

Friedman, J.P., Richter, Kahn, Singh, JJ.

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In re New York City Asbestos
Litigation

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Claudine DiScala, etc.,
Plaintiff-Respondent,

-against-

Charles B. Chrystal Company,
Inc., et al.,
Defendants,

Whittaker Clark & Daniels, Inc.,
Defendant-Appellant.

Pillsbury Winthrop Shaw Pittman LLP, New York (David G. Keyko of
counsel), for appellant.

Levy Konigsberg, LLP, New York (Renner K. Walker of counsel), for
respondent.

Judgment, Supreme Court, New York County (Martin Shulman,
J.), entered August 29, 2017, upon a jury verdict in plaintiff's
favor, and bringing up for review an order, same court and
Justice, entered June 19, 2017, which denied defendant Whittaker
Clark & Daniels, Inc.'s motion for judgment notwithstanding the
verdict, unanimously reversed, on the law, without costs, the
judgment vacated, the motion granted, and the complaint dismissed
as against said defendant. The Clerk is directed to enter
judgment accordingly.

Plaintiff failed to adduce evidence that the decedent was

exposed to sufficient levels of asbestos in defendant's talc to cause mesothelioma. Plaintiff's causation expert merely opined that the decedent's exposure to unspecified "detectable" or "significant" levels of asbestos in the talcum product she used caused her mesothelioma. Plaintiff was not required to quantify the decedent's exposure level with exact mathematical precision (see *Matter of New York City Asbestos Litig.*, 148 AD3d 233, 235-238 [1st Dept 2017], *affd* 32 NY3d 1116 [2018]; *Parker v Mobil Oil Corp.*, 7 NY3d 434, 449 [2006]). However, in this case the evidence failed to establish a level of exposure sufficient to cause the illness.

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: JUNE 20, 2019

A handwritten signature in black ink, appearing to read 'Susan R. [unclear]', is written over a horizontal line.

CLERK