Recent Court Decisions

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Punitive Damages approved Under New York Revival Statute

Racich v. Celotex Corp., 887 F.2d 393 (2d Cir. 1989).

The New York legislature permitted the revival of several types of toxic tort claims by allowing otherwise precluded suits to be brought for one year. A prior issue of "Recent Court Decisions" noted that the statute withstood constitutional challenges. Recently, the Second Circuit Court of Appeals held that the statute also permitted the assertion of a claim of punitive damages against an asbestos products manufacturer.

The plaintiff, Jack Racich, suffered from asbestos-related injuries as a result of his work for the defendant, Celotex, and a company Celotex purchased, Carey Corporation. Racich sued and received a verdict for \$165,000 in compensatory damages (less ten percent for comparative negligence) and \$100,000 in punitive damages. Celotex appealed and unsuccessfully argued that the revival statute did not permit the assertion of punitive damages.

The court first rejected Celotex's argument that the statute's failure to mention punitive damages precluded their recovery. The court found that the statute did not create a cause of action; rather it revived an existing one. Since the action already existed and permitted the claim of punitive damages, the court concluded that the statute need not explicitly provide for their recovery.

The court also rejected the assertion that the allowance of punitive damages violated public policy. Celotex argued that the purpose of punitive damages is to deter the alleged conduct, and since no manufacturer continued the allegedly tortious conduct, there was no reason to allow punitive damages. The court refused to draw a narrow interpretation of the purposes for punitive damages. While the court recognized that multiple awards against the defendant might amount to overkill, it stated that it was bound by its understanding of New York law.