No. 25-

IN THE

Supreme Court of the United States

ROOFING DESIGNS BY JR, L.L.C.,
doing business as ROOFING DESIGNS,

Petitioner,

v.

ROYAL AMERICAN CONSTRUCTION, INCORPORATED; HARTFORD FIRE INSURANCE COMPANY,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

1. Whether the doctrine of judicial estoppel can be invoked to bar a plaintiff who fails to fully or accurately disclose a civil claim in bankruptcy filings from pursuing that claim simply because there is a "potential motive" for nondisclosure, regardless of whether there is evidence that the plaintiff in fact acted in bad faith [**Petitioner requests a GVR when this Court decides *Keathley v. Buddy Ayers Const., Inc.*, No. 25-6, ___ S. Ct. ___ (pending for the 2025-26 term)**].

PARTIES TO PROCEEDING AND CORPORATE DISCLOSURE STATEMENT

Parties

- Petitioner, Roofing Designs by JR, L.L.C., doing business as Roofing Designs, was the Appellant and defendant in the district court.

- Respondent, Royal American Construction, Incorporated, was the Appellee and plaintiff in the district court.

- Respondent, Hartford Fire Insurance Company, was the Appellee and third-party defendant in the district court.

Pursuant to Supreme Court Rule 14.1(b)(ii) and 29.6, Petitioner Roofing Designs by JR, L.L.C., doing business as Roofing Designs, states that it has no parent corporation and that no publicly held company owns 10% or more of its membership interests. Petitioner does not have a stock ticker symbol.

LIST OF RELATED CASES

Pursuant to Supreme Court Rule 14.1(b)(iii), the following proceedings are directly related to this case.

- *Royal Am. Const., Inc. v. Roofing Designs by JR, L.L.C.*, No. 25-20048, U.S. Court of Appeals for the Fifth Circuit. Judgment entered January 13, 2026. Reh'g denied March 10, 2026.

- *Royal Am. Const., Inc. v. Roofing Designs by JR, L.L.C.*, No. 4:21-CV-2440, U.S. District Court for the Southern District of Texas. Judgment entered January 7, 2025.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner, Roofing Designs by JR, L.L.C., doing business as Roofing Designs ("Roofing Designs") respectfully petitions this Court for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit in this case.

OPINIONS BELOW

The unpublished Opinion of the United States Court of Appeals for the Fifth Circuit, *Royal Am. Const., Inc. v. Roofing Designs by JR, L.L.C.*, No. 25-20048, 2026 WL 94972 (5th Cir. Jan. 13, 2026), is attached to this Petition as Appendix A, at 1a-9a.

The opinion of the District Court is unpublished, *Royal Am. Const., Inc. v. Roofing Designs by JR, L.L.C.*, No. H-21-02440, 2025 WL 43585 (S.D. Tex. Jan. 7, 2025), is attached to this Petition as Appendix B, at 10a-23a.

The Fifth Circuit's denial of Roofing Designs' Petition for Rehearing is attached to this Petition as Appendix C, at 24a-25a.

JURISDICTIONAL STATEMENT

The U.S. Court of Appeals for the Fifth Circuit entered its judgment on January 13, 2026 and denied rehearing on March 10, 2026. (App. 1a-9a, 24a-25a). This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATEMENT OF THE CASE

This Court should hold the foregoing petition for writ of certiorari pending this Court's decision in *Keathley v. Buddy Ayers Const., Inc.*, No. 25-6, ___ S. Ct. ___ (pending for the 2025-26 term), then grant, vacate, and remand the case to the U.S. Court of Appeals for the Fifth Circuit for further consideration in light of that decision.

This Petition presents the identical legal question at issue in *Keathley* and challenges the same erroneous judicial estoppel framework employed by the same circuit court. A substantive ruling in *Keathley* would certainly invalidate the reasoning underlying the judgment below and necessitate reconsideration under the proper legal standard. Accordingly, this case is an exceptionally strong candidate for GVR.

The underlying suit arises from a dispute over two subcontractor agreements Roofing Designs entered into with Royal American Construction, Inc. ("Royal American") in 2020. App. 2a. First, Royal American filed suit against Roofing Designs in July 2021, alleging breach of contract, breach of warranty, and conversion. App. 3a. Thereafter, Roofing Designs filed a counterclaim against Royal American alleging breach of contract, quantum meruit, and negligence. App. 3a. Roofing Designs also filed a third-party complaint against Hartford Fire Insurance Company ("Hartford"), alleging it was entitled to recover on the bonds that Hartford issued. App. 3a. Pursuant to a stipulation, the district court dismissed Royal American's claims with prejudice in August 2024. App. 3a.

In Roofing Designs' initial disclosures filed with the district court in November 2021, it indicated it sought

$227,756.43 in damages. App. 3a. Then in June 2022, Roofing Designs' corporate representative testified that it sought over $600,000 in damages and fees. App. 3a.

Subsequently, in October 2023, Roofing Designs filed for petition for bankruptcy in the Northern District of Texas, filing with it a schedule listing its assets and liabilities, disclosing it had a cause of action against Royal American. App. 3a. The schedule listed the nature of the claim as "[u]nknown" and the amount requested as $0.00. App. 3a. The initial disclosure did not mention a cause of action against Hartford. App. 3a.

Then, in January 2024, Roofing Designs filed its plan of reorganization with the bankruptcy court, noting that it had numerous litigation claims, but the claims were speculative and could not be counted on to provide funds to the estate. App. 3a-4a. The proposed plan further stated that it was "unaware of any litigation which could be brought for the benefit of the creditors of the estate," but indicated it was involved in litigation with Royal American in which it fully believes in the claims, but that Royal American has denied any liability. App. 4a. The bankruptcy court confirmed the plan in February 2024. App. 4a.

