

FEB 20 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

YVONNE A'RAE LAISURE-RADKE,  
Individually and as Personal  
Representative of the Estate of Douglas  
Radke, deceased; ESTATE OF  
DOUGLAS RADKE,

Plaintiffs - Appellants,

v.

BARR LABORATORIES, INC.,

Defendant,

and

PHARMACEUTICAL RESOURCES,  
INC.; DR. REDDY'S LABORATORIES  
INC.; PAR PHARMACEUTICAL, INC.,

Defendants - Appellees.

No. 07-35443

D.C. No. CV-03-03654-RSM

MEMORANDUM\*

YVONNE A'RAE LAISURE-RADKE,  
Individually and as Personal  
Representative of the Estate of Douglas  
Radke, deceased; ESTATE OF  
DOUGLAS RADKE,

No. 07-35495

D.C. No. CV-03-03654-RSM

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Plaintiffs - Appellees,

v.

PHARMACEUTICAL RESOURCES,  
INC.; DR. REDDY'S LABORATORIES  
INC.,

Defendants - Appellants.

Appeal from the United States District Court  
for the Western District of Washington  
Ricardo S. Martinez, District Judge, Presiding

Argued November 20, 2008  
Withdrawn from Submission November 20, 2008  
Resubmitted February 20, 2009  
Seattle, Washington

Before: B. FLETCHER and RAWLINSON, Circuit Judges, and EZRA,\*\* District  
Judge.

Y'vonne A'Rae Laisure-Radke appeals the district court's order granting  
Pharmaceutical Resources, Inc.'s, and Dr. Reddy's Laboratories, Inc.'s  
(collectively "Defendants") motion to dismiss. The district court held that judicial  
estoppel barred Laisure-Radke from asserting her claims against Defendants. We  
have jurisdiction over this appeal pursuant to 28 U.S.C. § 1291. We review the

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\*\* The Honorable David A. Ezra, United States District Judge for the  
District of Hawaii, sitting by designation.

district court's application of judicial estoppel for an abuse of discretion. *Hamilton v. State Farm Fire & Cas. Co.*, 270 F.3d 778, 782 (9th Cir. 2001). We affirm.

Because Laisure-Radke failed to disclose the existence of her claims against Defendants in her bankruptcy petition and obtained a discharge of her debts based on this failure to disclose, the district court did not abuse its discretion when it concluded that judicial estoppel barred Laisure-Radke's claims. *See id.* at 784-85. That Laisure-Radke later moved to reopen her bankruptcy proceedings does not excuse her earlier failure to disclose; judicial estoppel ensures that debtors make a "full and honest disclosure" of their assets in the original bankruptcy proceeding. *See id.* at 785 (internal quotation omitted).

Because we affirm the district court's dismissal of Laisure-Radke's claims, we do not reach the issues raised in Defendants' cross-appeal.

**AFFIRMED.**