

No. 25-1020

IN THE
Supreme Court of the United States

BLUE CROSS AND BLUE SHIELD OF ALABAMA, ET AL.,
Petitioners,

v.

ANGELINA EMERGENCY MEDICINE ASSOCIATES PA,
ET AL.,
Respondents.

**On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Fifth Circuit**

**REPLY IN SUPPORT OF PETITION
FOR A WRIT OF CERTIORARI**

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INTRODUCTION

This case implicates a question fundamental to ERISA’s statutory regime: Can an equitable doctrine override the unambiguous text of an ERISA plan? The doctrine at issue here is estoppel, which the Fifth Circuit applied to override the unambiguous text of the Blue Plans’ ERISA plans. In so doing, the Fifth Circuit created two deep circuit splits and broke from this Court’s precedents in the bargain.

Respondents hardly debate those splits. Instead, they rewrite the decision below. In their view, the Fifth Circuit’s decision was not about “estoppel”—a term the court of appeals used 31 times. It was

actually about “waiver”—a term the Fifth Circuit used once in a parenthetical. The form and substance of the Fifth Circuit’s reasoning—not to mention Respondents’ briefing below, which did not even state the test for waiver—all belie Respondents’ argument. And their relabeling exercise is ultimately beside the point. ERISA’s written-instrument rule bars *any* equitable doctrine from overriding unambiguous plan terms, whether called estoppel, waiver, or something else entirely.

Respondents’ other objections cannot withstand scrutiny. The decision below resolved a purely legal question that is dispositive of thousands of claims, announces a new and broadly applicable exception to ERISA’s written-instrument rule, and is already reshaping litigation in the lower courts. Absent this Court’s intervention, unambiguous plan terms will become contingent on after-the-fact equitable judgments, “threaten[ing] the health benefits of millions of Americans,” AHIP Amicus Br. 2, and undermining the predictability and uniformity ERISA was enacted to secure. Certiorari should be granted.

ARGUMENT

I. THERE IS A DEEP CIRCUIT SPLIT OVER THE REQUIREMENTS FOR AND SCOPE OF ERISA ESTOPPEL.

1. As the petition explained, the Fifth Circuit created two deep circuit splits. Pet. 16-26.

First, the Fifth Circuit split from ten circuits by holding that equitable estoppel can override unambiguous ERISA plan documents. Pet. 17-22. In five circuits, estoppel can *never* override unambiguous ERISA plan documents. Pet. 17-18. Four other

circuits agree, but include a narrow exception for egregious, fraudulent conduct. Pet. 19-21. One circuit applies estoppel under ERISA only in extraordinary circumstances. Pet. 21. The Fifth Circuit stands alone in holding that estoppel can override unambiguous ERISA plans even in the absence of any exceptional circumstances. Pet. 21-22.

Second, the Fifth Circuit split from the same ten circuits by holding that “ERISA estoppel” pertains only to *promissory* estoppel and not equitable estoppel. Pet. 22-26.

2. Respondents hardly engage with the raft of precedent opposite the Fifth Circuit on both these holdings. They instead devote most of their brief to arguing that the Fifth Circuit did not endorse an “estoppel” theory at all; it actually applied a “waiver” theory. *See* BIO 1-3, 12-22.

That is wrong, in both form and substance. Start with the form. The Fifth Circuit repeatedly described the doctrine it applied as “estoppel”—a term it used 31 times. That matched how Respondents framed this in their briefing below. *See* CA5 Dkt. No. 58 at 66 (arguing that “[t]his is just such a case where * * * estoppel is proper”); *id.* at 25, 49-51 (similar); CA5 Dkt. No. 87 at 16 (arguing in reply for an “estoppel rule” independent of “ERISA estoppel”). The court explained that Respondents were “not seeking ERISA estoppel,” but were instead asking the court to apply “a separate theory of equitable estoppel.” Pet. App. 18a-19a. The court accepted that argument, holding that ERISA estoppel and this separate estoppel theory—which the court dubbed “general estoppel”—were “distinct types of estoppel” subject to distinct tests. *Id.* at 22a. Finding “no basis in the case law to

suggest” that ERISA estoppel and something-other-than-ERISA estoppel were “the same legal theories,” Pet. App. 21a, the Fifth Circuit concluded that the District Court had erred in concluding that “ERISA estoppel” and “general estoppel in ERISA cases” were subject to the same standard, *id.* at 22a. The court below referred to waiver only once, in a parenthetical citation referencing “waiver and estoppel.” *Id.*¹

