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WLF Opposes Imposition 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— The Washington Legal Foundation (WLF) this week opposed plaintiffs’ efforts to set aside a case management order that has been in place for nearly two decades in New York City trial courts. Joined by other civil justice reform groups, WLF filed a brief in the Supreme Court of New York arguing that the important policy justifications for deferring punitive damages in NYC asbestos suits remain every bit as relevant in today’s asbestos litigation environment as they did when that rule was first adopted.

The case arises from plaintiffs’ challenge to a case management order (CMO) deferring punitive damages awards in all New York City asbestos litigation. That longstanding practice was adopted not only out of considerations of fairness to defendants, but to ensure adequate and timely compensation for sick claimants as well. In implementing the CMO back in 1996, then-Justice Helen Freedman observed that to impose punitive damages on companies for wrongs committed twenty or thirty years earlier “served no corrective purpose.” In many cases, the alleged wrong was committed by a predecessor company, not even the company being sued. Moreover, as Justice Freedman explained, punitive damages “only deplete resources that are better used to compensate injured parties.”

Following the filing of WLF’s brief, WLF issued the following statement by Senior Litigation Counsel Cory Andrews:

“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.”

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

WLF is a public interest law and policy center with supporters in all 50 States. WLF devotes a considerable portion of its resources to defending and promoting free enterprise, individual rights, and a limited and accountable government.

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