

BUSINESS LITIGATION ALERT

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New York Court of Appeals Sets a High Bar for Piercing the Corporate Veil

In a recent decision, New York State's highest court reiterated the limited circumstances under which individual corporate principals may be held personally responsible for the actions of a corporation and provided a measure of clarification in what can sometimes be a grey area of law. The decision is a reminder of both the importance of properly structuring closely held businesses and a warning that even the corporate form will not protect individuals from certain types of misfeasance.

In the case of *James v. Loran Realty V Corp.*, 20 N.Y.3d 918 (2012), the Court of Appeals considered a claim made by the mother of a minor child seeking to disregard the corporate ownership of an apartment building, and to hold an individual corporate principal personally responsible for injuries suffered by the child as a result of exposure to lead-based paint. The intermediate Appellate Court affirmed the trial court ruling and declined to pierce the corporate veil, despite a finding that the individual defendant had exercised complete domination and control over the corporation, and the fact that the corporation had been rendered an insolvent, judgment-proof shell after the defendant relinquished control of it.

The Court of Appeals affirmed the Appellate Court's ruling, and went a step further by stating that a party seeking to pierce the corporate veil has the burden of showing that the individual defendant abused the corporate form in order to perpetrate a wrong or injustice. The Court stated that a finding of personal responsibility would have required evidence that the individual defendant specifically took steps to render the corporation insolvent in order to avoid the plaintiff's claim for damages.

New York cases concerning piercing the corporate veil cannot be reduced to definitive rules governing the circumstances under which a court will exercise this extraordinary power. A court's decision will necessarily depend on the attendant facts and circumstances; however, the Court of Appeals' latest ruling sets a very high bar for those seeking to have a court disregard the corporate form. The Court of Appeals focused on the intent of the corporate principals and the requirement that there be evidence of actions designed specifically to perpetrate a wrong or injustice.

From the standpoint of an individual involved with a closely held business, this ruling highlights the importance of properly structuring that business so as to provide protection from individual liability. In addition, despite the stringent standards required to pierce the corporate veil, courts can and do hold individuals personally responsible for corporate actions under certain circumstances. ■

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