

Brooks Pierce Attorneys Win Chemical Company a \$75 Million Verdict

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Brooks Pierce attorneys Beth Langley and Kim Marston were members of the legal team that secured a \$75 million verdict for Chinese manufacturer Shangyu Sunfit Chemical Company Ltd. (Sunfit) in the United States District Court for the Middle District of North Carolina. Sunfit was the defendant in a suit brought by its former distributor Hongda Group Ltd. LLC, but also filed its own claims against Hongda and its three principals, Gary McKnight, Raymond Perkins and Wei Xu.

In 2011, Hongda agreed to be the exclusive U.S. distributor of Sunfit's N-(n-Butyl) thiophosphoric Triamide (NBPT), a chemical used in fertilizers. Hongda later alleged that Sunfit was supplying other companies with the chemical in breach of the contract. Sunfit countered that Hongda was not paying what it owed and that the three individual defendants had secretly imported NBPT from other suppliers.

Before the trial, U.S. District Judge N.C. Tilley, Jr. ruled that Hongda had breached its contract with Sunfit, but left the question of damages for the jury. The case was tried before U.S. District Judge Catherine C. Eagles.

Following approximately two hours of deliberation, the jury found that Hongda owed Sunfit roughly \$9.87 million for what it failed to pay under the contract and that Hongda had fraudulently transferred \$2.75 million belonging to Sunfit. The jury also found that Hongda had entered the deal with Sunfit with the intent of breaching the contract and that McKnight, Perkins and Xu had engaged in deceptive behavior. The jury found the three individual defendants had created another company to sell NBPT in North America and developed a plan in China to circumvent Sunfit's rights as its exclusive supplier. The jury awarded \$9.8 million in breach of contract damages and found Sunfit suffered \$6 million in damages for Hongda's unfair and deceptive conduct. The jury also found that the conduct of the third-party defendants was unfair and deceptive, damaging Sunfit in the amount of \$15.87 million. After concluding Hongda and the third-party defendants' conduct was unfair or deceptive in violation of North Carolina law, Eagles trebled those damages, awarding Sunfit more than \$27.8 million against Hongda and more than \$47.6 million against the third-party defendants, bringing the total verdict to more than \$75 million.

Brooks Pierce's litigation practice holds a reputation as among the most robust and effective in North Carolina, with over half of the firm's attorneys serving as litigators. The firm has been named "North Carolina Law Firm of the Year" by *Benchmark Litigation* for the past four years (2016-2019), and has a Tier 1 ranking in *Chambers USA* for General Commercial Litigation. Brooks Pierce's litigation team includes two former Assistant District Attorneys, lawyers from AmLaw firms in New York and Boston, and former law clerks from every level of trial and appellate court in the United States, including the U.S. Supreme Court.

Langley has over 25 years of experience in business litigation and employment law. Langley was selected by her peers for inclusion in the 2019 edition of *Business North Carolina's* "Legal Elite" for Employment and from 2014-2020 in *The Best Lawyers in America*® for commercial litigation, employment law-management and litigation- labor and employment. In 2019 she was also recognized in *North Carolina Super Lawyers* for employment and labor law and was named as one of the "Top 50 North Carolina Women Attorneys."

Marston litigates contract and commercial disputes, including unfair trade practices, trade secrets, and breach of fiduciary duty claims on behalf of businesses and professionals in all levels of state and federal courts, including the North Carolina Business Court. She has represented clients on a case listed by *North Carolina Lawyers Weekly* as one of 2018's largest eminent domain verdicts.