



HOLWELL SHUSTER & GOLDBERG SECURES IMPORTANT FIRST DEPARTMENT WIN

03.28.2019

New York—In a significant decision issued today in *Corazza v. Amchem Prods., Inc.*, the First Department reversed a judgment after trial against Holwell Shuster & Goldberg's client Caterpillar and ordered the complaint dismissed.

Retained on appeal by Caterpillar, HSG challenged a judgment holding Caterpillar responsible for the lung cancer of a mechanic that allegedly was caused by his exposure to asbestos-containing products in Caterpillar-branded forklifts, though the mechanic also worked on asbestos-containing products in the forklifts of other companies. Applying Court of Appeals precedents on causation in toxic tort cases, the First Department's decision is the first asbestos case to reject causation on the ground that the plaintiff failed to link causation to exposure to the defendant's products specifically, as opposed to exposure to the products of several companies, one of which is the defendant. Regardless of whether that general exposure caused the disease, the plaintiff must specifically tie exposure to the products of the defendant itself.

HSG partner Daniel Sullivan argued the appeal on behalf of Caterpillar. Dan clerked for the late Antonin Scalia of the U.S. Supreme Court, and before that for the Hon. Diarmuid F. O'Scannlain of the U.S. Court of Appeals for the Ninth Circuit.

HSG partner and former New York Appellate Division Justice Jim McGuire, along with associate Evan Stein, also represented Caterpillar in the appeal.

ATTORNEYS

James M. McGuire

Daniel M. Sullivan