

## **Alert** | Appeals & Legal Issues



January 2022

### **Florida Supreme Court Adopts Rule Change for Immediate Appellate Review of Orders Granting or Denying Leave to Assert Punitive Damages**

On Jan. 6, 2022, the Florida Supreme Court adopted a rule change that allows a party to seek immediate nonfinal appellate review of an order granting or denying a motion for leave to assert a punitive damages claim. The rule amendment goes into effect April 1, 2022.

This rule amendment was initiated, at the direction of the Florida Supreme Court, by the Florida Bar's Appellate Court Rules Committee, which proposed an amendment to Florida Rule of Appellate Procedure 9.130 to allow for interlocutory review in such circumstances. Prior to the rule amendment, an appellate court's ability to review a trial court order granting leave to assert a punitive damages claim was limited. Specifically, the previously rule (and corresponding case law) prohibited a substantive review of the evidence presented by a plaintiff in support of the requested amendment prior to final appeal.

Florida appellate courts have recognized the need for immediate review of orders granting or denying a motion for leave to assert a punitive damages claim and noted that they were constrained by the prior review standard, which application often resulted in punitive damages being allowed to move forward. With this rule amendment, parties will be able to seek immediate review should they determine such review is necessary. The rule amendment also will ensure that a party seeking leave to assert a punitive damages claim has overcome the bar to asserting such claim with sufficient evidence. Finally, because the granting or denying of leave to assert a punitive damages claim is a "game changer," exposing defendants

to intrusive financial worth discovery and potentially large verdicts—as one Florida appellate court categorized it—the newly authorized plenary review of such a decision at an interlocutory stage is an appropriate measure and an important development in Florida law.

## Authors

This GT Alert was prepared by:

- **Brigid F. Cech Samole** | +1 305.579.0752 | [cechsamoleb@gtlaw.com](mailto:cechsamoleb@gtlaw.com)
- **Jay A. Yagoda** | +1 305.579.0577 | [yagodaj@gtlaw.com](mailto:yagodaj@gtlaw.com)

Albany. Amsterdam. Atlanta. Austin. Boston. Chicago. Dallas. Delaware. Denver. Fort Lauderdale. Germany. <sup>~</sup> Houston. Las Vegas. London. <sup>\*</sup> Los Angeles. Mexico City. <sup>+</sup> Miami. Milan. <sup>»</sup> Minneapolis. New Jersey. New York. Northern Virginia. Orange County. Orlando. Philadelphia. Phoenix. Sacramento. Salt Lake City. San Francisco. Seoul. <sup>∞</sup> Shanghai. Silicon Valley. Tallahassee. Tampa. Tel Aviv. <sup>^</sup> Tokyo. <sup>\*</sup> Warsaw. <sup>~</sup> Washington, D.C.. West Palm Beach. Westchester County.

*This Greenberg Traurig Alert is issued for informational purposes only and is not intended to be construed or used as general legal advice nor as a solicitation of any type. Please contact the author(s) or your Greenberg Traurig contact if you have questions regarding the currency of this information. The hiring of a lawyer is an important decision. Before you decide, ask for written information about the lawyer's legal qualifications and experience. Greenberg Traurig is a service mark and trade name of Greenberg Traurig, LLP and Greenberg Traurig, P.A. <sup>~</sup>Greenberg Traurig's Berlin office is operated by Greenberg Traurig Germany, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. <sup>\*</sup>Operates as a separate UK registered legal entity. <sup>+</sup>Greenberg Traurig's Mexico City office is operated by Greenberg Traurig, S.C., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. <sup>»</sup>Greenberg Traurig's Milan office is operated by Greenberg Traurig Santa Maria, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. <sup>∞</sup>Operates as Greenberg Traurig LLP Foreign Legal Consultant Office. <sup>^</sup>Greenberg Traurig's Tel Aviv office is a branch of Greenberg Traurig, P.A., Florida, USA. <sup>▫</sup>Greenberg Traurig's Tokyo Office is operated by GT Tokyo Horitsu Jimusho and Greenberg Traurig Gaikokuhojimubengoshi Jimusho, affiliates of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. <sup>~</sup>Greenberg Traurig's Warsaw office is operated by GREENBERG TRAURIG Nowakowska-Zimoch Wysokiński sp.k., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. Certain partners in GREENBERG TRAURIG Nowakowska-Zimoch Wysokiński sp.k. are also shareholders in Greenberg Traurig, P.A. Images in this advertisement do not depict Greenberg Traurig attorneys, clients, staff or facilities. No aspect of this advertisement has been approved by the Supreme Court of New Jersey. ©2021 Greenberg Traurig, LLP. All rights reserved.*