CLIENT ALERTS & INSIGHTS

Supreme Court Clarifies Judicial Estoppel Standard in Bankruptcy Nondisclosure Cases

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Featured Practices: Restructuring & Bankruptcy, Bankruptcy Litigation

Key Takeaways

- **The U.S. Supreme Court rejected a rigid rule that often blocked debtors from pursuing claims they failed to disclose in bankruptcy.** Courts must now look at the full circumstances before deciding whether an omission was intentional or an honest mistake.
- **The decision may affect creditors, debtors and defendants in litigation based on claims not previously disclosed to the bankruptcy court.** A debtor's failure to list a claim will not necessarily prevent the claim from moving forward, which could increase recoveries for creditors but reduce a defendant's ability to end a case early on judicial estoppel grounds.
- **Debtors should update bankruptcy disclosures promptly and assess nondisclosure issues case by case.** Debtors should amend schedules as soon as omitted claims are identified, while defendants and creditors should evaluate the facts before relying on judicial estoppel as a litigation strategy.

In an opinion[1] published June 11, 2026, the U.S. Supreme Court vacated and remanded a case involving a Chapter 13 debtor who was judicially estopped from pursuing a personal injury lawsuit that he previously failed to disclose to the bankruptcy court.

Facts of the Case

The facts of the underlying case make it easy to see how a rigid application of judicial estoppel can have an inequitable result. Keathley and his wife filed for Chapter 13 bankruptcy in December 2019. Under Chapter 13, a debtor uses their disposable income to pay debts over 36 or 60 months. Unsecured debts, such as credit cards or medical debts, do not need to be paid in full if the debtor commits all disposable income to the payment plan. For example, a debtor could pay 0% on their unsecured debt as long as that was the same or better treatment that the creditors would get under a Chapter 7 liquidation. The Keathleys' plan was a 60-month plan which provided for the couple's unsecured debts to be paid 100%, but without interest. The bankruptcy court confirmed the couple's Chapter 13 plan in April 2020.

During the course of the Keathleys' Chapter 13 plan, in August 2021, Keathley was in a car accident involving a truck driven by an employee of Buddy Ayers Construction ("Buddy Ayers"). Keathley informed his bankruptcy counsel of the accident but did not update his schedules (bankruptcy forms detailing a debtor's assets and liabilities). Keathley then brought a personal injury lawsuit against Buddy Ayers in District Court. Buddy Ayers filed a motion for summary judgment arguing that Keathley should be judicially estopped from pursuing his personal injury claim since he did not update his schedules to include his claim as an asset. The District Court granted summary judgment despite: (1) Keathley immediately amending his schedules to reflect the personal injury claim; (2) filing an affidavit attesting that it was an inadvertent mistake to not update his schedules; (3) filing an affidavit from his bankruptcy counsel attesting that Keathley received no benefit from not disclosing; and (4) filing an affidavit from the local Chapter 13 Trustee's office attesting that it was common practice in that district to amend schedules after settlement or a judgment had been reached on a personal injury claim.

What Was Wrong with the Fifth Circuit Precedent?

The District Court relied on Fifth Circuit precedent that "omission of a claim on the bankruptcy schedules will be considered the result of inadvertence or mistake only if (1) the debtor did not know the facts underlying the claim, or (2) there was no potential motive to conceal the claim." The District Court found that Keathley knew of the underlying claim (he had filed a lawsuit after all) and that he potentially had motive to conceal the claim because he would potentially have to pay interest to his unsecured creditors if additional money came into his bankruptcy estate from the lawsuit being settled or reduced to judgment. The Fifth Circuit affirmed summary judgment in favor of Buddy Ayers based on the same precedent.

The Supreme Court rejected that precedent, finding that the Fifth Circuit's test left no room for mistake or inadvertence on the debtor's behalf. The Court noted that "[i]n essence, then, the Fifth Circuit's approach is a one-size-fits-all test that requires courts to view as purposeful nearly every bankruptcy omission." The Court explained that this was not in line with the Court's precedent on judicial estoppel, laid out in *New Hampshire v. Maine*. Justice Jackson, writing for a unanimous court, pointed out that the Court had "suggested in other situations that judicial estoppel may be inapposite where the inconsistent position was the result of 'inadvertence or mistake.'" (*quoting New Hampshire v. Maine).*

In its ultimately narrow opinion, the Court emphasized that estoppel (judicial or otherwise) is an equitable remedy and equity "eschews mechanical rules; it depends on flexibility." The Court explained that the Fifth Circuit's rule is "not only overly rigid; it is also overly broad." Instead, courts must examine the totality of the circumstances surrounding a debtor's failure to list a claim to determine whether the failure was a simple mistake or whether there are grounds for judicial estoppel.

The opinion stopped with this open-ended formulation of judicial estoppel. However, the two concurrences, authored by Justice Thomas and Justice Sotomayor, respectively, went further.

Justice Thomas called into question the very foundation of judicial estoppel, questioning what basis, if any, this doctrine has in statute, procedure, or "traditional inherent power of federal courts." Justice Thomas noted that in the only precedential case, *New Hampshire v. Maine*, the Court's decision there "may well have been justifiable as a matter of equitable estoppel." This appears to

call into question what purpose judicial estoppel serves. If a party cannot satisfy the equitable estoppel standard (knowingly misled by another, relied on previous representation, and will be harmed or prejudiced by the change in positions) is there a separate basis for judicial estoppel? Doubtful, according to Justice Thomas.

Justice Sotomayor focused her concurrence on how bankruptcy courts should handle the application of judicial estoppel of a debtor's claims (something the opinion does not clarify) and called into question whether "equity ever demands the application of judicial estoppel to a claim asserted by a debtor in a different proceeding" given the equitable remedies a bankruptcy court already has access to.

Summary and Practical Implications

Keathley does not change much for the Circuits that already use a holistic analysis when determining whether to apply judicial estoppel. It does overrule Fifth and Tenth Circuit precedent which relied on the limited test described above. Practitioners should be aware of this updated case law and not rely on any cases that do not use a holistic analysis. For non-practitioners, the decision may make it easier for debtors to pursue claims they inadvertently or mistakenly failed to disclose on their petition, potentially increasing distributions to creditors. It is also a good reminder for potential defendants that just because a debtor inadvertently failed to disclose a claim against you, this will not necessarily result in judicial estoppel of the claim, depending on the circumstances.

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[1] *Keathley v. Buddy Ayers Construction*, 608 U.S. _____ (2026).