In the instant case, in May 2024, Hartford indicated it planned to seek dismissal of Roofing Designs' claims because it failed to identify any claims against Hartford in its plan for reorganization. App. 4a. Roofing Designs then amended its schedules with the bankruptcy court adding Hartford to the list of entities against which it had causes of action, listing the nature of the claim as "[u]nknown" and the amount as $0.00. App. 4a.

Then, in May 2024, Royal American and Harford jointly moved for summary judgment, alleging that Roofing Designs' claims should be barred by judicial estoppel because it failed to adequately disclose the nature or value of its claims in its bankruptcy proceeding. App. 4a. The district court granted the motion and dismissed Roofing Designs' claims with prejudice. App. 4a.

Roofing Designs appealed the ruling to the U.S. Court of Appeals for the Fifth Circuit. App. 4a. In analyzing whether the claims were barred by judicial estoppel, the result turned on the third prong of the judicial estoppel standard, whether the party acted inadvertently. App. 5a, 8a. Relying on its own precedent, *In re Coastal Plains, Inc.*, the Fifth Circuit asserted that a "debtor's failure to satisfy its statutory disclosure duty is 'inadvertent' only when, in general, the debtor either lacks knowledge of the undisclosed claims *or* has no motive for their concealment." App. 8a (citing *In re Coastal Plains, Inc.*, 179 F.3d 197, 210 (5th Cir. 1999) (emphasis in original). The Fifth Circuit further relied on its holding in *Love*, that "[a] lack of inadvertence may therefore be found when there is any potential motivation for concealing a claim." App. 8a (citing *Love v. Tyson Foods, Inc.*, 677 F.3d 258, 262 (5th Cir. 2012) ("[T]he motivation subelement is almost always met if a debtor fails to disclose a claim or possible claim to the bankruptcy court."). App. 8a.

In other words, the Fifth Circuit, applying its own established precedent, held that the "lack of inadvertence" prong is met merely by a showing of a "potential motive" to conceal, regardless of whether there is evidence that the plaintiff in fact acted in bad faith. The Fifth Circuit therefore affirmed the district court's grant of summary judgment. App. 9a. It further denied Roofing Designs' Petition for Rehearing. App. 24a-25a.

Roofing Designs now asks this Court to hold this petition pending this Court deciding the same dispositive issue in *Keathley v. Buddy Ayers Const., Inc.*, No. 25-6, ___ S. Ct. ___ (pending for the 2025-26 term), then grant, vacate, and remand the case to the U.S. Court of Appeals for the Fifth Circuit for further consideration in light of that decision.

REASONS FOR GRANTING THE PETITION

This Court should hold this petition pending this Court's decision in *Keathley v. Buddy Ayers Const., Inc.*, No. 25-6, cert. granted, 146 S. Ct. 326 (2025), then grant, vacate, and remand the case for further consideration in light of that decision.

The question presented in this case is materially identical to the question now pending before the Court in *Keathley*: whether the doctrine of judicial estoppel can be invoked to bar a plaintiff who fails to disclose a civil claim in bankruptcy filings from pursuing that claim simply because there is a potential motive for nondisclosure, regardless of whether there is evidence that the plaintiff in fact acted in bad faith. This Court granted certiorari in *Keathley*, and the case was argued on March 24, 2026. Therefore, this Court's opinion is forthcoming.

In *Keathley*, Mr. Keathley filed a Chapter 13 Voluntary Petition for Bankruptcy and a Chapter 13 Plan in the United States Bankruptcy Court for the Eastern District of Arkansas. *Keathley v. Buddy Ayers Construction,* *Inc.*, No. 24-60025, 2025 WL 673434 (5th Cir. Mar. 3, 2025), *cert. granted*, 146 S. Ct. 326. A few months later, Keathley filed an Amended Plan, and the bankruptcy court confirmed the plan. *Id*. Thereafter, Keathley was involved in a motor vehicle accident with Appellee and filed a personal injury lawsuit in the Northern District of Mississippi. *Id*. Although Keathley claims he informed his bankruptcy lawyer of the lawsuit, neither Keathley nor his bankruptcy attorney disclosed the personal injury cause of action to the bankruptcy court. *Id.* He then modified his Plan multiple times, each time failing to disclose the pending lawsuit. *Id*.

After Appellee filed a motion for summary judgment, Keathley filed an Amended Schedule, notifying the bankruptcy court of the personal injury lawsuit. *Id*., at *2. The district court then granted summary judgment on the grounds of judicial estoppel. This Court, in its analysis of the inadvertence prong, relying on *Love*, stated that, "the motivation sub-element is almost always met if a debtor fails to disclose a claim or possible claim to the bankruptcy court." *Id*., at *5. This Court therefore agreed with the district court that Keathley stood to *potentially* benefit by concealing his personal injury case from the bankruptcy court. *Id*.

