

One Minute Memo®



New York Court of Appeals Establishes Standard for Punitive Damages Under NYCHRL

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Seyfarth Synopsis: *The New York Court of Appeals, on a question certified by the Second Circuit, announced the standard for punitive damages in claims under the New York City Human Rights Law.*

Punitive damages are appropriate under the New York City Human Rights Law where the defendant's actions amount to recklessness or willful or wanton negligence, or where there is "a conscious disregard of the rights of others or conduct so reckless as to amount to such disregard." So held the state's Court of Appeals in [Chauca v. Abraham](#), resolving a long-undecided issue at the request of the Second Circuit.

Background

In November 2010, Veronika Chauca ("Chauca") sued her former employer, Park Management Systems, LLC., and two supervisory employees, in the Eastern District of New York for pregnancy discrimination under Title VII, the New York State Human Rights Law, and the New York City Human Rights Law ("NYCHRL"). At trial, over Chauca's objection, the District Court declined to provide a punitive damages instruction, finding that Chauca had failed to introduce any evidence that the employer had intentionally discriminated with "malice" or with "reckless indifference" to her protected rights—the standard under Title VII.

After receiving a jury award of \$60,500 in compensatory damages, Chauca appealed, arguing that, with respect to her NYCHRL claim, the District Court erred in using the Title VII standard for punitive damages. She argued that the City law, which mandates that its provisions be "liberally" construed and analyzed "separately and independently" of federal law, calls for a more lenient, pro-plaintiff approach – specifically, that a punitive damages jury instruction is appropriate and necessary upon *any* finding of liability, regardless of whether the employer discriminated with malice or reckless indifference. The defendants argued, on the other hand, that the District Court was correct all along, and that the NYCHRL standard is the same as Title VII.

The Second Circuit, after concluding that neither the statute nor case law provided sufficient guidance as to the appropriate standard, certified the following question to the New York Court of Appeals: "What is the standard for finding a defendant liable for punitive damages under the [NYCHRL]?"

New York Court of Appeals Analysis

On certification, the New York Court of Appeals, in a 6-1 decision, took a middle ground. Regarding Chauca's argument, it noted that punitive damages are intended to address "gross misbehavior" or conduct that "wilfully and wantonly causes hurt to another." As a result, the court held, there must be some heightened standard for punitive damages, and a finding of liability cannot by itself automatically support a jury charge pertaining to punitive damages.

As to the defendants' argument, the court explained that New York City has twice amended the NYCHRL out of concern that the statute was being too strictly construed, cautioning courts that similarly worded federal statutes may be used as interpretive aids only to the extent that they are viewed "as a floor below which the City's Human Rights Law cannot fall, rather than a ceiling above which the local law cannot rise," and only to the extent that those decisions may provide guidance as to the "uniquely broad and remedial purposes of the local law." Against this backdrop, the court held that the punitive damages standard must be less stringent than the one imposed by Title VII.

The court then held that "punitive damages" is a legal term of art that has an established meaning under New York common law, under which punitive damages are appropriate in cases with "conduct having a high degree of moral culpability which manifests a conscious disregard of the rights of others or conduct so reckless as to amount to such disregard." This standard requires neither a showing of malice nor awareness of the violation of a protected right.

Implications

The court's decision now makes clear that the standard for punitive damages under the NYCHRL is broader, and more plaintiff-friendly, than under Title VII. (The State Human Rights Law does not permit punitive damages at all.) While punitive damages will not be available in every NYCHRL case where an employee prevails, the plaintiff will be entitled to a jury instruction on punitive damages whenever there is evidence that the defendant acted with "malice" or with "reckless indifference" to the plaintiff's protected rights, or when the defendant's actions amount to "a conscious disregard of the rights of others or conduct so reckless as to amount to such disregard."

As a practical matter, the standard foreshadows that trial courts will issue punitive damages charges more frequently than they have before now. As argued by the New York City Law Department in its amicus brief, which urged the court not to tie the standard to Title VII's: "[T]he very same evidence that establishes liability in a given case may well warrant punitive damages. For example, if a jury finds that an employee has been fired because of his or her race, it will be quite difficult for a defendant acting in the year 2017 to claim that there is no basis to conclude that it was acting with at least reckless disregard or gross negligence toward the employee's rights or toward the possibility that it was causing harm based on a protected characteristic."

The decision thus serves as a further reminder that employers in New York City should adopt and enforce strong anti-discrimination policies, train their employees on avoidance of discriminatory and harassing behaviors, thoroughly investigate internal complaints of such behavior, and swiftly discipline those who transgress. Juries throughout the five boroughs will be waiting to punish them through damages awards if they fail to do so.

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