Courts and litigants likewise understand the Fifth Circuit’s decision for what it is. As one court in the Fifth Circuit has explained, “[t]he Fifth Circuit * * * recognized a different type of estoppel, one which can apply to prevent a plan administrator from invoking defenses under the policy without applying the specific test of ERISA estoppel.” *Bay Area Healthcare Grp., LTD v. California Physicians’ Serv.*, No. 2:25-CV-00021, 2025 WL 4089350, at *9 (S.D. Tex. Sep. 26, 2025), *report and recommendation adopted* No. 2:25-CV-00021, 2026 WL 257572 (S.D. Tex. Jan. 30, 2026); *see also ER Addison, LLC v. Aetna Health Inc.*, No. 3:25-CV-2861-D, 2026 WL 948511 (N.D. Tex. Apr. 8, 2026) (allowing refiled claims to proceed after plaintiffs, following *Angelina*, supplemented their allegations to support their estoppel argument, even though the court had previously dismissed based on unambiguous anti-assignment provisions). And as litigants in another case have argued, the court “in *Angelina* * * * affirmed [the] application of equitable estoppel (and distinguished it from ERISA estoppel).” Plaintiffs’ Br. 11, *Columbia Hosp. Med. Dallas*

¹ The Fifth Circuit could have clarified that it actually meant “waiver” after Respondents floated this same argument in opposition to rehearing en banc. CA5 Dkt. No. 141 at 9-12. It did not, despite amending its opinion in other respects.

Subsidiary v. California Physicians' Serv., No. 4:24-cv-00924, 2025 WL 4654202 (E.D. Tex. Dec. 16, 2025).

Now for the substance: Waiver and estoppel have distinct, settled meanings. Waiver “is the intentional relinquishment or abandonment of a known right.” *Morgan v. Sundance, Inc.*, 596 U.S. 411, 417 (2022) (citation omitted). Estoppel “arises when one party has made a misleading representation to another party and the other has reasonably relied to his detriment on that representation.” *Thomason v. Aetna Life Ins. Co.*, 9 F.3d 645, 648 (7th Cir. 1993); accord, e.g., 1 Samuel Williston & Walter H.E. Jaeger, *A Treatise on the Law of Contracts* § 139 (3d ed. 1957).

Respondents maintain that the Fifth Circuit’s newfound estoppel theory functions the same as waiver. BIO 22. Wrong again. “A substantial difference exists between the doctrines of waiver and equitable estoppel,” *FDIC v. Hartford Acc. & Indem. Co.*, 97 F.3d 1148, 1152 n.3 (8th Cir. 1996), and “[c]are must be exercised not to confuse the[m],” *Providence Wash. Ins. Co. v. Stanley*, 403 F.2d 844, 850 n.6 (5th Cir. 1968).²

Respondents also offer a bright-line rule, under which estoppel is “offensive” and waiver is

² Despite invoking “waiver” a handful of times in their opening brief below, Respondents never stated the applicable legal test. See CA5 Dkt. No. 58 at 49-53. The Blue Plans pointed out this omission, noted that there is a “significant legal distinction between the two” doctrines, and explained that *Hermann Hospital v. MEBA Medical & Benefits Plan*, 959 F.2d 569 (5th Cir. 1992), the key case on which Respondents relied, was an estoppel case. CA5 Dkt. No. 76 at 42 (quoting *Pitts By & Through Pitts v. American Sec. Life Ins. Co.*, 931 F.2d 351, 357 (5th Cir. 1991)). Respondents conspicuously did not use the word “waiver” in defending their position on reply. CA5 Dkt. No. 87 at 15-18.

