INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

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DONNA JEAN ARMSTEAD and ANTHONY ARMSTEAD,
Defendants Below, Petitioners,

v. **Case No. 26-ICA-14**

MANNINGTON HOME CENTER, INC.,
Plaintiffs Below, Respondents.

On Appeal from the Circuit Court of Monongalia County, Division II
17th Judicial Circuit of West Virginia
Case No. 03-C-89

RESPONDENT'S BRIEF BY MANNINGTON HOME CENTER, INC.

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

STATUTES

RULES

ASSIGNMENTS OF ERROR
(By Petitioners)

I. The Circuit Court erred by applying the incorrect legal standard in concluding that res judicata does not apply to this case.

II. The Circuit Court erred by disregarding the controlling facts relevant to the determination of whether collateral estoppel applies to this case.

III. The Circuit Court erred by disregarding binding precedent establishing that an order determining the validity or priority of a claim constitutes a final order.

STATEMENT OF THE CASE

This is an appeal by the Petitioners, Donna J. and Anthony Armstead ("the Armsteads"), of the December 23, 2025, ORDER DENYING MOTION FOR SUMMARY JUDGMENT (Appx. pp. 350-363) entered on December 23, 2025, in which the Circuit Court of Monongalia County, Division II, set forth in exquisite detail its findings of fact, analysis and conclusions of law behind its ruling denying the Armsteads' Motion for Summary Judgment on grounds of res judicata and collateral estoppel.

The story here properly begins with a non-jury trial judgment on December 16, 2008, in favor of Mannington Home Center, Inc. ("Mannington"), against Donna J. and Anthony Armstead in Case No. 03-C-89 in the Circuit Court of Monongalia County, West Virginia, in the amount of $41,669.28 plus post-judgment interest at the rate of 8.25%. On December 19, 2008, an Abstract of Judgment (Appx. p. 23) reflecting said judgment was duly recorded with the Clerk of the County Commission of Monongalia County, West Virginia.

In December, 2009, Mannington began its efforts to enforce and collect upon the aforesaid judgment with a suggestee execution directed to Mr. Armstead's employer (Appx. p. 24). After some additional efforts to execute (Appx. p. 28-33, 77-83), Mannington in 2017 began the process of seeking enforcement in accordance with the provisions of West Virginia Code §38-3-1 et seq. against a certain real property in Monongalia County, West Virginia, owned by the Armsteads identified as "30.09 ac Dug Hill Road."

From the time of the aforesaid judgment in 2008, to the present, the Armsteads have sought to create and impose obstacles to Mannington's efforts to collect upon its judgment by - among other things - filing a series of bankruptcy claims. Due to the automatic stay provisions associated with bankruptcy, the Armsteads were able to consistently interrupt and confound Mannington's efforts to proceed with collection upon its judgment.

Table 1: List of Bankruptcy cases initiated by Donna J. and Anthony Armstead

Case Number	Date Filed	Date Dismissed	Automatic Stay
15-bk-00302	3/30/2015	9/25/2015	179 days
17-bk-00431	4/28/2017	1/12/2018	259 days
1:01-bk-13125*	2/23/2018	5/30/2018	96 days
18-bk-00616	6/27/2018	1/19/2019	206 days
1:01-bk-13125*	7/24/2019	(denied)	4 days
19-bk-00615	7/29/2019	2/18/2021	568 days
1:21-bk-00450	8/18/2021	9/16/2021	30 days
1:21-bk-00623	11/19/2021	11/21/2024	1097 days

* Motion to reopen a previously-closed 2001 bankruptcy proceeding

West Virginia Code §38-3-7 - in the context of judgment liens - provides a notice statute with respect to bona fide purchasers of real estate for valuable consideration without notice. Simplistically, unless there is an execution and an "abstract of execution" as described in West

Virginia Code §38-3-5 recorded within 10 years of the subject judgment, a bona fide purchaser of real estate for valuable consideration without notice is immune to the associated judgment lien.

West Virginia Code §38-3-7 is a notice statute and nothing else.

