2026 Commercial Case Law Update

National, Fifth Circuit and Mississippi decisions, 2026

Kristina Johnson | Jones Walker LLP

Chris Maddux | Butler Snow LLP

Mississippi Bankruptcy Conference 2026

Questions that come across our desks

Cases chosen not for the size of the debtor, but for the questions they answer

1

When is silence consent to a release?

Container Store

2

Which debts count — and which debtors are out — for Subchapter V?

Alecto · Jerry's Place

3

What may the bankruptcy court decide?

EP Energy · El Dorado

4

When is a judgment, or a fee award, truly final?

Coney Island · CHFS

I

Four national decisions

Releases, eligibility, priority and finality

1 Container Store: when is silence consent?

Epstein v. Container Store Group, Inc. (In re Container Store Group, Inc.), 676 B.R. 356 (S.D. Tex. 2026); appeal pending, 5th Cir. No. 26-20166

FACTS

A prepackaged plan bound creditors to third-party releases unless they opted out, with an injunction and a gatekeeping clause. The U.S. Trustee objected.

ANALYSIS

After Purdue, consent is a federal-law question. An opt-out can show consent, case by case, but not for deemed-rejecting classes that get nothing.

HOLDING

Releases and injunction largely affirmed; zero-recovery classes must opt in; gatekeeping narrowed under Highland and remanded. Appeal pending.

PRACTICE TAKEAWAY

Notice is not consent. Analyze voting, nonvoting and deemed-rejecting classes separately, and consider opt-ins where a class recovers nothing.



Source: 676 B.R. 356; Jones Day client alert (June 2026)

2 Alecto: which debts count for Subchapter V

Reed Action Judgment Creditors v. Alecto Healthcare Servs., LLC (In re Alecto Healthcare Servs. LLC), 184 F.4th 163 (3d Cir. 2026)

FACTS

Creditors said a $3.7M settlement debt pushed Alecto over the Subchapter V debt cap, and challenged a $25,000 insider settlement of avoidance claims.

ANALYSIS

The debt was payable only after written demand, and none was made before filing, so it was contingent and unliquidated on the petition date.

HOLDING

Eligibility affirmed; the debt didn't count toward the cap. The insider settlement was within the range of reasonableness under Rule 9019.

PRACTICE TAKEAWAY

Test each debt's legal nature on the petition date. Back insider deals with a documented investigation. Verify the cap for your filing date.

$3.4M
scheduled noncontingent, liquidated debt

$3.7M
LHP settlement claim — excluded as contingent and unliquidated

$7.5M
debt cap in effect at the time; check the cap for your filing date

Source: Third Circuit slip opinion, ca3.uscourts.gov/opinarch/251853p.pdf; Duane Morris alert (Aug. 2026)

3 EP Energy: who decides administrative priority

Storey Minerals, Ltd. v. EP Energy E&P Co., L.P., 169 F.4th 609 (5th Cir. 2026)

FACTS

Mineral owners said a 40-day COVID-era production halt ended 16 Texas leases, made operations a trespass, and earned them § 503(b) priority.

ANALYSIS

A § 503 request is core, so the bankruptcy court could decide the Texas-law questions itself. The claim was ripe; abstention was waived on appeal.

HOLDING

Affirmed: the leases did not terminate, there was no trespass, and the administrative expense claim was disallowed.

PRACTICE TAKEAWAY

Jurisdiction to decide priority isn't entitlement to it. Prove actual, necessary benefit to the estate, and appeal abstention rulings or lose them.



Source: 169 F.4th 609; Fifth Circuit opinion No. 24-20477; Jones Day alert (Aug. 2026)

4 Coney Island: "void" still has a clock

Coney Island Auto Parts, Inc. v. Burton, 607 U.S. 155 (Jan. 20, 2026)

FACTS

A trustee won a default judgment against Coney Island. Years later, after a marshal seized its funds, it moved to vacate the judgment as void for bad service.

ANALYSIS

Rule 60(c)(1) requires every Rule 60(b) motion to be made within a reasonable time. Nothing exempts void-judgment motions under Rule 60(b)(4).