“defensive.” BIO 15-16. They do not cite any source for that assertion. That is unsurprising; estoppel is canonically applied defensively to “estop” an argument. 1 Williston & Jaeger, *supra*, § 139. Courts regularly apply ERISA estoppel in the “defensive” sense, including with respect to anti-assignment provisions. See, e.g., *Griffin v. Coca-Cola Refreshments USA, Inc.*, 989 F.3d 923, 936-937 (11th Cir. 2021) (ERISA estoppel did not bar defendant from asserting anti-assignment provisions); *Riverview Health Inst. LLC v. Medical Mut. of Ohio*, 601 F.3d 505, 521-523 (6th Cir. 2010) (similar).

The Fifth Circuit applied an estoppel analysis here. The court never asked whether the Blue Plans intentionally relinquished the right to assert the anti-assignment clauses in litigation, as required to show waiver. Instead, the court (1) found that the Blue Plans’ conduct could have been misleading (2) found that Respondents may have reasonably relied on that conduct to their detriment, and (3) held the Blue Plans could be bound to their conduct in the name of equity. Pet. App. 22a-24a. The “critical question” for the estoppel analysis, as the Fifth Circuit saw it, was whether Respondents “should have known about the anti-assignment clauses,” such that their reliance on the Blue Plans’ conduct was reasonable. Pet. App. 22a-23a. That is a straightforward application of equitable estoppel. See, e.g., 1 Williston & Jaeger, *supra*, § 139.

The problem, of course, is that the Fifth Circuit did not *also* apply the ambiguity and exceptional circumstances requirements essential to ERISA estoppel. Respondents retort that the Fifth Circuit did not apply ERISA estoppel because “Respondents

did not invoke [it],” BIO 13, but that is precisely the point. Every other circuit recognizes that equitable estoppel under ERISA and ERISA estoppel are one and the same. *Supra* pp. 2-3. Only the Fifth Circuit does not.

3. Respondents’ remaining “waiver” arguments fall just as flat.

Pointing to the Fifth Circuit’s 1992 *Hermann* decision, 959 F.2d 569, Respondents argue that *Hermann* applied waiver and the Fifth Circuit cited *Hermann*, so by some transitive property of citation, the panel must also have applied waiver.

Hermann was an estoppel case. *See* CA5 Dkt. No. 58 at 50 (Respondents arguing below that “as in *Hermann*,” the Blue Plans were “estopped” from invoking anti-assignment clauses); CA5 Dkt. No. 87 at 16 (Respondents arguing on reply that *Hermann* “estopped a healthcare plan from asserting an anti-assignment clause”). The *Hermann* court held that the defendant there had engaged in misleading conduct, that the plaintiff “rel[ied]” on that conduct to its detriment, and that the defendant was “estopped” from arguing otherwise. 959 F.2d at 574-575. *Hermann* never referred to waiver or analyzed intentional relinquishment. *See id.* The sources Respondents themselves cite (at 14) are in accord. *LeTourneau Lifelike Orthotics & Prosthetics, Inc. v. Wal-Mart Stores, Inc.*, 298 F.3d 348, 351 (5th Cir. 2002) (*Hermann* was decided “primarily on the basis of estoppel”); *Cell Sci. Sys. Corp. v. Louisiana Health*

Serv., 804 F. App'x 260, 265 (5th Cir. 2020) (per curiam) (in *Hermann*, “the plan was estopped”).³

Respondents finally argue that the Fifth Circuit’s decision is consistent with what it calls “waiver” cases from other circuits. BIO 17-19. Several of those cases helpfully confirm that waiver and estoppel are distinct doctrines. *Lauder v. First Unum Life Ins. Co.*, for example, held that waiver cannot be used to expand a policy’s “coverage” or alter its scope. 284 F.3d 375, 382 (2d Cir. 2002) (applying the intentional-relinquishment standard of waiver); *see also, e.g., Beverly Oaks Physicians Surgical Ctr., LLC v. Blue Cross & Blue Shield of Ill.*, 983 F.3d 435, 440-443 (9th Cir. 2020) (distinguishing between waiver and estoppel and analyzing each individually).