Mannington did not record abstracts of execution until April 1, 2019, and April 12, 2019 (Appx. pp. 106-7) - more than 10 years after the December 16, 2008, judgment in the Circuit Court of Monongalia County. Notwithstanding the tolling provisions of West Virginia Code §38-3-19 and the implications of several bankruptcy automatic stays, West Virginia Code §38-3-7 could now operate to the advantage of a bona fide purchaser of the Armstead's real property for valuable consideration without notice despite Mannington's lien.

On July 29, 2019, facing imminent consequences in the Circuit Court of Monongalia County due to Mannington's efforts to enforce its judgment, the Armsteads acting pro se filed a Chapter 13 bankruptcy proceeding in the Northern District of West Virginia in Case No. 1:19-bk-00615 which was subsequently converted to a Chapter 11. On October 11, 2019, following an appearance by counsel on behalf of the Armsteads, an adversary proceeding was opened within Case No. 1:19-bk-00615 in Case No. 1:19-ap-49 with the Armstead's Complaint to Object to or Determine Extent, Validity, and Priority of a Line or Other Interest in Property. With this action, the Armsteads sought to avoid Mannington's 2008 judgment lien on the basis of the late-recorded Abstracts of Execution.

Despite the clear language of West Virginia Code §38-3-6 regarding judgment liens in West Virginia requiring that "[s]uch lien shall continue so long as such judgment remains valid and enforceable, and has not been released or otherwise discharged," the bankruptcy Court in its March 6, 2020, Order (Appx. pp. 108-9) incorporated the following peculiar language:

The Court does hereby

> FURTHER ORDER that Mannington's judgment lien recorded December 19, 2008, be and hereby is null and void to the extent not already voided by expiration of the operation of law. Notably, however, Mannington's claim against the Debtors persists pending the Debtors' successful completion of their anticipated Chapter 11, plan of reorganization.

Judge Flatley then retired.

It is apparent that counsel for the Armsteads was concerned and dissatisfied with Judge Flatley's use of the language that "Mannington's claim against the Debtors persists pending the Debtors' successful completion of their anticipated Chapter 11, plan of reorganization." Following what appears on the record to be some unclear and mysterious maneuvers, Judge Volk[1] then caused to be entered on May 3, 2020, the Bankruptcy Court's Order Granting Motion to Alter and Amend Judgment (Appx. pp. 110-112) in which the problematic language for the Armsteads included in Judge Flatley's order was scrubbed. As described in the Petitioner's Brief, Bankruptcy case 1:19-bk-00615 was ultimately dismissed on February 17, 2021, upon motion by the United States' Trustee.

The validity of Mannington's judgment lien was again challenged in Bankruptcy Case No. 1:21-bk-00623, opened as a Chapter 13 case on November 19, 2021, and subsequently converted to a Chapter 7 case upon the Armsteads' pro se motion. The Armsteads, with the generous assistance of the Chapter 7 Trustee, then initiated Adversary Proceeding 1:22-ap-4 within Case No. 1:21-bk-00623 with the March 4, 2022, Complaint attacking Mannington's claim.

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[1] On March 12, 2020, David Bissett became the only Bankruptcy Judge in the Northern District of West Virginia. Due to a conflict of interest, the Armsteads' cases 1:19bk–615 and 1:10ap49 were assigned to Judge Volk. Thereafter, the Armsteads' cases were re-assigned to Judge Mignault.

The adversary proceeding in 1:22-ap-4 was initially resolved by the Bankruptcy Court by way of Judge Mignault's summary ORDER (Appx. pp. 188-9) entered July 29, 2022, in 1:21-bk-623/1:22-ap-4. Judge Mignault in her July 29, 2022, ORDER expressed that "[i]n the event Mannington appeals, the court reserves the opportunity to issue a memorandum opinion to augment the record." Thereafter, the parties continued to dispute the meaning and effect of the three prior Bankruptcy Court orders and Mannington did subsequently submit a Notice of Appeal. Judge Mignault therefore determined to elaborate on the analysis and legal rational behind her July 29, 2022, summary ORDER.

