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NCBRC Advocacy Helps Secure Unanimous Supreme Court Victory for Consumer Debtors

Keathley v. Buddy Ayers Construction decision rejects rigid judicial-estoppel rule and reflects the focused appellate advocacy advanced by NCBRC, NACBA, and NCLC

WASHINGTON, D.C., June 12, 2026 — The National Association of Consumer Bankruptcy Attorneys (NACBA) today welcomed the United States Supreme Court’s unanimous decision in *Keathley v. Buddy Ayers Construction, Inc.*, No. 25-6, a significant victory for consumer debtors and a powerful demonstration of the impact of the National Consumer Bankruptcy Rights Center’s appellate advocacy.

Issued on June 11, 2026, the Court’s decision rejected a rigid and punitive approach to judicial estoppel that could prevent honest consumer debtors from pursuing otherwise valid legal claims. Instead, the Court held that whether a debtor’s omission was inadvertent or mistaken must be evaluated under the totality of the circumstances.

The unanimous opinion described the Fifth Circuit’s prior rule as “simultaneously too rigid and too broad,” rejecting an approach that relied on inflexible presumptions rather than a fair examination of the individual facts.

In December 2025, NCBRC, joined by NACBA and the National Consumer Law Center, filed an amicus curiae brief urging the Court to resolve the bad-faith issue narrowly and avoid unnecessarily expanding or deciding debtors’ disclosure obligations.

The Court followed that measured approach.

The Court Recognizes NCBRC’s Advocacy

In footnote 1 of its opinion, the Supreme Court expressly cited the amicus brief submitted by NCBRC, NACBA, and NCLC when declining to decide whether Chapter 13 debtors have a continuing duty to disclose claims arising after the filing of a bankruptcy petition.

The Court stated that the parties had proceeded under the assumption that such a duty existed but emphasized that it would “not opine on whether such a duty exists.” The Court cited the organizations’ amicus brief for its discussion of the split among courts on that question.

That reservation is significant. Rather than adopting a broad rule concerning post-petition disclosure obligations, the Court recognized that the issue remains unsettled and limited its decision to the question properly before it.

NCBRC’s participation ensured that the Court had a complete understanding of the legal landscape and a principled basis for avoiding an unnecessary expansion of debtors’ obligations.

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A Meaningful Win for Debtors and the Bankruptcy System

Had the Fifth Circuit's rule been allowed to stand, consumer debtors could have lost valid claims based on rigid assumptions about their intent, even where an omission was inadvertent or the circumstances demonstrated good faith.

Such outcomes would not only harm debtors. They could also deprive bankruptcy estates and creditors of recoveries that might otherwise become available.

By requiring courts to consider the totality of the circumstances, the Supreme Court preserved a more balanced and fact-specific approach. The decision protects against automatic forfeiture while still allowing courts to address genuine misconduct when the evidence supports it.

The ruling also reflects the importance of strategic appellate advocacy. NCBRC identified the broader risks presented by the case, assembled experienced co-amici, and offered the Court a restrained path that protected debtors without asking the Court to decide more than was necessary.

Why NCBRC's Work Matters

NCBRC is the only national nonprofit organization dedicated exclusively to protecting the rights of consumer bankruptcy debtors in appellate courts.

Its work includes:

- Filing amicus briefs in cases with nationwide implications for consumer debtors.
- Conducting moot courts and providing strategic support to debtors' counsel.
- Coordinating appellate advocacy with practitioners and national consumer organizations.
- Monitoring and reporting on developing bankruptcy case law.
- Ensuring that the perspective of consumer debtors is represented before federal appellate courts and the Supreme Court.

The outcome in *Keathley* demonstrates the real-world impact of that work. NCBRC's advocacy helped prevent the adoption of a rigid national rule that could have unfairly barred debtors from pursuing valid claims and undermined the equitable administration of bankruptcy cases.

Continued Support Is Essential

High-quality appellate advocacy before the Supreme Court and federal circuit courts requires sustained financial support from the consumer bankruptcy community.

Contributions to NCBRC help the organization participate in high-stakes appeals, provide critical assistance to debtors' counsel, coordinate amicus efforts, and keep practitioners informed about decisions affecting the fresh start and the integrity of the bankruptcy system.

Supporting NCBRC is a direct investment in protecting consumer debtors, preserving exemptions, promoting fair treatment in the courts, and ensuring that the bankruptcy system continues to serve the families who rely on it.



NCBRC has also published a detailed analysis of the ruling, [“Unanimous Supreme Court Adopts Totality-of-the-Circumstances Test for Bankruptcy Judicial Estoppel.”](#)

The Supreme Court opinion and the amicus brief filed by NCBRC, NACBA, and NCLC are available through NACBA and NCBRC.

Opinion and Briefs

[*Keathley v. Buddy Ayers Construction, Inc. – Supreme Court Slip Opinion \(Jackson, J.\)*](#)

[NCBRC/NCLC/NACBA Amici Brief in Support of Petitioner](#)

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About NACBA

The National Association of Consumer Bankruptcy Attorneys is the only national organization dedicated to serving the needs of consumer bankruptcy attorneys and protecting the rights of consumer debtors. Formed in 1992, NACBA now has more than 1,500 members located in all 50 states and Puerto Rico. NACBA advocates for a fair and accessible bankruptcy system and provides its members with education, resources, professional support, and a unified voice on issues affecting consumer bankruptcy law.

About NCBRC

The National Consumer Bankruptcy Rights Center is a nonprofit organization dedicated to preserving and protecting the rights of consumer bankruptcy debtors in appellate courts. NCBRC provides appellate support, files amicus briefs, conducts moot courts, monitors significant legal developments, and works with attorneys and consumer advocates nationwide.

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