HOLDING

The motion was untimely. Void-judgment challenges must be brought within a reasonable time (Alito, J., for the Court).

PRACTICE TAKEAWAY

"Void" is not a license to wait. Raise service and jurisdiction objections promptly; the Court decided timing, not whether service was valid.

Rule 60(c)(1)

"A motion under Rule 60(b) must be made within a reasonable time."

Alito, J., for the Court

Sotomayor, J., concurring in the judgment

Source: supreme.justia.com/cases/federal/us/607/24-808; Faegre Drinker alert (Jan. 2026)

II

Four Mississippi opinions

Judges Maddox and Wilson, and a district court review of a 14-year case

5 Jerry's Place: single asset real estate

In re Jerry's Place Cleveland, LLC, No. 25-14357-SDM, 2026 Bankr. LEXIS 1269 (Bankr. N.D. Miss. May 19, 2026) (Maddox, J.)

FACTS

The debtor owns contiguous lots in Cleveland: a building leased to Delta Ag and a Lamar billboard site ($2,000/yr). The UST objected to its Sub V election.

ANALYSIS

Under Scotia Pacific's three-part test, the lots are one project, the income is property-derived, and leasing and marketing are incidental.

HOLDING

The debtor is single asset real estate, excluded by § 1182(1)(A). Its Subchapter V designation was stricken.

PRACTICE TAKEAWAY

Look at actual operations and where revenue comes from before electing Sub V. Pair with Alecto: debts that count vs. debtors that are out.

§ 101(51B) — all three met

1. **Single property or project**
   Contiguous lots, common use
2. **Substantially all income**
   Rent and billboard pay are property-derived
3. **No substantial other business**
   Leasing and marketing are incidental

Source: Memorandum Opinion and Order, Dkt. 73 (May 19, 2026), via govinfo.gov

6 MedEx: estate cash and affiliate expansion

In re MedEx, LLC, No. 24-11781-SDM, 2026 Bankr. LEXIS 1361 (Bankr. N.D. Miss. May 29, 2026) (Maddox, J.)

FACTS

A Sub V management company sought to spend about $227,000 held by its counsel, nearly all its cash, on three affiliated clinics, two not in bankruptcy.

ANALYSIS

It was unclear the funds were estate property, and the benefit to MedEx was indirect, based on internal projections, with no notes or repayment terms.

HOLDING

Denied without prejudice under § 363(b). A renewed motion needs evidence, written agreements and estate-level protections.

PRACTICE TAKEAWAY

A plausible business rationale isn't enough when estate cash flows to affiliates. Duties run to the estate, not the enterprise.

"The defect is not intent; it is proof, structure, and protection."

1. **Prove it's estate property**
   Source, ownership and control
2. **Document the estate's return**
   Agreements, notes, repayment terms
3. **Fit it into the case**
   Phased relief, reporting, plan path

Source: Memorandum Opinion and Order Denying Without Prejudice, Dkt. 199 (May 29, 2026)

7 El Dorado: limits of Rule 2004 — and of AI

In re El Dorado Gas & Oil, Inc., No. 23-51715-JAW, 2026 Bankr. LEXIS 2721 (Bankr. S.D. Miss. July 23, 2026) (Wilson, J.)

FACTS

Thomas Swarek, pro se owner and guarantor of a $50M loan, sought 21+ categories of lender documents under Rule 2004 for his guaranty litigation elsewhere.

ANALYSIS

The pending-proceeding rule applied; the requests had no link to estate administration, showed no good cause, and were harassing in nature, related to claims or defenses precluded by prior rulings and/or overbroad.

HOLDING

Motion denied as a violation of the pending-proceeding rule. Footnote 4 cautioned parties against using AI without verification and warned of possible sanctions.

PRACTICE TAKEAWAY

Rule 2004 is not a back door to discovery in other forums. Verify anything AI helps draft before filing.

Footnote 4

The Court "cautions Swarek and other parties against using AI without verification."

Warns of possible sanctions for unverified AI-generated pleadings; Rule 11 duties apply to pro se filers too.