Judge Mignault expressed in her subsequent August 22, 2022, MEMORANDUM OPINION (Appx. pp. 191-8) that "the court now supplements the record with its analysis supporting its July 29, 2022, order" and went on to describe the Court's rationale in its determination that "Mannington's purported judgment lien recorded December 19, 2008, shall be and hereby is NULL and VOID." The Bankruptcy Court's ultimate analyses of the Armsteads' challenges to the validity of Mannington's claims then proceeded solely in the realm of West Virginia Code §38-3-7 and 11 U.S.C. 544(a)(3). In the course of weaving together a legal rationale based on the "interplay of Bankruptcy Code and State Law" (Appx. p. 196), the critical link in the Bankruptcy Court's chain of logic was its recognition of the Chapter 7 Trustee's de facto status as a "bonafide purchaser" in the context of West Virginia Code §38-3-7 (Appx. pp. 191-8).

1:21-bk-00623 was ultimately denied discharge upon the United States' Trustee's May 18, 2022, Complaint to Deny Discharge based on allegations including serial filings; false oath; hinder, delay or defraud creditors; withholding documents related to the debtors' property and financial affairs from an officer of the estate and misdeeds committed in prior bankruptcy proceedings.

Satisfied with the analysis rendered in the August 22, 2022, MEMORANDUM OPINION, Mannington moved to dismiss its action in the United States District Court to appeal the Bankruptcy Court's July 29, 2022, ORDER, and returned to the Circuit Court of Monongalia County following the closure of Bankruptcy case 1:22-bk-0623 and the apparent expiration of the associated Temporary Restraining Order against Mannington obtained by the Chapter 7 Trustee on March 7, 2022, in 1:22-ap-4.

Proceedings in the Circuit Court pursuant to the April 26, 2021, Order Granting Plaintiff's Motion for Enforcement of Lien on Real Property were resumed with hearings on February 12, 2024, and on May 13, 2024 (Appx p. 10). During the proceeding on May 13, 2024, the Circuit Court of Monongalia County set a hearing September 23, 2024, at which time the Court would receive and consider evidence in regard to Mannington's 2017 levy activity as it pertains to the question of the validity of Mannington's lien within the context and operation of West Virginia Code §38-3-18(a) - this in consideration of the Armsteads' recent contentions that Mannington's ongoing enforcement action was barred by statute of limitation.

On September 23, 2024, the Circuit Court did receive evidence in support of Mannington's position that its enforcement action was viable in accordance with the provisions of West Virginia Code §38-3-18(a). The Circuit Court, in consideration of the Armsteads' Motion for Summary Judgment on Res Judicata and Collateral Estoppel Grounds filed by their new counsel on September 19, 2024, determined to schedule yet another proceeding on December 17, 2024, to address the Armsteads' recently-submitted Motion for Summary

Judgment (Appx. p. 12).

The Court on December 17, 2024, heard representations and arguments by counsel and directed the parties to submit their Proposed Orders with Findings of Fact and Conclusions of Law no later than January 10, 2025. On December 23, 2025, the Circuit Court of Monongalia County entered its Order Denying Defendants' Motion for Summary Judgment (Appx. pp. 350-363).

From that Order, the Armsteads Petition the Intermediate Court of Appeals of West Virginia.

SUMMARY OF THE ARGUMENT

By West Virginia statutory law, a judgment lien shall continue so long as the underlying judgment remains valid and enforceable, and has not been released or otherwise discharged.

Principles of res judicata are not available to the Armsteads to attack Mannington's standing as a judgment creditor in this matter. The action in the Circuit Court of Monongalia County is not a "second suit." Mannington is not seeking to re-litigate its position as a creditor or lienholder.

The Bankruptcy Court's treatment and analyses of the Armsteads' challenges to the status of Mannington's claims in cases 1:19-bk-615/1:19-ap-49 and 1:21-bk-623/1:22-ap-4 proceeded in the realm of West Virginia Code §38-3-7 and 11 U.S.C. 544(a)(3). The Bankruptcy Court's treatment of the issue and analysis were fully reliant on the operation and application of West Virginia Code §38-3-7 and 11 U.S.C. 544(a)(3) and in particular the recognition of the Chapter 7 Trustee's de facto status as a "bonafide purchaser" in the context of West Virginia Code §38-3-7

(Appx. pp. 191-8).

