



[Back to News](#)

Novack and Macey Wins Dismissal for Kohler Co.

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[Eric Macey](#) and [Monte Mann](#) secured a dismissal with prejudice of all claims asserted against their client, Kohler Co. (“Kohler”), in the United States District Court of for the Eastern District of Tennessee. The plaintiff, a lawnmower purchaser, had asserted claims against small engine manufacturer Kohler and numerous additional defendants for, among other things, fraud, racketeering and civil conspiracy.

United States District Court Judge Thomas W. Phillips granted Kohler and the other defendants’ motion to dismiss based on the doctrine of judicial estoppel. The Court held that although the plaintiff was aware of his claims, he failed to disclose them in his personal bankruptcy case, and his debts were discharged in bankruptcy without his creditors’ or the bankruptcy court’s knowledge of the claims. As a result, he was judicially estopped from pursuing them against Kohler and the other defendants after his bankruptcy.

Kohler, based in Kohler, Wisconsin, is a world-class manufacturer and distributor of small engines and generators, kitchen and bath fixtures, furniture and decorative tiles.

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