While *Keathley* presents slightly different facts, as Roofing Designs did in fact disclose the lawsuit against Royal American in its initial bankruptcy filings, the operative question before the Court is the same, arising from the same circuit court, which remains an outlier among the circuits in its unusually stringent application of the third prong of the judicial estoppel analysis amid an acknowledged circuit split. *See*, *e.g.*, *Slater v. United States Steel Corp.*, 871 F.3d 1174, 1185-86 (11th Cir. 2017) (rejecting the "potential benefit" standard and adopting a rule requiring the court consider all the facts and circumstances); *Martineau v. Wier*, 934 F.3d 385, 394 (4th Cir. 2019) (holding that whether judicial estoppel should be invoked depends on the specific factual context of the case, not a general formulation or "inflexible" rule or standard); *Ah Quin v. Cty. Of Kauai Dept. of Transp.*, 733 F.3d 267, 267-77 (9th Cir. 2013) (rejecting an inquiry into a plaintiff's motive to conceal and instead focusing on the plaintiff's subjective intent); *but see Love v. Tyson Foods, Inc.*, 677 F.3d 258, 262 (5th Cir. 2012) (a lack of inadvertence may be found when there is any potential motive for concealing a claim); *In re Coastal Plains, Inc.*, 179 F.3d 197, 210 (5th Cir. 1999) (a debtor's failure to satisfy its statutory disclosure duty is 'inadvertent' only when the debtor either lacks knowledge of the undisclosed claims *or* has no motive for the concealment).

The operative word is "potential" motive, rather than looking to the totality of the circumstances to assess whether a debtor's omission was inadvertent or an honest mistake before invoking judicial estoppel to bar the claim, as many other circuits do. *See Brief of Petitioner*, 2025 WL 3669484, at *16 (U.S.) (Appellate Brief). As the petitioner argues in *Keathley,* "only a totality-of-the-circumstances test honors the flexibility demanded by equity." *Id.*, at *19. Applying this more flexible approach here would render the underlying court of appeals' opinion flawed. Thus, this Court's opinion in *Keathley* will necessitate reconsideration of this matter at the Fifth Circuit under the proper legal standard

The Fifth Circuit here affirmed summary judgment in Roofing Designs' appeal on the same grounds as in

Keathley, relying on the rigid third prong applied by the Fifth Circuit, that any "potential motive" defeats an inadvertence finding. App. 8a-9a. The Fifth Circuit relied on precedent that is directly impacted by the question before this Court in *Keathley*. Therefore, the disposition of *Keathley* is likely to control, or at minimum substantially affect, the resolution of this case on remand. This is especially true here where Roofing Designs did not wholly fail to disclose the suit, but merely did not accurately disclose the suit.

This Court routinely grants certiorari, vacates the judgment below, and remands for reconsideration in light of pending decisions that may alter the governing legal framework ("GVR"). *See*, *e.g.*, *Lawrence v. Chater*, 516 U.S. 163, 165-66 (1996) (per curiam) (describing GVR practice). A GVR is especially appropriate here because (1) Roofing Designs squarely preserved the issue below; (2) the Fifth Circuit relied on precedent now under review by this Court; (3) judicial economy favors allowing the Fifth Circuit to reconsider the case after this Court resolves *Keathley*; and (4) there is a reasonably probability that the decision below cannot stand after *Keathley*.

This Could should therefore hold this Petition pending disposition of *Keathley*, and thereafter grant the petition, vacate the judgment of the Fifth Circuit, and remand for further consideration in light of this Court's decision in *Keathley*.

CONCLUSION

In consideration of the foregoing Petition, Roofing Designs urges this Court to hold the foregoing petition for writ of certiorari pending this Court's decision in *Keathley v. Buddy Ayers Const., Inc.*, No. 25-6, ___ S. Ct. ___ (pending for the 2025-26 term), then grant, vacate, and remand the case for further consideration in light of that decision.

Respectfully submitted,

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APPENDIX A — OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT, FILED JANUARY 13, 2026

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 25-20048

ROYAL AMERICAN CONSTRUCTION, INCORPORATED,

Plaintiff-Appellee,

v.

ROOFING DESIGNS BY JR, L.L.C., DOING BUSINESS AS ROOFING DESIGNS,

Defendant/Third Party Plaintiff-Appellant,

HARTFORD FIRE INSURANCE COMPANY,

Third Party Defendant-Appellee.

Filed January 13, 2026

OPINION

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:21-CV-2440

Before Smith, Stewart, and Haynes, *Circuit Judges.*

Per Curiam:*

Roofing Designs by JR, L.L.C., doing business as Roofing Designs ("Roofing Designs"), appeals the summary judgment for Royal American Construction, Incorporated ("Royal American") and Hartford Fire Insurance Company ("Hartford") on equitable estoppel grounds. For the reasons set forth below, we AFFIRM.

I. Background

Looking back, in 2020, Roofing Designs entered into two subcontract agreements with Royal American to provide services in connection with Royal American's development and construction of an apartment community in Houston, Texas. Roofing Designs did not complete the project, and the parties dispute who is at fault for the noncompletion. Chynethia Gragg ("Gragg"), the owner of Roofing Designs, recorded, in the Harris County Real Property Records, affidavits claiming a mechanic's lien and a retainage lien against Royal American for nonpayment for the work Roofing Designs had completed. Roofing Designs maintains that it is also entitled to payment under two bonds that Hartford issued to secure Royal American's payment obligations and to indemnify against liens.

* This opinion is not designated for publication. *See* 5th Cir. R. 47.5.

Royal American filed suit in the Southern District of Texas against Roofing Designs in July 2021, alleging breach of contract, breach of warranty, and conversion.[1] Roofing Designs filed a counterclaim in September 2021, alleging breach of contract, quantum meruit, and negligence. Roofing Designs also filed a third-party complaint against Hartford, maintaining that it was entitled to recover on the bonds that Hartford had issued. In Roofing Designs' initial disclosures, filed with the district court in November 2021, it stated that it was seeking $227,756.43 in damages. In June 2022, Gragg testified as Roofing Designs' corporate representative that it was seeking over $600,000 in damages and fees.