The Bankruptcy Court's March 6, 2020, ORDER in 1:19-bk-615/1:19-ap-49; May 4, 2020, ORDER in 1:19-bk-615/1:19-ap-49; July 29, 2022, ORDER in 1:21-bk-623/1:22-ap-4 and August 8, 2022, MEMORANDUM OPINION in1:21-bk-623/1:22-ap-4 make zero mention of execution under West Virginia Code §38-3-18 (Appx. pp. 191-8).

The timeliness of docketed/filed/recorded abstracts of execution in the context and operation of West Virginia Code §38-3-7 is completely immaterial as pertains to execution under the provisions of West Virginia Code §38-3-18(a).

The subject Bankruptcy Court Orders do not operate beyond the scope of the legal rationale and analysis set forth in those same orders.

A Bankruptcy Court of limited jurisdiction is unable to render a ruling having preclusive effect. The subject orders therefore affect nothing more than Mannington's status as a claimant in Bankruptcy proceedings

Principles of res judicata and collateral estoppel actually bar the Bankruptcy Court from declaring Mannington's judgment "null and void" as Mannington's action preceded that in which the Armsteads brought the issue in Bankruptcy Court.

Res Judicata and Collateral Estoppel on the basis of Orders from the Bankruptcy Court for the Northern District of West Virginia in cases 1:19-bk-615/1:19-ap-49 and 1:21-bk-623/1:22-ap-4 do not present an obstacle to Mannington's efforts to proceed with execution under the provisions of West Virginia Code §38-3-18(a); the cause of action identified for resolution in the subsequent proceeding is NOT identical and the issue previously addressed by the Bankruptcy Courts is NOT identical to that presented in the Circuit Court of Monongalia Co.

STATEMENT REGARDING ORAL ARGUMENT AND DECISION

The Respondent, Mannington Home Center, Inc., concurs with the Petitioners' Statement Regarding Oral Argument and Decision in accordance with the provisions of Rule 19(a) of the West Virginia Rules of Appellate Procedure.

ARGUMENT

I. Standard of Review:

"This Court reviews de novo the denial of a motion for summary judgment, where such a ruling is properly reviewable by this Court." Syl. Pt. 1, Findley v. State Farm Mut. Auto. Ins. Co., 213 W.Va. 80, 576 S.E.2d 807 (2002), City of Saint Albans v. Botkins, 228 W.Va. 393, 719 S.E.2d 863 (W. Va. 2011).

There has been no certification that the Circuit Court's December 23, 2025, Order Denying Defendants' Motion for Summary Judgment is a final order.

Although the res judicata and collateral estoppel issues were initially presented to the Circuit Court in the style of a motion for summary judgment and the December 23, 2025, order was styled "Order Denying Defendants' Motion for Summary Judgment," Mannington would contend that the Armsteads' pleadings and proceedings in this regard were more akin to a motion for declaratory judgment.

"A circuit court's entry of a declaratory judgment is reviewed de novo." Syl. Pt. 3, Cox v. Amick, 195 W.Va. 608, 466 S.E.2d 459 (1995). J.A. St. & Assocs. v. BITCO Gen. Ins. Corp., No. 17-0079 (W. Va. May 01, 2019).

II. The Circuit Court Correctly Applied the Res Judicata Standard. Principles of Collateral Estoppel are not available to attack validity of Mannington's Lien:

The Armsteads' attack on Mannington's judgment lien on the basis of res judicata fails from the outset.

"Under the doctrine of res judicata, a judgment on the merits in a prior suit bars a second suit involving the same parties or their privies based on the same cause of action." citing Porter v. McPherson, 198 W.Va. 158, 166, 479 S.E.2d 668, 676 (1996) (quoting Parklane Hosiery Co. v. Shore, 439 U.S. 322, 326 n. 5, 99 S.Ct. 645, 649 n. 5, 58 L.Ed.2d 552, 559 n. 5 (1979)) (footnote omitted). State ex Rel. Shrewsberry V. Hrko, 527 S.E.2d 508, 206 W.Va. 646 (1999).

