

SUPREME COURT OF MISSISSIPPI

Copiah County, Mississippi v. Nancy Oliver

No. 2009-IA-00809-SCT (Miss. Jan. 13, 2011) · No. 2009-IA-00809-SCT · Decided April 15, 2009

SUMMARY

The Mississippi Supreme Court considered whether Nancy Oliver should be judicially estopped from pursuing a personal-injury claim because she failed to disclose the post-petition, post-confirmation claim in her Chapter 13 bankruptcy schedules. The court declined to decide whether Oliver had a duty to amend her schedules and held that the bankruptcy court should determine that issue first. The court affirmed the denial of summary judgment and remanded with instructions to stay the state-court proceedings.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Waller, Chief Justice, for the Court; Carlson, P.J.; Dickinson; Randolph; Lamar; Kitchens; Chandler; Pierce; Graves, P.J.
JURISDICTION	Mississippi
DECIDED	April 15, 2009
DOCKET	2009-IA-00809-SCT
DISPOSITION	affirmed_and_remanded
PROCEDURAL POSTURE	Copiah County sought interlocutory review of the circuit court's denial of its motion for summary judgment, which argued that Nancy Oliver was judicially estopped from pursuing her personal-injury claim because she failed to disclose the claim in her Chapter 13 bankruptcy schedules.
STANDARD OF REVIEW	De novo review applies to a trial court's grant or denial of summary judgment or a motion to dismiss.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court opinion
PARTIES	Copiah County, Mississippi v. Nancy Oliver

TOPICS

- bankruptcy
- summary judgment
- interlocutory appeal
- appellate procedure
- personal injury

PRACTICE AREAS

bankruptcy

civil procedure

personal injury

municipal law

appellate procedure

QUESTIONS PRESENTED

1. Whether Oliver should be judicially estopped from pursuing a personal-injury claim that accrued after her bankruptcy petition and after confirmation of her Chapter 13 plan because she did not amend her bankruptcy schedules to disclose the claim.
2. Whether the state trial court properly denied Copiah County's motion for summary judgment and deferred the disclosure-duty issue to the bankruptcy court.

HOLDINGS

1. The Mississippi Supreme Court declined to determine whether judicial estoppel applies until the bankruptcy court determines whether Oliver had a duty to amend her schedule of assets to disclose the post-petition, post-confirmation claim.
2. The denial of Copiah County's motion for summary judgment was affirmed, and the state-court proceedings were ordered stayed pending the bankruptcy court's determination of Oliver's disclosure duty.

KEY QUOTATIONS

“The doctrine of judicial estoppel should be applied to prevent a party from achieving unfair advantage by taking inconsistent positions in litigation.” (¶ 9)

“We believe our most prudent course is to allow the bankruptcy court to decide this question and to stay further proceedings until it has had an opportunity to do so.” (¶ 11)

FACTUAL BACKGROUND

Nancy Oliver filed a voluntary Chapter 7 bankruptcy petition on October 15, 2005, converted the case to Chapter 13 on December 15, 2005, and obtained confirmation of her repayment plan on February 14, 2006. On March 27, 2006, she was injured after tripping on loose carpet on the front steps of the Copiah County courthouse. She filed a negligence action against the County on July 26, 2007, but did not amend her bankruptcy schedules to disclose the claim, although she later disclosed the bankruptcy and claim during discovery and deposition.

PROCEDURAL HISTORY

Oliver filed a personal-injury action against Copiah County after filing for Chapter 7 bankruptcy and converting the case to Chapter 13, and after confirmation of her repayment plan. The circuit court denied the County's summary-judgment motion, concluding that the issue should first be addressed in the United States Bankruptcy Court. The Mississippi Supreme Court granted interlocutory review, affirmed the denial of summary judgment, and remanded with instructions to stay the state-court proceedings pending the bankruptcy court's determination.

DISPOSITION

affirmed_and_remanded

REMAND INSTRUCTIONS

The trial court must stay further proceedings until the bankruptcy court has had an opportunity to determine whether Oliver had a duty to disclose her post-petition, post-confirmation personal-injury claim.

CASES CITED

- Monsanto v. Hall, 912 So. 2d 134, 136
- Kirk v. Pope, 973 So. 2d 981, 991-92
- In re: Nancy Jean Roberts, No. 05-07095-ee

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