Respondents’ other cases (at 18-19) merely apply a version of the *Chenery*⁴ principle: They “consider only the rationale asserted by the plan administrator in the administrative record,” *Spradley v. Owens-Ill. Hourly Emps. Welfare Benefits Plan*, 686 F.3d 1135, 1140-42 (10th Cir. 2012), consistent with ERISA’s statutory requirement that administrators must provide beneficiaries with “specific reasons” for the denial of benefits, 29 U.S.C. § 1133(1); *see Collier v. Lincoln Life Assurance Co. of Bos.*, 53 F.4th 1180, 1185-89 (9th Cir. 2022); *Garrett v. Principal Life Ins. Co.*, 555 F. App'x 809, 812 (10th Cir. 2014); *Harlick v. Blue Shield of Cal.*, 686 F.3d 699, 719-720 (9th Cir. 2012); *Glista v. Unum Life Ins. Co. of Am.*, 378 F.3d

³ Respondents fault the Blue Plans for not mentioning *Hermann* in the petition. BIO 13. The Blue Plans are seeking certiorari review of the decision below, not *Hermann*.

⁴ *SEC v. Chenery Corp.*, 318 U.S. 80 (1943).

113, 128-132 (1st Cir. 2004); *Marolt v. Alliant Techsystems, Inc.*, 146 F.3d 617, 620 (8th Cir. 1998). That principle has no relevance here. This appeal does not involve review of ERISA's reasoned-explanation requirement; it concerns the threshold question of Respondents' standing to sue in federal court on plan members' behalf.

In sum, none of Respondents' authorities supports their attempt to recast the Fifth Circuit's decision as involving "waiver," much less to extend it to the enforceability of an anti-assignment clause.

4. Even if Respondents were correct that when the Fifth Circuit repeatedly said "estoppel," it actually meant "waiver," certiorari would still be warranted.

Respondents seem to think waiver is a get-out-of-ERISA-free card. As they see things, there is no barrier to applying "general" waiver derived from "traditional insurance law" in an ERISA case. BIO 20 (quotation marks omitted).

Not so. As explained, Pet. 5-6, courts in ERISA cases cannot directly apply common law and equitable doctrines, *Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41, 47-48 (1987). Courts instead apply, narrowly and with care, federal common law *translations* of those doctrines. See *Kennedy v. Plan Adm'r for DuPont Sav. & Inv. Plan*, 555 U.S. 285, 304 (2009). But to ensure compliance with ERISA's written-instrument rule, federal common law under ERISA cannot override unambiguous plan documents. See *id.* That is true for both estoppel and waiver. See *id.* at 303-304 (where "a federal common law of waiver" conflicts with "the documents and instruments" of an ERISA plan, "the documents control") (quotation marks omitted). Indeed, Respondents' own preferred

“waiver” cases hew closely to the rule that federal common law cannot override the unambiguous text of an ERISA plan. *See Beverly Oaks*, 983 F.3d at 442 (plaintiff pled both “ambigu[ity]” and “extraordinary circumstances”); *Lauder*, 284 F.3d at 381-382 (finding waiver “would not create coverage” and limiting “holding to the circumstances of this particular claim”); *Pitts*, 931 F.2d at 355-357 (interpreting plan text in favor of party invoking waiver and applying waiver in the alternative); *see also Griffin*, 989 F.3d at 936-937 (no waiver or estoppel where plan was unambiguous).