In the Circuit Court action, Mannington has not initiated a "second suit." The res judicata and collateral estoppel issues were first introduced to the Circuit Court by way of the Armsteads' own September 19, 2024, Motion for Summary Judgment at a point 21 years into the case proceedings. Mannington never sought to re-litigate its position as a creditor or lienholder in this case. Mannington occupied the status of creditor even prior to becoming a plaintiff in Case No. 03-C-89 in the Circuit Court of Monongalia County Division II. Mannington then became a lienholder on December 19, 2008, pursuant to the Circuit Court's judgment in 03-C-89 on December 16, 2008. Moreover, the Armsteads' own pleading reveals that the issue was pending in the Circuit Court prior to ever being raised in the Bankruptcy Court. This is not a "second suit."

If anything, the Armsteads' Motion for Summary Judgment is the "second suit." The Circuit Court of Monongalia County first addressed and resolved issues involving the validity of Mannington's lien on March 4, 2019 - over a year before the actions in Bankruptcy Court.

The Armsteads' attack on Mannington's judgment lien on the basis of collateral estoppel fails as well.

"Collateral estoppel will bar a claim if four conditions are met: (1) The issue previously decided is identical to the one presented in the action in question; (2) there is a final adjudication on the merits of the prior action; (3) the party against whom the doctrine is invoked was a party or in privity with a party to a prior action; and (4) the party against whom the doctrine is raised had a full and fair opportunity to litigate the issue in the prior action." citing Syllabus Point 1, State v. Miller, 194 W.Va. 3, 459 S.E.2d 114 (1995). Syl. Pt. 2, In Re: B.C., 755 S.E.2d 664, 233 W.Va. 130 (2014).

Issue Preclusion by Collateral Estoppel requires that the issue previously decided is identical to the one presented in the action in question; in this case, it is not.

Mannington's position with respect to the Armsteads' attack on the validity of its judgment lien on the basis of res judicata and collateral estoppel here is clear and simply stated multiple times in these proceedings:

Any preclusive effect of the Bankruptcy Courts orders must be limited and restricted to the operation and effect of West Virginia Code §38-3-7 as it pertains to bona fide purchasers. Bona fide purchaser considerations are inapplicable to Mannington's ongoing levy and execution activity under West Virginia Code §38-3-18. The record in this case is abundantly clear that Mannington most recently engaged in execution activity in the year 2017. By operation of West Virginia Code §38-3-18,

> Where execution issues within ten years as aforesaid, other executions may be issued on such judgment within ten years from the return day of the last execution issued theron, on which there is no return by an officer

Mannington simply seeks a straightforward application of the provisions of West Virginia Code §§38-3-1 et seq. and asserts that it is entitled to proceed now in accordance with the Court's prior decree of sale until at least 2027[2].

Mannington disputes the Armsteads' contention that "the validity of Mannington's December 19, 2008, lien is identical to the issue resolved in prior proceedings. The Bankruptcy Court's rulings can only be seen as limited to the notice operation of West Virginia Code §38-3-7 in the context of bona fide purchasers of real estate for valuable consideration. Accordingly, the application of res judicata or collateral estoppel is inappropriate in this case as the cause of action identified for resolution in the subsequent proceeding is in no way identical.

Mannington finds full support for its position as stated above in the Bankruptcy Court's own analysis and elaboration as set forth in its August 8, 2022, MEMORANDUM OPINION (Appx. pp. 191-8).

In its July 29, 2022, summary ORDER, the Bankruptcy Court expressed that "[i]n the event Mannington appeals, the court reserves the opportunity to issue a memorandum opinion to augment the record." Thereafter, the parties continued to dispute the meaning and effect of the three prior Bankruptcy Court orders and Mannington did subsequently submit a Notice of Appeal. The Bankruptcy Court then expressed in its August 8, 2022, MEMORANDUM

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[2] Mannington would assert that the statutory period has been extended substantially by the tolling provisions of West Virginia Code §38-3-19 including during several Bankruptcy Automatic Stays as well as during the pendency of the proceedings in the Circuit Court of Monongalia County and in the Intermediate Court of Appeals.

