

Alert | Appeals & Legal Issues



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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.

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