

08-295 TRAVELERS INDEMNITY CO. V. BAILEY

DECISION BELOW:517 F.3d 52

LOWER COURT CASE NUMBER: 06-2099, 06-2103, 06-2105, 06-2118, 06-2186

QUESTIONS PRESENTED:

In 1986, the U.S. Bankruptcy Court for the Southern District of New York (Lifland, J.) confirmed a landmark plan of reorganization for Johns-Manville Corporation that channeled hundreds of thousands of asbestos-related personal injury claims into a special trust fund for the benefit of injured workers and their families. The linchpin of this reorganization was the contribution of tens of millions of dollars by Petitioners and other insurers into a trust for payment of asbestos claims in exchange for protection from future claims against the insurers, all of which was intended to provide Petitioners with full and final protection from suits relating to, arising from or in connection with the Petitioners' insurance relationship with Johns-Manville. The Manville confirmation order was affirmed in a final judgment rendered by the Second Circuit in 1988.

The confirmation order in Manville was subsequently ratified by the U.S. Congress (see 11 U.S.C. 524(h)) and used as a model for Section 524(g) of the Bankruptcy Code. In the decades following the entry of the final judgment affirming the Manville plan of reorganization, and in reliance on the protections enacted by Congress, tens of billions of dollars have been paid into "524(g) trusts" for the benefit of hundreds of thousands of asbestos claimants. In 2002, Petitioners sought to enforce the court's orders when certain asbestos claimants tried to evade the confirmation order by suing Travelers directly in so-called "direct actions." The suits were enjoined by the bankruptcy court that fashioned the Manville plan of reorganization, which held that they were proscribed by the 1986 confirmation order. The bankruptcy court's decision was affirmed by the District Court, but in February 2008, over two decades after the original orders became final, a different panel of the Second Circuit held that the bankruptcy court lacked authority in 1986 to enter a confirmation order that extended beyond the "res" of the debtor's estate, i.e., insurance policy proceeds.

The question presented, therefore, is: Whether the court of appeals erred in categorically holding that bankruptcy courts do not have jurisdiction to enter confirmation orders that extend beyond the "res" of a debtor's estate, despite this Court's recent ruling that "[t]he Framers would have understood that laws 'on the subject of Bankruptcies' included laws providing, in certain respects, for more than simple adjudications of rights in the res," *Central Virginia Community College v. Katz*, 546 U.S. 356, 370 (2006), and whether the court of appeals compounded this error by:

- (a) failing to apply as written a federal statute (11 USC §§ 524(g) and (h)), by limiting the scope of relief in a manner that is contrary to the express terms and purposes of that statute;
- (b) failing to give effect to the Supremacy Clause and holdings of this Court that federal bankruptcy relief cannot be overridden by rights alleged to have been created under state law; and
- (c) failing to respect important principles of finality and repose, and the express provisions of §524(g), by failing to approve a federal court's enforcement of a confirmation order that was affirmed over two decades ago on direct appeal.

CERT. GRANTED 12/12/2008

CONSOLIDATED WITH 08-307 FOR ONE HOUR ORAL ARGUMENT