clerked for the Honorable W. Harold Albritton III in the U.S. District Court for the Middle District of Alabama.