In October 2023, Roofing Designs filed for bankruptcy in the Northern District of Texas. Roofing Designs filed with its petition a schedule listing assets and liabilities that stated that it had a cause of action against Royal American, but, despite the above information, it listed the nature of the claim as "[u]nknown" and said the amount requested was $0.00. This $0.00 was included in the computation of the total value of Roofing Designs' assets. Roofing Designs made no mention of a cause of action against Hartford in its initial filings.

In January 2024, Roofing Designs filed its plan of reorganization with the bankruptcy court, and in the section titled "Analysis and Valuation of Property," it

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1. The parties later stipulated to dismissal of Royal American's claims against Roofing Designs, and in August 2024, the court accordingly ordered that Royal American's claims against Roofing Designs were dismissed with prejudice.

noted that it "believes it has numerous litigation claims, however, at the present time these claims are speculative and cannot be counted on to provide funds to the estate." The proposed plan also stated that Roofing Designs was "unaware of any litigation which could be brought for the benefit of the creditors of the estate," that it was "current[ly] involved in litigation with Royal American," and that it "fully believes in the litigation however Royal American has denied any liability[.]" The bankruptcy court confirmed the plan in February 2024. Obviously, leaving out the amount of money it knew it was seeking assists in keeping out money to give to creditors in the bankruptcy case.

In a joint status report filed with the district court in May 2024, Hartford indicated that it planned to seek dismissal of Roofing Designs' claims because Roofing Designs had failed to identify any claims against Hartford in its plan for reorganization. Roofing Designs then filed amended schedules with the bankruptcy court adding Hartford to the list of entities against which it had causes of action, and it again listed the nature of the claim as "[u]nknown" and the amount requested as $0.00.

Royal American and Hartford jointly moved for summary judgment in May 2024. They maintained that Roofing Designs' claims against Royal American and Hartford should be barred by judicial estoppel because Roofing Designs did not adequately disclose the nature or value of its claims in its bankruptcy proceeding. The district court granted the motion and dismissed Roofing Designs' claims with prejudice. Roofing Designs timely appealed.

II. Jurisdiction & Standard of Review

We have jurisdiction over this appeal under 28 U.S.C. § 1291. We review a summary judgment de novo, and we review a district court's application of equitable estoppel for abuse of discretion. *See Kane v. Nat'l Union Fire Ins. Co.*, 535 F.3d 380, 384 (5th Cir. 2008) (per curiam); *In re Coastal Plains, Inc.*, 179 F.3d 197, 205 (5th Cir. 1999).

III. Discussion

"Judicial estoppel is a common law doctrine by which a party who has assumed one position in his pleadings may be estopped from assuming an inconsistent position." *In re Coastal Plains, Inc.*, 179 F.3d at 205 (citation modified). A court may invoke this equitable doctrine at its discretion to "protect the integrity of the judicial process." *Reed v. City of Arlington*, 650 F.3d 571, 574 (5th Cir. 2011) (en banc) (quoting *New Hampshire v. Maine*, 532 U.S. 742, 749–50 (2001)). In determining whether to invoke judicial estoppel, courts look to whether "(1) the party against whom judicial estoppel is sought has asserted a legal position which is plainly inconsistent with a prior position; (2) a court accepted the prior position; and (3) the party did not act inadvertently." *Id.* at 574. "Because the doctrine is intended to protect the judicial system, *rather than the litigants*, detrimental reliance by the opponent of the party against whom the doctrine is applied is not necessary." *In re Coastal Plains*, 179 F.3d at 205. "Judicial estoppel is particularly appropriate where . . . a party fails to disclose an asset to a bankruptcy court[ ] but then pursues a claim in a separate tribunal based on that undisclosed asset." *Jethroe v. Omnova Sols., Inc.*, 412 F.3d 598, 600 (5th Cir. 2005).

As to the issue of whether Roofing Designs' positions in litigation and in bankruptcy were plainly inconsistent, Roofing Designs maintains that it fully disclosed the existence of its litigation against Royal American and Hartford during its Chapter 11 proceedings, and thus that there were no inconsistencies between its positions. The record evidence shows otherwise.

Because "the Bankruptcy Code and Rules impose upon bankruptcy debtors an express, affirmative duty to disclose all assets, *including contingent and unliquidated claims*," *In re Coastal Plains, Inc.*, 179 F.3d at 207–08, we have consistently held that when a party omits claims that must be disclosed from the schedules and stipulations filed in its bankruptcy proceedings, it represents that no such claims exist, *see id.* at 210; *see also In re Flugence*, 738 F.3d 126, 130 (5th Cir. 2013); *In re Superior Crewboats, Inc.*, 374 F.3d 330, 335 (5th Cir. 2004).

Roofing Designs did not disclose any claims against Hartford in its initial schedules, despite such claims' having already been filed in federal court. Roofing Designs noted that it believed it had various causes of action against Royal American, but it stated that the nature of the claim was "[u]nknown," and the amount requested was $0.00. This disclosure was made in its initial filing in the bankruptcy court after Roofing Designs had filed its counterclaim against Royal American and after it filed its third-party complaint against Hartford. Moreover, even after Roofing Designs amended its schedules after its proposed plan for reorganization had been confirmed to add its potential claim against Hartford, it continued to represent the value of all of its claims as $0.00.

We note that representing a claim as valueless in one forum and as valuable and viable in another are plainly inconsistent positions. Despite Roofing Designs representing in its initial disclosures in the Southern District Court that it sought $227,756.34 in damages and representing in a deposition that it was entitled to over $600,000 in damages and attorneys' fees, Roofing Designs never gave that to the Northern District Bankruptcy Court, instead claiming that it valued its claims at $0.00. The district court therefore did not err in concluding that Roofing Designs' representations to the bankruptcy court were inconsistent with its claims in the district court.

