

WEIL'S SCOTUS TERM IN REVIEW

June 6, 2024

Supreme Court Supports Standing for Insurers in Chapter 11 Bankruptcy Cases

By Zack Tripp, Josh Wesneski, and Shai Berman

This morning, the Supreme Court decided *Truck Insurance Exchange v. Kaiser Gypsum Co.*, which clarifies that any party with a “direct financial stake in the outcome” of a reorganization has standing as a “party in interest” to object to a Chapter 11 plan. 11 U.S.C. § 1109(b). Writing for a unanimous Court, Justice Sotomayor held that the debtor’s insurer has standing to object even if the plan purports to preserve the insurer’s legal rights and thus is said to be “insurance neutral.”

Truck is the primary insurer for Kaiser Gypsum, a company that manufactured asbestos-containing products and that had filed for Chapter 11 bankruptcy. Kaiser’s plan proposed to create a personal injury trust to pay individual tort claims, many of which Truck was obligated to insure. The plan included “insurance neutrality” language providing that the plan did not alter Truck’s legal obligations, but Truck sought to object on the ground that the plan lacked adequate protections against the filing of fraudulent claims.

The Fourth Circuit held that Truck was not a “party in interest” in the bankruptcy and therefore lacked standing to object under 11 U.S.C. § 1109(b). The Fourth Circuit reasoned that Truck lacked an interest in the plan because the plan did not alter any of Truck’s pre-existing legal obligations or impair any of its pre-existing legal rights.

The Supreme Court reversed. The Court concluded that a “party in interest” includes any party with a “direct financial stake in the outcome” of a reorganization. This broader interpretation, the Court held, coheres with the purposes of the Bankruptcy Code and the “party in interest” provision, which promote both “greater participation in reorganization proceedings” and a “fair and equitable reorganization process.”

The Supreme Court further held that Truck was a party in interest because it was “[a]n insurer with financial responsibility for bankruptcy claims.” The Court explained that insurers can have a direct financial stake in the outcome of a reorganization because the reorganization can “affect an insurer’s interests in myriad ways,” including by leaving the insurer as the only party with the responsibility to cover many claims. The Court further explained that

the Fourth Circuit's narrower approach, which focused on whether the plan impaired Truck's pre-existing rights or obligations, wrongly conflated the merits of Truck's objection—whether Truck *should be* entitled to the additional protections it sought—with Truck's standing to raise the objection in the first place.

The Supreme Court's decision establishes that "insurance neutrality" language will not deprive an

insurer of standing to object to a bankruptcy plan. By putting an end to that common practice, the Court strengthened insurers' ability to have their rights and interests fully considered in Chapter 11. More broadly, the Court also made clear that statutory standing under Chapter 11 should be understood to reach any party with a financial interest in the overall outcome of a reorganization.

Weil's SCOTUS Term in Review is published by the Appellate & Strategic Counseling practice of Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153, +1 212 310 8000, www.weil.com.

If you have questions concerning the contents of this alert, or would like more information about Weil's Appellate & Strategic Counseling practice, please speak to your regular contact at Weil, or to the practice group leaders or authors listed below:

Practice Co-Heads:

[Mark A. Perry](#)

Appeals & Strategic Counseling
Washington, D.C.

+1 202 682 7511

mark.perry@weil.com

[Greg Silbert](#)

Appeals & Strategic Counseling
New York

+1 212 310 8846

gregory.silbert@weil.com

[Zack Tripp](#)

Appeals & Strategic Counseling
Washington, D.C.

+1 202 682 7220

zack.tripp@weil.com

Authors:

[Zack Tripp](#)

Appeals & Strategic Counseling
Washington, D.C.

+1 202 682 7220

zack.tripp@weil.com

[Josh Wesneski](#)

Appeals & Strategic Counseling
Washington, D.C.

+1 202 682 7248

joshua.wesneski@weil.com

[Shai Berman](#)

Appeals & Strategic Counseling
New York

+1 212 310 8812

shai.berman@weil.com

© 2024 Weil, Gotshal & Manges LLP. All rights reserved. Quotation with attribution is permitted. This publication provides general information and should not be used or taken as legal advice for specific situations that depend on the evaluation of precise factual circumstances. The views expressed in these articles reflect those of the authors and not necessarily the views of Weil, Gotshal & Manges LLP. If you would like to add a colleague to our mailing list, please [click here](#). If you need to change or remove your name from our mailing list, send an email to weil.alerts@weil.com.