

Azer and Stoner in Westlaw Today: Supreme Court Decision on Insurance Neutrality

August 20, 2024 Adrian Azer, Michael Stoner

PRACTICES U.S. Supreme Court, Insurance Recovery

Haynes Boone Partner [Adrian Azer](#) and Counsel [Michael Stoner](#) authored an article for *Westlaw Today* analyzing the Supreme Court decision in *Truck Ins. Exch. v. Kaiser Gypsum Co.*, holding that insurers are "parties in interest" in Chapter 11 proceedings.

Read an excerpt below.

For years, debtors and creditors in Chapter 11 proceedings have been able to ward off objections and other confirmation hurdles asserted by insurance companies by crafting an "insurance neutral" plan. Different courts have approved language regarding "insurance neutral," but most courts hold that a plan is insurance neutral if it does not impact the rights of the insurers under the relevant insurance policies.

The theory was that an insurance company is not a "party in interest" when the "plan neither increase[s] the insurance company's] prepetition obligations nor impaired its rights under the insurance contracts" (*Truck Ins. Exch. v. Kaiser Gypsum Co.*, 144 S. Ct. 1414, at *7 (2024)).

By drafting an insurance neutral plan, debtors and creditors were able to negotiate directly without insurance company input to expeditiously confirm a plan. The benefit being that insurers typically have strong opinions on issues and are litigious. Thus, the more that debtors and creditors can avoid insurer interference, the more expeditiously and less costly a Chapter 11 reorganization would be.

That all changed after the United States Supreme Court issued *Truck Insurance Exchange v. Kaiser Gypsum* when the Supreme Court unanimously held that insurers are "parties in interest." 11 U.S.C.A. § 1109(b).

To read the full article in *Westlaw Today*, click [here](#).