It is also apparent that the bankruptcy court accepted Roofing Designs' position regarding the value of its claims against Hartford and Royal American. "[J]udicial acceptance means only that the first court has adopted the position urged by the party, either as a preliminary matter or as part of a final disposition." *In re Coastal Plains, Inc.*, 179 F.3d at 206 (citation omitted). We have often held that a bankruptcy court accepts a party's position that it has no claims when the court confirms the party's plan. *See, e.g., Jethroe*, 412 F.3d at 600; *In re Flugence*, 738 F.3d at 130. Here, there is no indication that the district court erred in concluding that the bankruptcy court accepted Roofing Designs' prior position that it had no claims of value when it approved Roofing Designs' plan, which did not disclose Roofing Designs' claims against Hartford and which valued its claims against Royal American at $0.00.

There is also no indication that Roofing Designs acted inadvertently in failing to adequately disclose the value of its claims. A "debtor's failure to satisfy its statutory disclosure duty is 'inadvertent' only when, in general, the debtor either lacks knowledge of the undisclosed claims *or* has no motive for their concealment." *In re Coastal Plains, Inc.*, 179 F.3d at 210. A lack of inadvertence may therefore be found when there is any potential motivation for concealing a claim. *See Love v. Tyson Foods, Inc.*, 677 F.3d 258, 262 (5th Cir. 2012) ("[T]he motivation sub-element is almost always met if a debtor fails to disclose a claim or possible claim to the bankruptcy court." (citation omitted)). "A motivation to conceal may be shown by evidence of a potential financial benefit that could result from concealment." *U.S. ex rel. Long v. GSDMIdea City, L.L.C.*, 798 F.3d 265, 273 (5th Cir. 2015); *see also In re Superior Crewboats, Inc.*, 374 F.3d at 336. "The relevant time frame for determining whether a motivation exists is at the time the debtor failed to meet his disclosure obligations, not after a bankruptcy has been closed or discharged." *Allen v. C & H Distribs., L.L.C.*, 813 F.3d 566, 574 (5th Cir. 2015) (citation modified).

Here, Roofing Designs brought its claims against Royal American and Hartford before it filed for bankruptcy, so there is no evidence that Roofing Designs lacked knowledge of its claims. As the district court correctly observed, there was a potential motivation to conceal the value of the claims because doing so would allow Roofing Designs to "discharge its debt at a fraction of its value, while keeping the full value of its claims against Hartford and Royal American." The district court therefore did not err in concluding that the inconsistent positions were not inadvertent.

IV. Conclusion

The district court did not err in concluding that judicial estoppel was appropriate. Accordingly, we AFFIRM the summary judgment.

APPENDIX B — OPINION OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION, FILED JANUARY 7, 2025

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Civil Action H-21-02440

ROYAL AMERICAN CONSTRUCTION, INC.,

Plaintiff,

v.

ROOFING DESIGNS BY JR, LLC,
DBA ROOFING DESIGNS,

Defendants.

Filed January 7, 2025

MEMORANDUM AND ORDER

Pending before the court is The Hartford Fire Insurance Company (Hartford) and Royal American Construction's (Royal American) Joint Motion for Summary Judgment on all claims by Roofing Designs based on Judicial Estoppel. ECF No. 135. The parties consented to the jurisdiction of the undersigned magistrate judge for all purposes, including entry of final judgment.

ECF No. 104. Hartford and Royal American's Joint Motion for Summary Judgment is **GRANTED.** Roofing Designs by JR, LLC's (Roofing Designs) claims against Hartford and Royal American are hereby **DISMISSED** with **PREJUDICE.**

1. Facts and Procedural History

This dispute arises from Royal American's termination of two subcontracts it entered into with Roofing Designs for the latter to provide construction services for a planned senior living apartment building in Houston, Texas. ECF No. 6. On July 26, 2021, Chynethia Gragg, the sole member of Roofing Designs and acting on behalf of the company, recorded two affidavits claiming liens against Royal American in the Harris County Real Property Records. The first claimed a mechanic's lien in the amount of $102,793.00. ECF No. 135-1. The second claimed a retainage lien in the amount of $28,121.20. ECF No. 135-2.

The next day, on July 27, 2021, Royal American filed the instant lawsuit alleging that Roofing Designs was liable for breach of the subcontracts, breach of warranty, and conversion. ECF No. 1. On September 21, 2021, Roofing Designs filed its counterclaim against Royal American for breach of contract, quantum meruit, and negligence. ECF No. 15. Roofing Designs alleged that, at the time Royal American terminated the subcontracts, Royal American owed it the amounts claimed in the mechanic and retainage liens. *Id.* at 6. Roofing Designs also filed its original third-party complaint against Hartford who had issued a Texas Statutory Payment Bond for the project.

ECF No. 16. Roofing Designs claimed that it was entitled to recover on the bond. *Id.*

In its initial disclosures, filed on November 24, 2021, Roofing Designs provided a detailed calculation of its alleged damages, stating that it was seeking $227,756.43 as damages. ECF No. 32 at 8. On June 16, 2022, Ms. Gragg testified in her capacity as Roofing Designs' corporate representative that Roofing Designs was seeking over $600,000 in damages, including attorneys' fees. ECF No. 135-3 at 48.

