

Florida Supreme Court Authorizes Interlocutory Appeals From Orders Allowing or Disallowing Punitive Damages Claims

January 14, 2022

On January 6, 2022, the Florida Supreme Court [adopted a new rule](#) that authorizes appeals from interlocutory orders that allow or disallow an amendment to add a claim for punitive damages. Prior to this amendment, there existed no immediate appeal of right and parties were faced with seeking possible relief through a petition for writ of certiorari, which was typically limited to only asserting procedural irregularities, or waiting to raise the issue in an appeal of the final judgment. The amendment is particularly important because, in Florida state courts, unlike in federal courts, “no claim for punitive damages shall be permitted unless there is a reasonable showing by evidence in the record or proffered by the claimant which would provide a reasonable basis for recovery of such damages.” Until this rule change, however, the trial court’s decision to allow or disallow such an amendment could not be immediately appealed. With the advent of this new rule, we would expect to see early interlocutory appeals in any case in which punitive damages may be at play. **Tips:**

- The new rule becomes effective on April 1, 2022. Consider that fact as you are scheduling hearings on motions for leave to amend to add a claim for punitive damages. If an order granting or denying a motion for leave to amend to add a claim for punitive damages is entered before that effective date, consider whether there is a way to invoke the new rule. For instance, such orders entered after March 1, 2022, but before the effective date of the new rule, would not have to be appealed for 30 days, which would be after the new rule comes into effect. There are other options, as well, that should be considered.

- Preserve your record. Prior to this rule change, merits arguments were not cognizable on certiorari review of orders granting leave to amend to add a claim for punitive damages, so preservation of those arguments at this early stage of the litigation may not have been as critical. But the record will take on heightened significance in the context of an interlocutory appeal of right. Make sure that you make all of your arguments or objections.

Authored By



Joseph H. Lang Jr.

Related Practices

[Appellate & Trial Support](#)

©2024 Carlton Fields, P.A. Carlton Fields practices law in California through Carlton Fields, LLP. Carlton Fields publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information and educational purposes only, and should not be relied on as if it were advice about a particular fact situation. The distribution of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship with Carlton Fields. This publication may not be quoted or referred to in any other publication or proceeding without the prior written consent of the firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our Contact Us form via the link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.