



FOR IMMEDIATE RELEASE

October 11, 2017

Media Contact: Grace Galvin | ggalvin@wlf.org | 202-588-0302

WLF Argues Against Reintroduction of Punitive Damages in New York Asbestos Cases

(In Re: New York City Asbestos Litigation)

“The reasons for deferring punitive damages in asbestos cases remain sound, not only to preserve the amount of company resources that can compensate deserving victims, but to accelerate trials, speed recovery, and avoid lengthy appeals.”

—Cory Andrews, WLF Senior Litigation Counsel

WASHINGTON, DC—Washington Legal Foundation joined several civil justice reform groups and policy organizations yesterday in filing an *amicus* brief in the Supreme Court of New York arguing that the June 2017 New York City Asbestos Litigation (NYCAL) case management order (CMO) governing all New York City asbestos litigation should be vacated as it deprives the defendants of statutory and due process rights without their consent.

The June 2017 NYCAL CMO holds that punitive damages awards are no longer deferred for cases placed on the trial calendar after the CMO’s effective date. In doing so, the CMO jettisons a longstanding practice adopted to protect defendant resources and ensure adequate and timely compensation for sick claimants. WLF’s brief argues that if the CMO stands, it should be modified to restore this 25-year practice and should include meaningful trust claim transparency, requiring plaintiffs to file all eligible asbestos trust claims early in the discovery process and specify that trust claims materials are admissible.

WLF’s brief invokes the observations of Justice Helen Freedman, former Administrative Law Judge for all NYCAL cases, that to impose punitive damages on companies for wrongs committed twenty or thirty years earlier “served no corrective purpose.” Oftentimes in asbestos litigation the alleged wrong was committed by a predecessor company, not the company being sued. Punitive damages “only deplete resources that are better used to compensate injured parties,” Justice Freedman explained.

WLF’s brief was prepared with the pro bono legal assistance of Victor Schwartz, Mark Behrens, and Philip Goldberg of Shook, Hardy & Bacon L.L.P.

Celebrating its 40th year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

###