Highlights for 2026 Edition

The 2026 revision of *West's Bankruptcy Procedure Manual* reflects the authors' extensive annual review of the rules and caselaw on bankruptcy procedure. Major developments pertinent to bankruptcy practice are analyzed in the text.

The past year saw statutory issues and new and amended Rules of Bankruptcy Procedure, effective December 1, 2025.

I. Bankruptcy Code Issues—Adjusted Dollar Amounts

The monetary amounts in various Code sections of Titles 11 and 28 were adjusted, effective April 1, 2025, to reflect cost of living adjustments, by approximately 13.2%, rounded to the nearest $25, even larger than the almost 11% in 2022. These adjustments occur every three years, pursuant to 11 U.S.C.A. § 104(a)(1). Official Bankruptcy Forms 106C, 107, 122A-2, 122C-2, 201, 207 and 410 were also revised to reflect the monetary adjustments, along with Director's Forms 2000 and 2830, as well as some Form Instructions.

There is no dollar amount currently set forth in 11 U.S.C.A. § 1182(1) (defining "debtor" for purposes of subchapter V of Chapter 11). Most recently, the Bankruptcy Threshold Adjustment and Technical Corrections Act (BTATCA) (Pub. L. 117-151, 136 Stat. 1298) added a dollar amount to that section, but the BTATCA provision that included the dollar amount expired on June 21, 2024. The effect of these developments is that the threshold amounts are now set by sections 101(51D) ("small business debtor") and 109(e) ("a debtor under Chapter 13"), below.

Increases include the following:

- The employee compensation and employee benefit plan contribution priorities under sections 507(a)(4) and 507(a)(5) increased to $17,150 from $15,150;
- The consumer deposit priority under section 507(a)(7) increased to $3,800 from $3,350;
- The aggregate amount of claims required to file an involuntary petition increased to $21,050 from $18,600;
- The dollar amount in the bankruptcy venue provision, 28 U.S.C.A. § 1409(b) (requiring that actions to recover for non-consumer, non-insider debt be brought against defendants in the district in which they reside), increased to $31,425 from $27,750;

- The minimum amount required to bring a preference claim against a defendant in a non-consumer debtor case, specified in section 547(c)(9), increased to $8,575 from $7,575;
- The total debt amount in the definition of small business debtor in section 101(51D) increased to $3,424,000 from $3,024,725;
- The total debt amount in the definition of small business debtor in section 101(51D) increased to $3,424,000 from $3,024,725;
- The debt limits for an individual to qualify for a Chapter 13 bankruptcy case increased to $1,580,125 of secured debt and $526,700 of unsecured debt;
- Numerous exemption amounts also increased.

II. New and Amended Rules and Amendments to the Federal Rules of Procedure

The Judicial Conference Committee on Rules of Practice and Procedure (Standing Committee) published on August 15, 2023, for public comment the following proposed amendments to existing rules and forms, as well as one new rule:

- Bankruptcy Rules 3002.1 and 8006;
- Civil Rules 16, 26, and new Rule 16.1;
- Appellate Rules 6 and 39; and
- Bankruptcy Official Forms 410, 410C13-M1, 410C13-M1R, 410C13-N, 410C13-NR, 410C13-M2, and 410C13-M2R.

As adopted by the Court and transmitted to Congress on April 23, 2025, without congressional action, the proposals took effect on December 1, 2025.

III. Recent Caselaw of Interest to Bankruptcy Practitioners

A. Supreme Court Bankruptcy decisions

United States v. Miller, 145 S. Ct. 839 (Mar. 26, 2025).

The Court reversed a 10th Circuit decision that the Bankruptcy Code's abrogation of sovereign immunity allowed avoidance of payments under a state fraudulent-transfer law, even though no creditor could have used the law to avoid the payments in a state court. 11 U.S.C.A. § 544(b)(1) allows trustees to avoid prebankruptcy transfers that are voidable under applicable law by an actual unsecured creditor. A Chapter 7 trustee, in his capacity as a creditor holding an allowable unsecured claim, brought a strong-arm proceeding to avoid payments that the corporate debtor had made to the IRS on personal tax obligations of two of its principals. The United States requested a summary judgment, on sovereign immunity and preemption grounds, and the trustee filed a cross-motion. The bankruptcy court granted trustee's motion and denied the government's motion, and avoided

the transfers. The District Court and the 10th Circuit affirmed. On certiorari, the Supreme Court reversed, holding that the Bankruptcy Code abrogates sovereign immunity only with respect to the federal cause of action created by the subsection of the Code enabling a bankruptcy trustee to step into the shoes of a creditor and avoid certain transfers that would be "voidable under applicable law," not with respect to the underlying state-law claims that supply the "applicable law" for that federal cause of action.

B. Pending Supreme Court Cases

Keathley v. Buddy Ayers Construction, Incorporated, 2025 WL 673434 (5th Cir. 2025), cert. granted, 2025 WL 2949568 (Oct. 20, 2025).