On October 4, 2023, Roofing Designs filed its Voluntary Petition in Bankruptcy under Chapter 11 of the Bankruptcy Code in the Northern District of Texas. ECF No. 135-5. In a section of the Summary of Assets and Liabilities (Summary) filed with the Petition requesting information about causes of action, Roofing Designs mentioned that it had a cause of action against Royal American but did not disclose the nature of the claim and valued the claim at $0.00. *Id.* at 14. That zero-dollar valuation was included in the computation of the total value of Roofing Designs' assets of $81,360.00. *Id.* at 15. Roofing Designs did not include in that section or anywhere else in its bankruptcy court filings that it had a cause of action against Hartford. *Id.*

On January 2, 2024, Roofing Designs filed its Plan of Reorganization (Plan). In Article V of the Plan, Roofing Designs stated that it had several litigation claims but that those claims were "speculative" and "cannot be counted on to provide funds to the estate." ECF No. 135-6 at 8. Roofing Designs further stated in Article XVII of its

Plan that it has evaluated claims that could be brought but that it was "unaware of any litigation which could be brought for the benefit of the creditors of the estate." *Id.* at 13. Roofing Designs also mentioned the Royal American litigation and that Royal American has asserted claims in the bankruptcy totaling over $650,000; however, Roofing Designs did not mention its own affirmative claims against Royal American or the damages it was seeking. *Id.* Roofing Designs merely stated that the Royal American lawsuit would not prevent it from complying with the plan. *Id.* On February 22, 2024, the bankruptcy court signed an order confirming Roofing Designs' Plan. ECF No. 135-7. On April 10, 2024, the bankruptcy court discharged the trustee. ECF No. 135-8.

On April 14, 2024, Roofing Designs filed its motion to lift the automatic stay, stating that its bankruptcy proceedings had concluded. ECF No. 125. The stay was lifted on April 24, 2024. On May 3, 2024, the parties filed a joint status report. ECF No. 130. In that report, Hartford stated that it intended to seek dismissal of Roofing Designs' claims because Roofing Designs did not identify any claims against Hartford in its Plan. ECF No. 130. On May 8, 2024, Roofing Designs filed amended schedules with the bankruptcy court. ECF No. 135-9. In the amended schedules, Roofing Designs disclosed its claims against Hartford. ECF No. 135-9 at 6. However, Roofing Designs continued to value its claims against Royal American at $0.00. ECF No. 135-9 at 7.

On May 31, 2024, Hartford and Royal American filed a joint motion for summary judgment based on judicial estoppel. ECF No. 135. They argue that Roofing Designs should be estopped from asserting claims against them because Roofing Designs failed to disclose its claims against Hartford and devalued its claims against Royal American. *Id.* Thus, according to Hartford and Royal American, Roofing Designs misled the bankruptcy court and received the benefit of a discharge of a substantial portion of its debts but retained the full value of its lawsuit against Hartford and Royal American. Roofing Designs responds that all parties were aware of its bankruptcy, and all had knowledge of its claims against Hartford and Royal American. ECF No. 144 at 2. Roofing Designs also disputes that its disclosures in its bankruptcy petition were inadequate. *Id.* Hartford and Royal American have replied. The motion is ripe for resolution.

2. Summary Judgment Analysis

A. Summary Judgment Standard

A court should grant summary judgment when, viewing the evidence in the light most favorable to the non-movant, "the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." *Davenport v. Edward D. Jones & Co.*, 891 F.3d 162, 167 (5th Cir. 2018) (quoting Fed. R. Civ. P. 56(a)). A genuine issue of material fact exists only if a rational jury, reviewing the complete record, could return a verdict for the non-movant. *McMichael v. Transocean Offshore Deepwater Drilling, Inc.*, 934 F.3d 447, 455 (5th Cir. 2019) (quoting *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986)).

Initially, "[t]he movant bears the burden of identifying those portions of the record it believes demonstrate the absence of a genuine issue of material fact." *Lincoln Gen. Ins. Co. v. Reyna*, 401 F.3d 347, 349 (5th Cir. 2005) (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 322–25 (1986)). If the movant carries that burden, then the burden shifts to the non-movant to set forth specific facts showing a genuine issue for trial. Fed. R. Civ. P. 56(e). The non-movant must "go beyond the pleadings," using competent summary judgment evidence to cite "specific facts" showing a genuine issue for trial. *McCarty v. Hillstone Rest. Grp., Inc.*, 864 F.3d 354, 357 (5th Cir. 2017) (quoting *Boudreaux v. Swift Transp. Co.*, 402 F.3d 536, 540 (5th Cir. 2005)).

The court must review all evidence in the light most favorable to the non-movant and must draw all reasonable inferences in favor of the non-movant. *See Tolan v. Cotton*, 572 U.S. 650, 657 (2014) (quoting *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 157 (1970)).

B. Summary Judgment Analysis

Judicial estoppel is a "common law doctrine by which a party who has assumed one position in his pleadings may be estopped from assuming an inconsistent position," *Brandon v. Interfirst Corp.*, 858 F.2d 266, 268 (5th Cir. 1988). Courts have applied judicial estoppel when the inconsistency involves a position taken during bankruptcy proceedings. *In re Coastal Plains*, 179 F.3d 197, 208-09 (5th Cir. 1999). Courts have recognized the importance of judicial estoppel when bankruptcy proceedings are involved because bankruptcy aims to "'bring about an equitable distribution of the bankrupt's estate among creditors holding just demands' and to 'grant a fresh start to the honest but unfortunate debtor.'" *Reed v. City of Arlington*, 650 F.3d 571, 574 (5th Cir. 2011) (en banc) (quoting *Kothe v. R.C. Taylor Trust*, 280 U.S. 224, 227 (1930)).

Judicial estoppel applies if the following conditions have been met: first, the party against whom judicial estoppel is sought has asserted a legal position which is plainly inconsistent with a prior position; second, the court accepted the prior position; and third, the party did not act inadvertently. *Reed*, 650 F.3d at 574.

