

08-307 COMMON LAW SETTLEMENT COUNSEL 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 Bankruptcy Court, having subject-matter jurisdiction over the Johns-Manville bankruptcy cases and proceedings therein, confirmed a plan of reorganization. Through the confirmation order and related orders, the Bankruptcy Court exercised its statutory authority to approve non-debtor, third-party injunctions in favor of, among others, the debtors' insurance companies. Those insurance companies then paid approximately \$850 million to fund a trust created under the plan for the benefit of certain victims of asbestos-related diseases. In 2004, the Bankruptcy Court entered an order holding that particular lawsuits brought against certain of the debtors' insurance companies were enjoined under the 1986 orders. The District Court affirmed that decision. The Second Circuit reversed on the sole ground that the Bankruptcy Court did not have "jurisdiction" to enjoin those lawsuits. The question presented is:

Once a bankruptcy court's subject-matter jurisdiction over a case attaches, whether the court must have a separate jurisdictional basis to approve a third-party injunction provision in a plan of reorganization or related confirmation order.

CERT. GRANTED 12/12/2008

CONSOLIDATED WITH 08-295 FOR ONE HOUR ORAL ARGUMENT