

**Case Name:** Thomas A. Caprella v. CSX Transportation Inc.

**Date Decided:** September 14th, 2009

**Originally Filed in:** ()

**Decided by:** (State)

**Court:** U.S.D.C. Northern District of Ohio

**Judge:** Judge Katz

**Citation:** 2009 WL 2950248 (N.D. Ohio)

**Background:**

Before this Court was a motion by defendant CSX Transportation ("CSX"), seeking summary judgment on the basis of judicial estoppel in response to plaintiff, Thomas A. Caprella's ("Caprella") claim under the Federal Employers' Liability Act ("FELA"). Caprella filed this action under FELA alleging he sustained injuries and damage as a result of CSX's negligence. Following the filing of this claim, Caprella and his wife filed a voluntary petition for relief under Chapter 7 of the US Bankruptcy Code. Under the Code, Caprella was required to list all the suits to which he was a party however, failed to disclose this lawsuit and never amended his petition or other documents associated with his Chapter 7 Bankruptcy. Caprella's debt was discharged shortly after. CSX filed for summary judgment.

**Issue:**

Did this Court grant CSX's motion for summary judgment holding that Caprella's claim was barred as a result of judicial estoppel?

**Overall Issues Discussed or Touched Upon in this Case:**

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**Held:**

The doctrine of judicial estoppels bars a party from (1) asserting a position that is contrary to one that the party has asserted under oath in a prior proceeding where (2) the prior court adopted the contrary position either as a preliminary matter or as part of a final disposition. The Bankruptcy Code requires a debtor to file a schedule of assets and liabilities, a schedule of current income and current expenditures, and a statement of the debtor's financial affairs. Moreover, it is well settled a cause of action is an asset that must be scheduled. Accordingly this Court found that because Caprella testified under oath his schedule was filled out to the best of his knowledge and his debt discharged that the elements of judicial estoppels have been met here. This Court granted CSX's motion for summary judgment on the basis of judicial estoppels

**Comments:**

Judicial estoppel is used to counter testimony or a position taken by a party contrary to one

taken in another proceeding. Here, Caprella failed to list the cause of action in the bankruptcy schedule, thus stating under oath it didn't exist, and the bankruptcy adopted his position by granting him debt relief. Accordingly, Caprella was barred from bringing this suit on those grounds. Steve Gordon <http://www.Gordon-Elias.com>