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Supreme Court Endorses Broad Insurer Standing in Bankruptcy Reorganizations

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The Supreme Court reversed the Fourth Circuit Court of Appeals in favor of insurance companies in a unanimous decision written by Justice Sotomayor. In short, the United States Supreme Court held today that insurers facing financial exposure to claims against a Chapter 11 debtor are "parties in interest" having standing to object to a debtor's proposed plan of reorganization and rejected the use of the "insurance neutrality" concept as a bar to consideration of insurer objections on their merits. This ruling was consistent with the theme at the March oral argument where Justices Roberts and Thomas both voiced the view that insurers in contracts with debtors must be afforded standing regardless of the plan's language and purported neutrality.

In *Truck Ins. Exch. v. Kaiser Gypsum Co.*, 602 U.S. — (2024) Case No. 22-1079, Truck appealed from an order of the Fourth Circuit denying standing to Truck to object to the Chapter 11 plan of its insured Kaiser Gypsum, which faced numerous asbestos claims. Truck sought to object to the plan on the basis that the plan did not subject insured claims to the same anti-fraud disclosure requirements as uninsured claims, and that the plan breached the insured's duties of cooperation, impermissibly altering Truck's rights under its policies in other respects. The Fourth Circuit held that Truck lacked standing because the plan was "insurance neutral" and did not increase its prepetition obligations.

The Supreme Court held that Section 1109(b) of the Bankruptcy Code provides all "parties in interest" the right to be heard in Chapter 11 cases, and that insurers who face potential financial responsibility for claims against the debtor have an interest in the terms of the reorganization plan, and that insurers may be the only parties with an economic incentive to identify problems with the plan's treatment of tort claims. The Court rejected Kaiser's argument that its insurer should be denied standing because the plan was "insurance neutral." The court held that the insurance neutrality doctrine improperly "conflates the merits of an objection with the threshold party in interest inquiry," and that whether and how the proposed plan affects an insurer's rights and obligations should be addressed on the merits, rather than being set up as a standing hurdle. The Court said that while there may be cases where courts would have to evaluate whether "peripheral parties" have a sufficient interest, insurers are not peripheral parties.

The decision allows insurers to voice and litigate their objections in Chapter 11 cases and requires courts to consider those objections on their merits rather than denying insurers the right to object based on untested assertions of "insurance neutrality" by debtors.

As the Court wrote: "Section 1109(b) grants insurers neither a vote nor a veto; it simply provides them a voice in the proceedings." *Slip op at 3*.

Significantly, the Court read Section 1109(b) very broadly to grant standing even to a "prospective party" that "might" be affected by a Chapter 11 case. The Court also noted that a broad reading was consistent with Congressional intent: "Congress consistently has acted to promote greater participation in reorganization proceedings." *Slip op at 9*. Justice Alito took no part in the consideration or decision of the case.

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