Source: Memorandum Opinion and Order, Dkt. 1931 (July 23, 2026), mssb.uscourts.gov

8 CHFS: trustee fees after 14 years

Edwards Fam. P'ship v. Jones Walker LLP, [Westlaw cite] (S.D. Miss. Sept. 4, 2026) (Reeves, J.), aff'g No. 12-01703-JAW (Bankr. S.D. Miss.)

FACTS

After a 14-year Chapter 11 case, creditors challenged the final fee awards to the trustee and her counsel and sought disgorgement of all fees after March 2015.

ANALYSIS

An alleged conflict of interest alone does not establish a breach of fiduciary duty; objectors must prove breach, causation and injury. Both sides shared in the decision to engage in litigation rather than settle.

HOLDING

Affirmed on all five issues, including the bankruptcy court's entry-by-entry § 330(a) fee review and its evidentiary rulings.

PRACTICE TAKEAWAY

A trustee's retention of its own law firm as counsel is not automatically disqualifying. Raise disinterestedness concerns and allegations of conflicts of interest early. Fee disputes are decided entry by entry, not by blanket objection.

14 years
from the 2012 petition to the final fee rulings

10th
appeal from the bankruptcy court to the district court

5 of 5
issues on appeal resolved in favor of affirmance

Source: District court Order, Doc. 9 (Sept. 4, 2026), entered at Bankr. Dkt. 3559; bankruptcy opinion (June 6, 2025)

III

Six more decisions to know

Supreme Court and Fifth Circuit, 2026

9 Keathley: judicial estoppel gets a closer look

Keathley v. Buddy Ayers Constr., Inc., 608 U.S. 647 (June 11, 2026), on remand, 2026 U.S. App. LEXIS 21002 (July 16, 2026)

FACTS

Keathley, in Chapter 13, didn't disclose a post-petition truck-accident claim. His N.D. Miss. suit was dismissed on judicial estoppel, and the Fifth Circuit affirmed.

ANALYSIS

The Fifth Circuit's test called an omission inadvertent only if the debtor lacked knowledge of the claim or a motive to conceal it, ignoring evidence of good faith.

HOLDING

Vacated and remanded, 9–0: courts must weigh the totality of the circumstances before barring a debtor's undisclosed claim.

PRACTICE TAKEAWAY

Judicial estoppel defenses get harder in the Fifth Circuit. Debtors should still amend schedules promptly; how and when an omission is fixed will matter.

9–0
unanimous; Justice Jackson for the Court

N.D. Miss.
where the personal-injury suit was filed

Totality
of the circumstances replaces the Fifth Circuit's two-part test

Source: Supreme Court slip opinion No. 25-6; Gibson Dunn client alert (June 2026)

10

T.M.: Rooker-Feldman reaches non-final judgments

T.M. v. University of Maryland Medical System Corp., 608 U.S. 668 (June 18, 2026)

FACTS

T.M. challenged a Maryland consent order in federal court while her state appeal was still pending. The lower courts dismissed under Rooker-Feldman.

ANALYSIS

Tying the doctrine to finality would make it turn on timing and invite confusion; the question is whether the federal suit seeks review of a state judgment.

HOLDING

Affirmed, 5–4: Rooker-Feldman bars federal district court review of state-court judgments even before they are final.

PRACTICE TAKEAWAY

Lost in state court? Appeal in state court. A parallel federal suit attacking the judgment won't work, even mid-appeal.

5–4

Justice Sotomayor for the Court; Justice Barrett dissenting

Non-final

state judgments still trigger Rooker-Feldman

Exxon Mobil

(2005) limits relaxed, per the dissent

Source: SCOTUSblog (June 18, 2026); Faegre Drinker client alert (June 2026)

11 VCR I: no trustee commission on surplus to equity

Henderson v. U.S. Trustee (In re VCR I, L.L.C.), No. 25-60204, 2026 U.S. App. LEXIS 9066 (5th Cir. Mar. 27, 2026) (unpublished)

FACTS

After the estate's Gluckstadt property sold for about $6.8M, the trustee sought a commission on about $8.2M disbursed, including $2.64M of surplus paid to equity.