OPINION that "the court now supplements the record with its analysis supporting its July 29, 2022, order" and went on to elaborate the Court's rationale, weaving together a legal rationale based on the "interplay of Bankruptcy Code and State Law" (Appx. p. 196) in its determination that "Mannington's purported judgment lien recorded December 19, 2008, shall be and hereby is NULL and VOID."

The key point in the Bankruptcy Court's analysis is its reliance on "§544(a)(3)[3]" in its chain of logic in determining that the trustee occupies the status of bona fide purchaser in the context of West Virginia Code §38-3-7:

> Regarding the trustee's standing, Mannington's argument simply fails to account for the trustee's status under § 544(a)(3) and its impact on the operation of W. Va. Code § 38-3-7. Put simply, the trustee is a "purchaser of real estate for valuable consideration without notice" as of the date the Armsteads commenced their case. He thus possesses the requisite standing to ask the court for a determination that Mannington's lien expired, without renewal, by operation of law and is thus null and void (Appx. p. 196).

The Bankruptcy Court goes on to justify its treatment of Mannington's creditor claim in 1:21-bk-623/1:22-ap-4 through application of the apparent bar in West Virginia Code §38-3-7 by regarding the bankruptcy trustee as a "bona fide purchaser" and making further findings in support of its determination that time in excess of ten years had passed before Mannington had recorded its abstract of execution.

There is no discussion or analysis whatsoever by the Bankruptcy Court in its August 8, 2022, MEMORANDUM OPINION or any of the other subject orders in the context of West Virginia Code §38-3-18. The Bankruptcy Court's action in this regard, therefore, may not be taken by the Circuit Court as reaching beyond the application and operation of West Virginia

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[3] Mannington believes the Bankruptcy Court is referring to 11 U.S.C. §544(a)(3).

Code §38-3-7.

By operation of West Virginia Code §38-3-6,

> Every judgment for money rendered in this state, other than by confession in vacation, shall be a lien on all the real estate of or to which the defendant in such judgment is or becomes possessed or entitled, at or after the date of such judgment.
>
> Such lien shall continue so long as such judgment remains valid and enforceable, and has not been released or otherwise discharged.

West Virginia Code §38-3-7 carves out a narrow notice provision exception designed to protect bona fide purchasers for consideration.

Bona fide purchaser considerations are inapplicable to Mannington's ongoing levy and execution activity under West Virginia Code §38-3-18. As to the Armsteads, Mannington occupied the status of creditor even prior to becoming a plaintiff in Case No. 03-C-89 in the Circuit Court of Monongalia County Division II. Additionally, Mannington then became a lienholder in December, 2008. Any activity in the realm of West Virginia Code §38-3-7 with regard to other parties having the status of "bona fide purchaser" is meaningless with respect to Mannington's ongoing effort to levy and execute on its judgment.

It is noteworthy that the same Bankruptcy Court whose orders are the basis for the Armsteads' preclusion arguments has recently acknowledged the ongoing collection action in the Circuit Court of Monongalia County. In its July 1, 2024, ORDER DENYING DEBTORS' MOTION FOR A PARTIAL DISCHARGE [Document 228] in 1:21-bl-00623, the Bankruptcy Court states with respect to the Armsteads' pro se motion that:

The Motion has no legal basis and appears to have been filed for the improper

> purposes of harassing Mannington Home Center, Inc. and causing delay in the case pending before the Monongalia County Circuit Court in violation of Rule 9011 of the Federal Rules of Bankruptcy Procedure. (Appx. pp. 68-9).

