

APPELLATE

When experience really matters, rely on Lightfoot's dedicated appellate counsel.

When it comes to providing effective appellate counsel, experience matters. Lightfoot's lawyers have argued appeals in courts across the country — resulting in hundreds of published opinions. This includes, among others:

- The reversal of a \$3.5 billion jury award against Exxon-Mobil
- The reversal of a \$122 million jury verdict against General Motors
- The decertification of a class action against PricewaterhouseCoopers
- The reversal of a \$78.4 million jury verdict against Sandoz

Members of the Appellate practice group provide clients with the full range of appellate services, from interlocutory issues arising during pretrial proceedings to all post-trial activities. We are regularly retained as separate appellate counsel to assist trial counsel in protecting the appellate record during trial and to take primary responsibility for the matter during the post-trial and appeal processes. When we take this role, trial counsel often utilize our experience by asking us to take primary responsibility for key evidentiary issues at trial and to provide counsel on preserving key issues for appeal. In addition, we are often asked to prepare amicus curiae — “friend of the court” — briefs on behalf of industry groups, educational institutions and governments.

EXPERIENCE

- Representing Exxon Mobil Company in the appeal of a jury award of over \$3.5 billion to the state of Alabama in a case involving allegations of breach of contract and fraud relating to oil and gas royalties. The Alabama Supreme Court reversed and remanded for a new trial. Lightfoot led the trial team when the case was retried. After four weeks of trial, the jury returned a verdict for \$63 million in compensatory damages and over \$11.5 billion in punitive damages. After hearing Exxon Mobil's post-trial motions, the trial court entered an order upholding the jury's compensatory damage award and reducing the punitive damage award to \$3.5 billion. This second judgment was appealed to the Alabama Supreme Court and Lightfoot presented the oral argument before that court. In an 8-1 decision, the court reversed the punitive award in its entirety and remanded the case with the instruction that the compensatory award be reduced to \$51 million plus appropriate pre- and post-judgment interest. On remand, a new dispute arose as to the effect of several statutes that could be said to provide for interest on the award. The trial court entered judgment in the amount proposed by Exxon, and the state appealed to the Alabama Supreme Court for a third time, arguing it was entitled to an additional \$23 million in interest. In another 8-1 opinion, the court affirmed the trial court's ruling in Exxon's favor and finally ended this nine-year-old litigation.
- Handling a case where a Bullock County, Alabama, jury returned a verdict of \$122 million against General Motors in a crashworthiness case. After the trial court remitted the verdict to \$82 million pursuant to Alabama's statutory punitive damages cap, General Motors appealed. Following our argument in the Alabama Supreme Court, the court reversed and remanded the case for a new trial. The reversal was based, in part, on the trial court's failure to strike five jurors for cause after it was revealed in voir dire that the jurors had relationships with plaintiffs' counsel.
- Representing a defendant following a trial court's denial of a motion for summary judgment in a slander/First Amendment case involving radio personalities. After the defendant filed an interlocutory appeal, which was

denied by the Supreme Court of Alabama, Lightfoot was retained by the defendant to apply for rehearing. On rehearing, the Alabama Supreme Court accepted the case, reversed and remanded with instructions to enter judgment in favor of the defendant.

- Representing Hyundai in an appeal to the Virginia Supreme Court in which the court reversed a jury verdict and rendered judgment for Hyundai in a case involving an allegedly defective airbag. The court held that the testimony of plaintiff's airbag expert was not based on a sufficient factual basis. Because the plaintiff's defect theory was not supported by proper expert testimony, plaintiff failed to meet his burden for proving the existence of a defect.
- Achieving a win in the U.S. Court of Appeals for the 11th Circuit when the court affirmed summary judgment on behalf of defendant Purdue Pharma in a product liability lawsuit involving the prescription painkiller OxyContin. The 11th Circuit upheld the trial court's grant of summary judgment on the basis that the plaintiff's negligence and fraud claims were barred by the learned intermediary doctrine.
- Achieving an appellate victory when the North Carolina Supreme Court affirmed the trial court's grant of summary judgment in favor of General Electric on a patient's claim and a hospital's indemnity crossclaim. The case involved a catastrophic patient injury during surgery in which a surgical table allegedly malfunctioned. The court found that the plaintiff and hospital had not carried their burden to prove causation.
- Briefing and presenting oral arguments to the U.S. Court of Appeals for the 5th Circuit on behalf of Alfa Mutual Insurance Company in support of a Mississippi federal district order denying a plaintiff's motion for certification of a statewide class of policyholders who had filed automobile property damage claims. The 5th Circuit unanimously affirmed the district court's order.
- Handling the post-trial motions and an appellate briefing that ensued following a Jefferson County, Alabama, jury's \$12 million award to the plaintiff in a wrongful death case brought after decedent committed suicide while a patient at Brookwood Hospital. The case was settled for a confidential amount while the appeal was pending.
- Handling protection of the appellate record and preparation for the eventual appeal of a case involving claims by the Alabama Medicaid Agency that it had overpaid for generic drugs as a result of artificially inflated prices published by Sandoz. After a \$78.4 million jury verdict, the firm prosecuted the appeal in the Alabama Supreme Court, which reversed the trial court judgment in its entirety and rendered judgment in favor of Sandoz.
- Being brought in post-verdict after a jury returned a \$52 million verdict against Avondale Mills and its codefendants. After we argued the case in the Alabama Supreme Court twice, the court reversed and rendered the case in favor of Avondale Mills.
- Ensuring that plaintiff Treibacher's verdict is retained. Their verdict was in excess of \$5.3 million obtained in federal court in a breach of contract and fraud case involving the interpretation of the United Nations Convention for the Sale of International Goods. The U.S. Court of Appeals for the 11th Circuit affirmed the verdict in a published opinion.
- Appealing a \$12 million judgment to the Alabama Supreme Court. The judgment was rendered against South Alabama Brick after a bench trial. The Alabama Supreme Court reversed the judgment and remanded the case for entry of a judgment in favor of South Alabama Brick on all claims.