Roofing Designs argues that the parties to this case and this court all have long known of Roofing Designs' claims, that the parties have known about the bankruptcy, and that this knowledge is sufficient to prevent a court from applying judicial estoppel. ECF No. 144 at 2. What the parties knew is irrelevant. What matters is what Roofing Designs represented to the courts. The doctrine of judicial estoppel "is intended to protect the judicial system, *rather than the litigants*, [so] detrimental reliance by the opponent of the party against whom the doctrine is applied is not necessary." *In re Coastal Plains*, 179 F.3d at 205 (emphasis in original). Whether the party seeking judicial estoppel knew of the undisclosed claims is thus "irrelevant." *Id.* at 210. The purpose of disclosure in bankruptcy filings is to "permit the court, the trustee, and the creditors to evaluate the debtors' financial condition at the date of bankruptcy and ascertain what assets may be available for distribution to creditors." *In re*

Superior Crewboats, Inc., 374 F.3d 330, 333 (5th Cir. 2004). Application of judicial estoppel in appropriate cases seeks to further that goal. As such, the court will not consider Royal American, Hartford, or this court's knowledge of Roofing Designs' claims in deciding whether to apply judicial estoppel.

i. Plain Inconsistency

A plain inconsistency results when a debtor fails entirely to disclose claims in their bankruptcy but then pursues those claims in a different court. *See, e.g., Westland Oil Dev. Corp. v. MCorp Mgmt. Solutions, Inc.*, 157 B.R. 100, 103 (S.D. Tex. 1993) (applying judicial estoppel to claims not disclosed in the schedules and plan). It is a closer question when the debtor makes some mention of their claims in their bankruptcy filings but devalues them. While earlier cases declined to find inconsistency when a debtor at least mentioned their claims, more recent cases have found plain inconsistency to exist when a debtor discloses a claim but values it significantly lower in the bankruptcy court than it did in the district court. *Compare, e.g., Delaney v. Wal-Mart Stores, Inc.*, 408 F.Supp.2d 240, 243 (N.D. Miss. Dec. 5, 2005) (holding that judicial estoppel did not apply even when debtor erroneously disclosed their claim as a personal injury claim when it was not) and *with, e.g., Cannon v. Wal-Mart Assocs., Inc.*, No. 5:19-CV-373-D, 2021 WL 4164075 (E.D. N.C. Sept. 10, 2021) (holding that judicial estoppel applies when a debtor represented the same claim as valueless during the bankruptcy proceedings but as valuable during the district court proceedings).

Roofing Designs advanced plainly inconsistent positions with respect to its claims against Hartford. The evidence establishes that Roofing Designs failed entirely to disclose its claims against Hartford in its Schedules and Plan. ECF No. 135-5. The bankruptcy court approved Roofing Designs' Plan which made no mention of Roofing Designs' claims against Hartford. ECF No. 135-6; ECF No. 135-7. Roofing Designs amended its Schedule only after Hartford notified Roofing Designs of its intent to file the instant motion. ECF No. 130; ECF No. 135-9 at 7. To allow Roofing Designs to escape judicial estoppel based on its amendment made only after its failure to disclose was pointed out in a court filing would thwart the goals of judicial estoppel and undermine the disclosure obligations of the Bankruptcy Code. *See, e.g., In re Superior Crewboats, Inc.*, 374, F.3d 330, 336 (5th Cir. 2004) (applying judicial estoppel and refusing to allow a debtor to amend their bankruptcy petition because such an action would permit debtors to conceal claims). In any event, even in its amended filings, Roofing Designs still valued its claims at zero.

Although Roofing Designs did mention its claim against Royal American in its bankruptcy court filings, the court nevertheless concludes that Roofing Designs advanced a plainly inconsistent position with respect to its claims against Royal American. Roofing Designs repeatedly stated in the bankruptcy court that its claims against Royal American were valueless, ECF No. 135-5 at 10, 14; that the claims were "speculative" and could not be relied on, ECF No. 135-6 at 8; and that they could not be "brought for the benefit of creditors of the estate," *id.* at 13. These statements contradict Roofing Designs' earlier positions taken in this court, including that Roofing Designs was entitled to $227,756.43 in damages based on the mechanic and retainage liens, and Ms. Gragg's statement that Roofing Designs had over $600,000 in damages, plus attorneys' fees. ECF No. 32; ECF No. 135-3 at 48. Roofing Designs provided to the bankruptcy court an estimate of the value of its claims against Royal American that was significantly lower than the value it had shared with this court. As more recent cases have recognized, representing a claim as valueless in one forum but as valuable in another is plainly inconsistent. *See Cannon*, 2021 WL 4164075, at *8 (finding an inconsistency when a debtor represented a claim as having value in the district court but valueless in the bankruptcy court); *see also Queen v. TA Operating, LLC*, 734 F.3d. 1081 (10th Cir. 2013) ("By providing a significantly lower estimated value to the bankruptcy court . . . while their position in the district court placed a much higher value on the lawsuit . . . the [debtor] took a clearly inconsistent position in the bankruptcy court.").