The Bankruptcy Court further stated in its August 26, 2024, ORDER DENYING DEBTORS' MOTION TO RETAIN JURISDICTION OVER MANNINGTON HOME CENTER, INC. that

> Pending is the Debtors' *Motion to Allow the Federal Bankruptcy Court to Retain Jurisdiction over Mannington Home Center* [dkt. 226] (the "Motion"). The Motion argues that the Court should retain jurisdiction over Mannington Home Center, Inc., because in their case pending before the Monongalia County Circuit Court, they need "proof from the Bankruptcy Court that Mannington Home Center is either discharged or otherwise barred from collection of the judgment lien
>
> and
>
> Once again, it appears that the Armsteads have filed a frivolous motion for the improper purpose of harassing Mannington Home Center, Inc. in violation of Rule 9011 of the Federal Rules of Bankruptcy Procedure. (Appx. pp. 70-71).

The Bankruptcy Court is obviously well aware of Mannington's ongoing levy and execution activity in the Circuit Court of Monongalia County. If the Bankruptcy Court had seen any issue with Mannington's effort to independently pursue levy and execution upon its judgment in the Circuit Court of Monongalia County in spite of its 2021 and 2022 orders, it would certainly have taken the opportunity to have expressed its concern in either of these two 2024 orders.

The Armsteads' Petition also relies on a mis-stated interpretation of a headnote rule from a 135-year-old case in an attempt to persuade this Court to expand the scope and operation of res judicata and collateral estoppel principles far beyond what is proper and prescribed by settled, modern law.

The Armsteads seem to be saying here that even though the Bankruptcy Court did not address the issue currently pending before the Circuit Court, that because the parties may have had an opportunity to litigate myriad other contentions that may have existed between them in the Bankruptcy actions, then those issues must all be presumptively resolved in favor of the Armsteads.

Looking behind the headnote in Sayre's Adm'r v. Harpold, 33 W.Va. 553, 11 S.E. 16 (W. Va. 1890) quoted by the Armsteads, we see in the actual text of the case opinion the following:

> It is well settled that an adjudication by a court having jurisdiction of the subject-matter and the parties is final and conclusive, not only as to the matters actually determined, but as to every other matter which the parties might have litigated and had decided as incident to or ***essentially connected*** with the subject-matter coming within the legitimate purview of the original action, both in respect to the matters of claim and defense. (Emphasis added)

Sayre's Adm'r v. Harpold, 33 W.Va. 553, 556, 11 S.E. 16, 19 (W. Va. 1890).

A careful and thorough reading of this 135 year-old case opinion reveals that it stands merely for the principle that a party (Sayre) who claims to have evidence but fails to present it or who claims to have lost it will not receive the benefit of the doubt in the matter. The rule of Sayre's Adm'r v. Harpold does not operate to extend and extrapolate the operation of the Bankruptcy Court's rulings to issues outside the intended scope of those Orders.

The Armsteads then rely on Blake v. Charleston Area Medical Center, 498 S.E.2d 41, 201 W.Va. 469 (W. Va. 1997) and progeny reciting the same rule in support of their contention that res judicata and collateral estoppel operate in broad realms far beyond their actual applicability. In Blake, the West Virginia Supreme Court of Appeals renders an opinion in support of its order reversing a Circuit Court's dismissal of an action on the basis of res judicata that incorporates a very useful distinction on the identity issue which actually favors Mannington's position here by comparison.

Returning to the Armsteads' apparent contention here that Mannington should have litigated other imaginable claims and issues while the subject was before the Bankruptcy Court - most notably the issue of whether the Bankruptcy Court's orders had preclusive effect on the Circuit Court action - it can just as easily be argued that the Armsteads could have taken that opportunity to seek a determination of the issue and failed to do so.

III. Neither the subject Bankruptcy Court Orders nor the Circuit Court's Order Denying Motion for Summary Judgment operate beyond the scope of the legal rationale and analysis set forth in those same orders.

Insofar as the Bankruptcy Court has declared Mannington's judgment lien to be "null and void" ***as it pertains*** to bona fide purchasers of real property for valuable consideration without notice exclusively in the context of Bankruptcy Court proceedings, Mannington would not dispute that the subject Bankruptcy Court Orders are "Final Orders."

Otherwise, neither the subject Bankruptcy Court orders nor the Circuit Court's December 23, 2025, Order Denying Defendant's Motion for Summary Judgment are final orders.

