Asbestos/Common Law Action: Federal Appellate Court Addresses Collateral Estoppel Issue

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The United States Court of Appeals for the Second Circuit ("Second Circuit") addressed in a December 22nd Opinion issues arising out of asbestos related tort claims. *See LA'SHAUN CLARK v. NEW YORK CITY HOUSING AUTHORITY, ET AL.,* 2025 WL 3702955.

The question considered was whether the tort claims were barred by the doctrine of collateral estoppel.

Pro se Plaintiff La'Shaun Clark ("Clark") filed an action in the United States District Court for the Southern District of New York against the following:

- New York City Housing Authority
- New York Insulation & Environmental Services Inc.
- JLC Environmental Consultants Inc.

(Collectively, "Defendants").

Clark filed state law claims of negligent and intentional infliction of emotional distress against the Defendants related to alleged exposure to crystalline silica quartz and asbestos. The exposrure is stated to have occurred in her New York City Housing Authority-operated apartment between 2004-2012.

Clark had previously filed litigation in the United States District Court related to the alleged exposure. The United States District Court in 2022 included that Clark had not offered expert testimony establishing causation. The Second Circuit had affirmed that conclusion.

Clark, in this subsequent action, files based on a new diagnosis of silicosis. This new diagnosis is alleged to entitle Clark to recovery based on distinct injuries.

The Second Circuit upholds the United State District Court's conclusion that these claims are barred by collateral estoppel. The Second Circuit notes that:

… But to prevail on her new claims for recovery, Clark must necessarily relitigate an issue that the District Court resolved in the earlier litigation: whether Clark had "adduce[d] sufficient evidence to establish the element of general causation" and in particular the "general capacity of the crystalline silica quartz that she claims remained in" her apartment to cause her injuries.

The Second Circuit notes that the determination of an essential issue is binding in a subsequent action, even if it recurs in the context of a different claim. It again references the earlier litigation in which it was concluded that Clark had not offered expert testimony establishing causation as is required.

A copy of the Opinion can be found here.