ANALYSIS

§ 326(a) excludes payments to the debtor. The equity holder stood in the debtor's shoes to receive the surplus, so that payment didn't count.

HOLDING

Affirmed (unpublished, 2–1): no trustee commission on the $2.64M distribution to the equity holder.

PRACTICE TAKEAWAY

In surplus cases, calculate trustee compensation on payments to creditors only. It's nonprecedential, but a clear signal from a Mississippi case.

$2.64M
surplus paid to the equity holder; no commission

~$270K
commission sought on about $8.2M disbursed

2–1
unpublished; Judge Haynes dissenting

Source: Fifth Circuit opinion No. 25-60204 (Mar. 27, 2026), ca5.uscourts.gov

12 IFG Port Holdings: consent must be knowing

IFG Port Holdings, LLC v. Lake Charles Harbor & Terminal District, No. 24-30552, 2026 U.S. App. LEXIS 27543 (5th Cir. Sept. 8, 2026)

FACTS

After a 20-day bench trial and a $125M judgment, the losing party learned the magistrate judge had a decades-long friendship with the winner's lead counsel.

ANALYSIS

Consent to a non-Article III judge must be knowing, which takes actual knowledge of a conflict. Parties have no duty to investigate a judge's private life.

HOLDING

Affirmed, 2–1: the referral was vacated, and the $125M judgment fell with it. The dissent warned of risk to bankruptcy court rulings.

PRACTICE TAKEAWAY

Consent to a bankruptcy judge rests on the same footing; disclose relationships early and fully. *Fallout from the Jackson Walker firm in Houston with Judge David R. Jones's resignation.

$125M
judgment vacated with the referral

20 days
of bench trial lost

2–1
Judge Graves for the court; Judge Oldham dissenting

Source: ABI Daily Wire, "Fifth Circuit Announces Rule for Broad Disclosure of Bankruptcy Judges' Relationships"

13 Highland: recusal rulings wait for a final order

In re Highland Capital Mgmt., L.P. (Dugaboy Inv. Tr. v. Highland Capital Mgmt., L.P.), No. 26-10012 (5th Cir. Nov. 13, 2026) (unpublished)

FACTS

Dugaboy, a Dondero-related trust, filed its fifth motion to recuse Chief Judge Jernigan about a month after appealing a Rule 9019 settlement approval. It appealed the denial.

ANALYSIS

A recusal ruling is nonfinal and reviewable only when merged into a final order. Dugaboy knew that, yet didn't raise recusal with later final orders.

HOLDING

Affirmed (unpublished, per curiam): the district court lacked jurisdiction, and Dugaboy did not act in a timely manner.

PRACTICE TAKEAWAY

Recusal objections ride with a final order. Raise them with the next final order you appeal, or risk losing review.

5th
motion to recuse the same bankruptcy judge

Nonfinal
a recusal ruling is reviewable only with a final order

Per curiam
unpublished; Judges Richman, Haynes and Graves

Source: Fifth Circuit opinion No. 26-10012 (Nov. 13, 2026)

14

With Purpose: stay damages for a nondebtor

Ayers v. Neugebauer (In re With Purpose, Inc.), 182 F.4th 457 (5th Cir. 2026)

FACTS

After GloriFi's Chapter 7 filing, investors kept pressing arbitration against co-founder Neugebauer, seeking discovery on a fiduciary claim the estate owned.

ANALYSIS

Pursuing an estate claim is exercising control over estate property (§ 362(a)(3)). A creditor can enforce the stay and is an "individual injured" under § 362(k).

HOLDING

Affirmed: the nondebtor recovers actual damages, including attorney's fees. Under § 362(k), fees are mandatory and reviewed for clear error.

PRACTICE TAKEAWAY

Third-party litigation can still violate the stay if it touches estate claims. Check who owns a claim before you pursue it.

1. **Creditor can enforce the stay**
   Under Labuzan, even as a nondebtor
2. **"Individual injured"**
   Litigation costs are a real injury
3. **Fees are mandatory**
   § 362(k): "shall recover"

Source: Fifth Circuit opinion No. 25-10572 (July 16, 2026), ca5.uscourts.gov