Assuming, arguendo, that Mannington is unable to pursue enforcement of its judgment lien upon real property, the judgment still exists. A myriad of issues could arise in the course of further efforts by Mannington to collect by way of execution regardless of the status or validity of their lien. Again, Mannington would contend that the recent December 23, 2025, judgment of the Circuit Court more closely resembles a decision on a motion for declaratory judgment.

The Circuit Court's December 23, 2025, Order Denying Defendant's Motion for Summary Judgment is not a final order in the context of summary judgment.

IV. A Bankruptcy Court of limited jurisdiction is unable to render a ruling having preclusive effect. The subject orders therefore affect nothing more than Mannington's status as a claimant in Bankruptcy proceedings.

The various rulings and orders of the Bankruptcy Court do not reach beyond the Bankruptcy Court's ability to adjudicate bankruptcy claims in a case pending before it.

Any grant of authority given to the bankruptcy courts under § 105 must be exercised within the confines of the bankruptcy code. 11 U.S.C. § 105. Gouveia v. Tazbir, 37 F.3d 295, 301 (7th Cir. 1994) (citing Norwest Bank Worthington v. Ahlers, 485 U.S. 197 (1988)).

Accordingly, bankruptcy courts are courts of limited jurisdiction unable to enter final orders. In adversary proceedings such 1:22-ap-00004, both "core" and "non-core" proceedings are recognized. A core proceeding in bankruptcy is a legal case that directly affects the relationship between a debtor and their creditors, and can only exist in the context of a bankruptcy case. Bankruptcy judges have the authority to hear and decide core proceedings, which are conducted in bankruptcy court.

Non-core proceedings cannot be given res judicata effect because the bankruptcy court cannot enter a final judgment. Barnett v. Stern, 909 F.2d 973, 978-79 (7th Cir. 1990); Howell Hydrocarbons, Inc. v. Adams, 897 F.2d 183, 189-90 (5th Cir. 1990).

"[N]oting the two forms of adversary process in bankruptcy cases, i.e., adversary proceedings and contested matters, as a general rule, res judicata does not apply to contested matters, which employ a "quick motion-and-hearing style." D-1 Enterprises, Inc. v. Commercial

State Bank, 864 F.2d 36 (5th Cir. 1989).

V. Principles of res judicata and collateral estoppel actually bar the Bankruptcy Court from declaring Mannington's judgment "null and void"

The creditor-debtor relationship between Mannington and the Armsteads was established and the subject indebtedness of $41,669.28 was reduced to judgment on December 16, 2008. A lien was thereby created by operation of West Virginia Code §38-3-6:

> Every judgment for money rendered in this state, other than by confession in vacation, shall be a lien on all the real estate of or to which the defendant in such judgment is or becomes possessed or entitled, at or after the date of such judgment.
>
> Moreover,
>
> Such lien shall continue so long as such judgment remains valid and enforceable, and has not been released or otherwise discharged.
>
> West Virginia Code §38-3-6

By virtue of this Court's December 16, 2008, judgment, and operation of West Virginia Code §38-3-6, any question as to the validity of Mannington's lien was thusly resolved. A later determination in 2020 by a Bankruptcy Court that Mannington's lien was "null and void" is not merely illegal by the provisions of West Virginia Code §38-3-6, but itself runs afoul of principles of res judicata and collateral estoppel.

CONCLUSION

For the foregoing reasons, counsel respectfully requests this Honorable Court to deny the Petition for Appeal.

Respectfully submitted this 7th day of April, 2026.

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INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

DONNA JEAN ARMSTEAD and ANTHONY ARMSTEAD,
Defendants Below, Petitioners,

v. **Case No. 26-ICA-14**

MANNINGTON HOME CENTER, INC.,
Plaintiffs Below, Respondents.

CERTIFICATE OF SERVICE

I hereby certify that on this the 7th day of April, 2026, I filed the foregoing RESPONDENT'S BRIEF BY MANNINGTON HOME CENTER, INC. via "File and ServeXpress" which will automatically deliver copies to all counsel and parties of record.

RESPECTFULLY SUBMITTED,
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