In 2019, the debtor (Keathley) filed a Chapter 13 Petition and Plan. In 2020, Keathley filed an Amended Plan, which the Bankruptcy Court confirmed, also in 2020. In 2021, the Debtor was involved in automobile accident with a driver employed by Buddy Ayers Construction ("BAC"). Debtor filed a personal injury suit against BAC, alleging claims of negligence and vicarious liability. BAC then moved for summary judgment on grounds of judicial estoppel because Keathley had failed to disclose his cause of action against BAC in his pending bankruptcy proceedings. The District Court granted BAC's summary judgment motion and dismissed Keathley's lawsuit. The Court of Appeals for the Fifth Circuit concluded that the District Court did not abuse its discretion in dismissing Keathley's lawsuit or in denying his motion for reconsideration, and affirmed. In the Fifth Circuit, judicial estoppel may apply where there is only a "plausible" motive for failure to disclose a personal injury claim. A concurring opinion argued that the Court of Appeals should have followed what it said was the majority of circuits, requiring subjective intent to deceive before allowing invocation of judicial estoppel. This would "deter dishonest debtors, whose failure to fully and honestly disclose all their assets undermines the integrity of the bankruptcy system," while "protecting the rights of creditors to an equitable distribution of the assets of the debtor's estate." 2025 WL 2949568 at 8. The Supreme Court granted BAC's petition for a writ of *certiorari* to resolve a circuit split on the standard to employ before invoking judicial estoppel under these circumstances.

In re Vista-Pro Automotive, LLC, 109 F.4th 438 (6th Cir. 2024), cert. granted, 145 S. Ct. 2775 (June 6, 2025).

In this Chapter 7 case, the debtor filed an adversary complaint against a New York company, seeking to collect unpaid invoices, and after the defendant failed to respond, a default

judgment was entered against it. Five years after entry of the default judgment, the Chapter 7 trustee attached the defendant's bank account. Six years after the entry of judgment, the defendant moved under Bankruptcy Rule 9024 and Federal Rule 60(b)(4) to set aside the default judgment as void due to improper service. The bankruptcy court denied the motion as untimely. The company appealed and the District Court and Court of Appeals for the Sixth Circuit affirmed, with the latter holding that a motion for relief from a "void" judgment is subject to a reasonable-time limitation. The case presents the Supreme Court a broad question: whether there is a time limit for a Rule 60(b)(4) motion to set aside a judgment for lack of personal jurisdiction over the defendant. To resolve a split in the circuits, the Court granted *cert*. In *United Student Aid Funds, Inc. v. Espinosa,* 559 U.S. 260, 275 (2010), the Court said that "Rule 60(b)(4) does not provide a license for litigants to sleep on their rights," perhaps suggesting there can be a limit for Rule 60(b)(4) motions. However, constitutional law was not a focus in *Espinosa*. In the *Burton* case, the Constitution and the Due Process Clause will be pivotal. *Coney Island* involved a default judgment where, allegedly, there never was personal jurisdiction over the defendant. The Court in *Coney Island* is to consider whether there is a time limit for moving to set aside a judgment that was allegedly void because there never was personal jurisdiction over the defendant, thus a constitutional question not present in *Espinosa*. The bankruptcy court did not address whether the judgment was void for failure to address the papers to a corporate officer, instead denying the defendant's request because the delay in filing the Rule 60(b)(4) motion was unreasonable.

Pung v. Kopke, 2025 WL 318222 (6th Cir. 2025), cert. granted, 2025 WL 280810 (Oct. 3, 2025).

The principal issue before the Court is whether the debtor was entitled to recover the difference between the taxes owed and the amount the property sold for at tax sale. The Circuit Court affirmed the district court's award, including interest, concluding that the district court properly found that the government committed a Fifth Amendment taking when it retained the proceeds from a tax foreclosure sale that exceeded the delinquent property tax debt, applying *Freed v. Thomas,* 81 F.4th 655, 658-59 (6th Cir. 2023).

C. Other Supreme Court Matters of Interest to Bankruptcy Practitioners

Trump v. CASA, Inc., 606 U.S. 831, 145 S. Ct. 2540 (U.S. 2025).

Trump v. CASA consolidated several similar cases, alleging that an Executive Order restricting "birthright citizenship"

violated the Fourteenth Amendment's Citizenship Clause and the Nationality Act of 1940. In one of the consolidated cases, for example, immigration rights groups and noncitizen expectant mothers brought an action for declaratory and injunctive relief against the President and other officers of the United States. The lower courts granted a universal preliminary injunction and denied a partial stay pending appeal. The defendants filed emergency applications to the Supreme Court for partial stays pending appeal. The Supreme Court deferred consideration of the applications pending oral argument, but reasoned that the government was likely to succeed on the merits of an argument that universal injunctions are not authorized by Judiciary Act of 1789. This edition of the Procedure Manual discusses the implications of *Trump v. CASA* for class actions and the bankruptcy courts' jurisdiction to issue and enforce nationwide injunctions generally.

Saldana v. Bronitsky, 122 F.4th 333 (9th Cir. 2024), cert. denied, 145 S. Ct. 2815 (Mem) (June 23, 2025).

A Chapter 13 trustee objected to confirmation of a debtor's proposed plan on the basis that it did not devote all of debtor's disposable income to repaying unsecured creditors. The Bankruptcy Court sustained the objection, and the debtor filed an amended plan, which the Bankruptcy Court confirmed. Addressing a matter of apparent first impression for the Court of Appeals, the Ninth Circuit reversed, holding that Chapter 13 debtors may exclude their voluntary contributions to employer-managed retirement plans from their disposable income calculation. The decision created a conflict with the Sixth Circuit, see *Davis v. Helbling (In re Davis),* 960 F.3d 346, 351 (6th Cir. 2020), but the Supreme Court denied the trustee's petition for a writ of certiorari.

IV. Selected Lower Court Decisions of Interest to Bankruptcy Practitioners

Throughout this edition, the authors have also selected decisions from the Courts of Appeals, the Bankruptcy Appellate Panels and the Bankruptcy Courts, to annotate the existing and new rules.