II. THE DECISION BELOW CONFLICTS WITH THIS COURT’S CASES.

The Fifth Circuit’s decision also cannot be squared with this Court’s ERISA precedents. As the Blue Plans explained, Pet. 26-29, the Fifth Circuit’s creation of a “distinct type[] of estoppel” under ERISA that can override unambiguous plan provisions, Pet. App. 22a, breaks with this Court’s cases confirming that the written-instrument rule is “the linchpin” of ERISA’s statutory scheme, *Heimeshoff v. Hartford Life & Acc. Ins. Co.*, 571 U.S. 99, 108 (2013) (citation omitted); *see also, e.g., Conkright v. Frommert*, 559 U.S. 506, 516-518 (2010); *Kennedy*, 555 U.S. at 304.

Respondents’ only rejoinder to this conflict is predicated on a single passing remark in *Heimeshoff*. BIO 23-24. But *Heimeshoff* unanimously held that a plan’s contractual limitations period “should be enforced as written.” 571 U.S. at 108. In dicta, the Court observed that “waiver or estoppel” may prevent an administrator from invoking a limitations provision when their conduct caused a participant to miss a filing deadline. *Id.* at 114. *Heimeshoff* did not

involve—much less authorize—equitable nullification of an unambiguous plan term.

Respondents also cite *Conkright* to support a policy argument that administrators must forfeit otherwise valid litigation defenses if they are not invoked early enough in the administrative process, in the name of “efficiency” and “uniformity.” BIO 24 (citation omitted). *Conkright* held that deference to plan administrators’ interpretations of *ambiguous* plan terms “promotes efficiency” by preventing “unexpected and inaccurate plan interpretations.” 559 U.S. at 517. It did not suggest that an insurer or administrator cannot enforce *unambiguous* plan provisions.

III. THIS CASE IS AN EXCELLENT VEHICLE TO RESOLVE THE IMPORTANT QUESTION PRESENTED.

Beyond their flawed waiver argument, *see supra* pp. 3-10, Respondents raise three other objections to certiorari review. BIO 25-27. None has merit.

First, this Court routinely reviews interlocutory ERISA decisions that resolve dispositive legal questions. *See, e.g., Advocate Health Care Network v. Stapleton*, 581 U.S. 468, 483-484 (2017) (reversing denials of motions to dismiss and resolving threshold legal question of ERISA coverage); *Amgen Inc. v. Harris*, 577 U.S. 308, 311 (2016) (per curiam) (remanding reversal of dismissal to reevaluate complaint “guided by the standards provided in” the Court’s ERISA caselaw). And here, the unambiguous anti-assignment clauses are dispositive of thousands of remaining claims in this sprawling case. Pet. 35-36.

Second, the decision below is not remotely “fact-bound.” BIO 26. The Fifth Circuit articulated a new estoppel-based exception to ERISA’s written-instrument rule, as courts and litigants have already recognized. *See supra* pp. 4-5.

Third, courts’ and litigants’ recognition of and reliance on the Fifth Circuit’s new estoppel exception belies Respondents’ assertion that this case is unimportant. BIO 26. The decision below invites claim-trafficking and leverage-based litigation at a grand scale. Pet. 30-36. Administrators must now assert standing arguments *ex ante* to avoid forfeiture, which will deter the common practice of paying out-of-network claims to “protect employees from balance billing,” AHIP Amicus Br. 12, because any such payment risks being recast as a representation giving rise to estoppel. In turn, the enforceability of unambiguous plan terms will become contingent on a court’s after-the-fact assessment of “equity.” That regime destroys predictability and uniformity—the central values ERISA’s written-instrument rule was designed to protect. *See Kennedy*, 555 U.S. at 300-301, 304. Faced with these risks, employers may choose “not [to] establish or maintain their benefit plans—the exact opposite of what Congress intended,” to the “detriment of employees and their families.” AHIP Amicus Br. 10-11.

CONCLUSION

For the foregoing reasons, and those in the petition, the petition should be granted.

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