



# Court Lowers Punitive Damages Bar In Claims Against NYC Employers

Insights

12.26.17

The state's highest court might have just made life more difficult for employers facing liability under New York City's anti-bias law. Clarifying a question left open by New York City's Human Rights Law (NYCHRL), the New York Court of Appeals recently held that the standard for determining punitive damages under the NYCHRL should be whether the employer engaged in discrimination with willful or wanton negligence, or recklessness, or a conscious disregard of the rights of others or conduct so reckless as to amount to such disregard.

Through its holding in *Chauca v. Abraham*, the state's highest court opened the doors to punitive damages for a class of employees and applicants unable to meet the standard under Title VII of the Civil Rights Act of 1964, which requires a plaintiff to prove malice or reckless indifference.

## Background

The question arose in a case where an employee sued her former employer and two of her supervisors for pregnancy and sex discrimination in federal court, alleging violations of both the NYCHRL and Title VII. At trial, the U.S. District Court for the Eastern District of New York denied the employee's request to provide a punitive damages jury instruction on the NYCHRL claim, finding that the plaintiff had failed to show any evidence supporting "malice" or "reckless indifference" — the standard for punitive damages under Title VII.

On appeal to the 2nd Circuit Court of Appeals, the employee argued that the trial judge erred in using the Title VII standard for determining whether punitive damages were appropriate under the NYCHRL. Specifically, she argued that the NYCHRL, which mandates that its provisions be "liberally" construed and analyzed "separately and independently" of federal law, requires a jury instruction that punitive damages are appropriate and necessary upon *any* finding of liability, even if the employer did not discriminate with malice or reckless indifference.

The defendants countered that, because the punitive damages standard is the same under Title VII and the NYCHRL, a jury instruction was not needed where there was no evidence of malice or reckless indifference. The 2nd Circuit, not prepared to offer the definitive word on the matter, 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 Lowers Punitive Damages Bar

The Court of Appeals struck a balance between the plaintiff's and defendants' positions. The court explained that because punitive damages are intended to address "gross misbehavior" or conduct that "willfully causes harm to another," there must be *some* heightened standard beyond mere liability for such an award. At the same time, the court opined, the New York City Administrative Code was twice amended to ensure that statutes are construed in the most liberal interpretation possible.

Against this backdrop, the court held that the punitive damages standard must be less stringent than the one imposed by Title VII. Accordingly, the Court of Appeals held that, in order for punitive damages to be imposed under the NYCHRL, a wrongdoer must engage in discrimination with "willful or wanton negligence, or recklessness, or a 'conscious disregard of the rights of others or conduct so reckless as to amount to such disregard.'"

### **Implications For New York City Employers**

This decision is a further reminder that New York City's anti-discrimination laws will be construed more broadly and liberally in favor of plaintiffs than its state and federal counterparts. Trial courts may now issue punitive damages more frequently than before under the clarified standard.

The NYCHRL once again proves to be more plaintiff-friendly than Title VII and state laws. Employers in New York City should make sure they maintain and enforce strong antidiscrimination policies and practices, as the penalties for violations are sure to be high.

If you have questions about how this case will affect your workplace, contact any attorney in our [New York City office](#) at 212.899.9960, or your regular Fisher Phillips attorney.

---

*This Legal Alert provides information about a specific court decision. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.*

### **Related People**



---

**Melissa Camire**

Partner

212.899.9965

Email

## ***Service Focus***

Employment Discrimination and Harassment

Litigation and Trials