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# Fourth Circuit Rejects Equitable Estoppel Defense in Insurer Indemnity Dispute

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***Liberty Mutual Insurance Company v. Atain Specialty Insurance Company*, 2025 WL 212105, 126 F.4th 301 (4th Cir. 2025)**

In a significant ruling for the insurance industry, the U.S. Court of Appeals for the Fourth Circuit affirmed the district court's decision granting summary judgement in favor of Liberty Mutual Insurance Company against Atain Specialty Insurance Company. The court held that Atain could not rely on the defense of equitable estoppel to avoid its indemnity obligations under a previously established agreement with Liberty tied to a \$1 million appeal bond. The Fourth Circuit reasoned that any alleged misrepresentation by Liberty, the surety, about closing and canceling the bond did not equitably estop Liberty from enforcing the indemnity agreement against Atain because they both had equal knowledge regarding the status of the bond.

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### Background and Lower Court Proceedings

The dispute originated from a racial discrimination lawsuit against McClure Hotel, which resulted in a \$950,000 jury verdict for the defendants. McClure appealed the decision and was required to post a \$1 million appeal bond, which was secured through Liberty as the surety, under an indemnity agreement with Atain, McClure's general liability insurer. Initially, Atain funded McClure's defense but later sought a declaratory judgment to withdraw, claiming its policy did not cover the discrimination damages. Atain won this coverage action against McClure in federal district court and withdrew its appeal bond despite the underlying state action still pending.

After McClure's appeal was unsuccessful in the state court, Liberty sought reimbursement for the \$1 million appeal bond from Atain under the indemnity agreement. Atain refused to reimburse Liberty, claiming equitable estoppel as a defense. Equitable estoppel is a legal principle preventing one party from taking a position contrary to their previous statements or actions if another party has reasonably relied upon those statements to their detriment. It aims to prevent unfairness and ensure honesty in contractual dealings.

Atain claimed it did not owe indemnity because Liberty had misrepresented the bond's status and that Atain had relied on this misrepresentation and believed it had no further obligation under the indemnity agreement, leading Liberty to file a lawsuit in federal district court for breach of contract. The district court granted summary judgment to Liberty, rejecting Atain's defense of equitable estoppel.

## The Fourth Circuit's Reasoning

The Fourth Circuit Court of Appeals reviewed and acknowledged that despite assuming *arguendo* that Liberty misrepresented the status of the appeal bond, Atain could not prove detrimental reliance under New York's high threshold for equitable estoppel. The court emphasized that Atain, as a sophisticated entity, possessed the means and obligation to verify the bond's status through their own reasonable diligence. Thus, the mere assertion of reliance without substantive evidence or failure to investigate adequately does not suffice to invoke equitable estoppel.

## Key Takeaways for Insurers

- While some states have a less stringent standard for equitable estoppel, focusing more on fairness of the outcome and the relationship between parties, this is not a deviation from those cases.
- The Fourth Circuit's decision aligns with the broader trend of the judiciary's reluctance to apply equitable estoppel absent exceptional circumstances, especially when both entities are sophisticated parties.
- Courts anticipate that parties will exercise due diligence in accordance with their sophistication level, appropriately reviewing and analyzing all information reasonably available to the party. Failure to do so will not justify the application of equitable estoppel.

If you have concerns or need further clarification on your company's handling of claims, contact the authors or any attorney with the firm's [Insurance Coverage and Bad Faith](#) team.

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