



Complex Mass Tort Product Liability Alert

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Appellate Court Affirms Ruling Allowing Punitive Damages in New York City Asbestos Cases

In a unanimous ruling decided July 9, 2015, New York's Appellate Division, First Department declined to overrule an April 2014 order by Justice Sherry Klein Heitler, the then-coordinating justice of the New York City Asbestos Litigation (NYCAL) docket, allowing plaintiffs to seek punitive damages in asbestos injury and death cases. *In re: New York City Asbestos Litig.*, 2015 NY Slip Op 06027 (N.Y. App. Div. 1st Dept., July 9, 2015). Judge Heitler's 2014 ruling amended a case management order that had barred punitive damage claims in NYCAL asbestos litigation since 1996. Judge Heitler's order was modified on appeal to the extent it required that an application for punitive damages "shall be made at the conclusion of the evidentiary phase of the trial."

While the Appellate Division did not undo Judge Heitler's ruling allowing punitive claims to proceed, it did stay such claims until the new coordinating justice of the NYCAL asbestos docket, Justice Peter H. Moulton, can establish procedural protocols with regard to punitive claims. Accordingly, while punitive damage claims have not been part of New York City asbestos litigation for a number of years, defendants should expect to see them regularly asserted once new procedures are put into place. A copy of the Appellate Division's July 9, 2015, decision is available [here](#).

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