

25-6 KEATHLEY V. BUDDY AYERS CONSTRUCTION, INC.

DECISION BELOW: 2025 WL 673434

LOWER COURT CASE NUMBER: 24-60025

QUESTION PRESENTED:

Judicial estoppel is an equitable doctrine designed "'to protect the integrity of the judicial process' by 'prohibiting parties from deliberately changing positions'" to gain an unfair advantage. *New Hampshire v. Maine*, 532 U.S. 742, 749-50 (2001). The doctrine targets those who "'deliberately'" mislead courts, not those whose inconsistent positions stem from "inadvertence or mistake." *Id.* at 750, 753.

Courts regularly apply judicial estoppel when a debtor-plaintiff pursues a claim he failed to disclose to the bankruptcy court. The Eleventh, Ninth, Seventh, Sixth, and Fourth Circuits require courts to look at the totality of the circumstances and find that a debtor subjectively intended to mislead the bankruptcy court before applying judicial estoppel to bar a claim outside of the bankruptcy. In stark contrast, the Fifth and Tenth Circuits have embraced a "rigid" and "unforgiving" judicial estoppel rule in the bankruptcy context that bars claims regardless of whether there is evidence that a plaintiff actually intended to mislead. App. 55a. In those circuits, a debtor's failure to disclose a lawsuit to a bankruptcy court triggers judicial estoppel whenever the debtor knew the facts relevant to the undisclosed claim and had a *potential* motive for concealment-which is virtually always present in the bankruptcy context.

The question presented is:

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.

CERT. GRANTED 10/20/2025