The result in this case is based on the facts presented. The court should not be understood to say that every mistake in the valuation of a claim before the bankruptcy court should be viewed as plainly inconsistent. The result might be different in the case of a claim the value of which is not capable of estimation or calculation. The outcome might also be different if the context and content of disclosures made in the bankruptcy court suggest a different result. But this is not a case where valuation of the claim was not possible. The lien paperwork assigned specific values to the liens that are the subject of this litigation. ECF No. 135-1; ECF No. 135-2. Roofing Designs set forth a very specific calculation of its actual damages in its initial disclosures in this case. ECF No. 32 at 8. Ms. Gragg testified in her deposition that Roofing Designs was seeking over $600,000 in damages. ECF No. 135-3 at 48. She is the very person who signed the schedules in the bankruptcy court stating that the "amount requested" was "$0,00." ECF No. 135-5 at 7, 14. To state to the bankruptcy court that the claims against Royal American were worth $0.00 cannot be seen as anything but inconsistent.

Moreover, Roofing Designs stated in other parts of its Plan and Schedule that it did *not* have claims it could pursue for the benefit of the creditors. ECF No. 135-6 at 13. Thus, arguably, Roofing Designs not only significantly undervalued its claims, but also misled the creditors and the bankruptcy court about its assessment of those claims. See *In re Oparaji*, 698 F.3d 231, 235 (5th Cir. 2012) (stating that the Fifth Circuit, when evaluating judicial estoppel, looks in part to whether there is a perception that "one or both courts were misled[.]).

ii. Acceptance of Prior Position

The second prong for judicial estoppel requires that the bankruptcy court accept the debtor's prior position. *Reed*, 650 F.3d at 574. Judicial acceptance can occur when the court accepts the debtor's position either on a preliminary matter or as part of a final disposition. *In re Superior Crewboats*, 374 F.3d at 335. The bankruptcy court accepted Roofing Designs position with respect to its representations about both Hartford and Royal American. The bankruptcy court approved Roofing Designs' Plan which did not disclose Roofing Designs' claims against Hartford. ECF No. 135-6; ECF No. 135-7. As for Royal American, the bankruptcy court approved a Plan which significantly devalued Roofing Designs' claims against Royal American and therefore significantly devalued Roofing Designs' potential pool of assets. The Plan disclosed that Roofing Designs assets of value were its accounts receivable and office furniture. ECF No. 135-6 at 12. The Plan did not disclose the true nature of the Royal American litigation or provide creditors with any insight as to the damages Roofing Designs sought. ECF No. 135-6 at 14. Because of the failure to adequately disclose the value of the claims against Hartford and Royal American, the Plan did not alert creditors that those claims might be a potential asset or source of funds from which the creditors could be satisfied. The bankruptcy court accepted Roofing Designs' valuation of its claims against Royal American and Hartford.

iii. Lack of Inadvertence

The final prong for judicial estoppel requires that the debtor did not act inadvertently. *Reed*, 650 F.3d at 574. Inadvertence is shown when the debtor either lacks knowledge of the undisclosed claims or has no motive to conceal the claims. *In re Flugence*, 738 F.3d 126, 130 (5th Cir. 2013). A motivation to conceal may be shown if the debtor has a potential financial benefit from the nondisclosure. *U.S. ex rel. Long v. GSDMIdea City, LLC*, 798 F.3d 265, 273 (5th Cir. 2015).

The evidence establishes that Roofing Designs' nondisclosure was not inadvertent. Roofing Designs made all its representations to the bankruptcy court through Ms. Gragg. She had personal knowledge of the claims in this case and their value. She is the one that filed the lien paperwork, valuing Roofing Designs' liens against Royal American at approximately $130,914. ECF Nos. 135-1, 135-2. She herself testified that Roofing Designs was seeking approximately $600,000 in damages in this case. ECF No. 135-3 at 48. Roofing Designs provided a detailed damages calculation in its initial disclosures, estimating its damages at $227,756.43. ECF No. 32 at 8. Then Ms. Gragg signed a declaration under penalty of perjury in the bankruptcy court, which failed entirely to disclose the claims against Hartford and valued the claims in this case at "$0.00." ECF No. 135 at 7, 14. Roofing Designs always had the requisite information to provide to the bankruptcy court the same information it provided to this court but did not.

Roofing Designs had a clear motivation to conceal the value of its claims against Hartford and Royal American. By failing to disclose the value of its claims, Roofing Designs would hope to discharge its debt at a fraction of its value, while keeping the full value of its claims against Hartford and Royal American. *See, e.g., In re Flugence*, 738 F.3d at 130 ("The bankruptcy court also found that she had motive to conceal, because her claim, if disclosed, would be available to the creditors."). It is akin to understating the value of a financial asset or an account receivable that ought to be included in the bankrupt's estate. Roofing Designs did not act inadvertently.

3. Conclusion

Roofing Designs is judicially estopped from pursuing its claims against Hartford and Royal American. Hartford and Royal American's Joint Motion for Summary Judgment, ECF No. 135, is therefore **GRANTED**. Roofing Designs' claims against Hartford and Royal American are therefore **DISMISSED with PREJUDICE.**

All claims against all parties have now either been settled or dismissed. A separate final judgment will be entered and this case will be closed.

Signed at Houston, Texas on January 7, 2025.

/s/ Peter Bray
Peter Bray
United States Magistrate Judge

APPENDIX C — ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT, FILED MARCH 10, 2026

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 25-20048

ROYAL AMERICAN CONSTRUCTION, INCORPORATED,

Plaintiff-Appellee,

versus

ROOFING DESIGNS BY JR, L.L.C., DOING BUSINESS AS ROOFING DESIGNS,

Defendant/Third Party Plaintiff-Appellant,

HARTFORD FIRE INSURANCE COMPANY,

Third Party Defendant-Appellee.

Filed March 10, 2026

ORDER ON PETITION FOR REHEARING

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:21-CV-2440

Before Smith, Stewart, and Haynes, *Circuit Judges*.

Per Curiam:

IT IS ORDERED that the petition for rehearing is DENIED.