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EXEMPTIONS: Claiming, timing and objections to exemptions.

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A CLE Presentation

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INTRODUCTION

An area of substantial importance within bankruptcy jurisprudence is the proper claiming of exemptions and timely objections made thereto. The Bankruptcy Code explicitly addresses exemptions in 11 U.S.C. § 522. Indiana has exercised its right to opt-out of federal bankruptcy exemptions,¹ and the Indiana Code section controlling exemptions by individuals domiciled in Indiana is found in I.C. 34-55-10, et seq.

I. CLAIMING OF EXEMPTIONS

When a debtor files a bankruptcy petition, all of his property becomes property of the bankruptcy estate.² However, the bankruptcy code allows the debtor to prevent the administration by the trustee of certain property by claiming it as exempt.³ Exemptions, in conjunction with discharge, are the principal means by which a “fresh start in bankruptcy is effectuated.”⁴ It thereby follows that Indiana exemption laws are liberally construed to effect their intent and purpose.⁵ Exemptions are determined as of the date of the order for relief – which is the petition date in a voluntary case.⁶

A. Federal exemption law.

Bankruptcy Rule 4003 controls procedures for claiming exemptions in bankruptcy. In pertinent part, Rule 4003(a) provides that a debtor shall list the property claimed as exempt under § 522 of the Code on the schedule of assets required to be filed by Rule 1007.

Bankruptcy Code § 522(b) provides that debtors may exempt either (1) property specified in the federal list, found in Code § 522(d), or (2) “any property that is exempt under Federal law, other than subsection (d) of this section, or State or local law,” as well as jointly owned property that is “exempt from process under applicable non-bankruptcy law.”⁷ Section 522(b) provides an “opt-out” provision for states, which allows debtors to choose the federal list “unless the State law that is applicable to the debtor under paragraph (3)(A) of this subsection specifically does not so authorize.” Indiana is one of the states that has chosen to “opt-out,” therefore domiciled citizens of the state are only allowed to claim the exemptions delineated in I.C. 34-55-10, et seq. or other non-bankruptcy federal law.

Section 522(l) of the Bankruptcy Code states the procedure for claiming exemptions and objecting to claimed exemptions as follows: “The debtor shall file a list of property that the debtor claims as exempt under subsection (b) of this section ... Unless a party in interest objects, the property claimed as exempt on such list is exempt.”⁸

B. State exemption law.

Indiana has exercised its right to “opt-out” of federal bankruptcy exemptions,⁹ therefore citizens of Indiana may only claim exemptions in property specified by Indiana law.¹⁰ The Indiana Code section controlling exemptions by individuals domiciled in the state is found in I.C. 34-55-10, et seq. Under this section, “a debtor may claim such realty, personally, and income or profits exempt from an execution based on an action arising out of contract, as he or she selects, up to the statutory limit.”¹¹ The mere fact that a debtor has less than the statutory amount of property allowed does not proscribe him from claiming an exemption.¹² *Allen v. Sullivan*, 216 Ind. 394, 22 N.E.2d 471 (1939) held that the provisions of this act were plain, simple, concise, explicit and unambiguous, and therefore left no room for construction.

I.C. 34-55-10-1 states in relevant part:

“In accordance with Section 522(b) of the Bankruptcy Code, in any bankruptcy proceeding, an individual debtor domiciled in Indiana is not entitled to the federal exemptions as provided by Section 522(d) of the Bankruptcy Code.”

I.C. 34-55-10-2(c) lists the property of a debtor domiciled in Indiana that is allowed to be claimed as exempt. Included in that list are the following exemptions:

- (1) Real estate or personal property constituting the personal or family residence of the debtor up to \$15,000;
- (2) Other real estate or tangible personal property up to \$8,000;
- (3) Intangible personal property – excluding debts and income owing – of up to \$300;
- (4) Professionally prescribed health aids for the debtor or a dependent of the debtor;
- (5) Any interest that the debtor has in real estate held as a tenant by the entirety;
- (6) An interest, whether vested or not, that the debtor has in a retirement plan or fund (subject to restrictions set forth in (A)-(C)).

It is well-established that debts, salaries, earnings, wages, and income from trust funds or profits due a judgment debtor constitute “property” within the Indiana exemption laws.¹³ The only requirement to claiming an exemption is that the judgment debtor must have an individual interest in the property claimed as exempt.¹⁴ “Thus, a debtor cannot claim land as exempt from sale upon execution if the title is in the name of his or her spouse.”¹⁵ But, when the spouse is the real debtor in the judgment and execution, as well as the owner of the property levied upon, he or she may claim the individual property to the extent necessary to make, with the spouse’s, the statutory amount allowed as exempt.¹⁶

In addition, it may generally be stated that Indiana’s exemption laws do not require a debtor to have equity in an asset to claim an exemption.¹⁷ This is exemplified in the case of *Matter of Sherbahn*, 170 B.R. 137 (Bankr. N.D. Ind. 1994), where the bankruptcy court stated the mere fact that crops were fully encumbered on the date of petition did not mean that debtors were not entitled to any exemption whatsoever. Indiana’s exemption laws are numerous and complex, and the following cases are illustrative of some of these laws. In the case of *Matter of Weaver*, 93 B.R. 172 (N.D. Ind. 1988), the court held that the proceeds of a workers’ compensation settlement which had been received by the debtor before entering in to bankruptcy were not exempt.¹⁸ Also, a husband and wife who have attained mortgage exemptions upon their separate properties are not entitled to a mortgage exemption upon property owned by them jointly,¹⁹ and an estate in land held by a husband and wife as tenants by the entirety is subject to execution for their joint debt.²⁰ Additionally, the exemption laws do not affect a mechanic’s lien or lien for the purchase money of real property exempted, or exempt any property from taxation or from sale for taxes.²¹

The case of *In re Jackson*, 74 B.R. 45 (Bankr. N.D. Ind. 1987), established the general principle that exempt property is not protected from the enforcement of valid liens; instead, the lien survives the bankruptcy discharge as an in rem liability. The recent case of *In re Metcalf*, 2005 Bankr. LEXIS 1807 (Bankr. N.D. Ind. 2005), held that I.C. 34-55-10-2(b)(2)(A) was the proper exemption for a Chapter 7 debtor’s property that was undeveloped real estate and not the debtor’s residence. In addition, the bankruptcy court held in that case that the Chapter 7 debtor was entitled to claim a \$2,000 exemption for a particular lot on which the creditor had a judicial lien since the debtor owned non-residential real estate and tangible personal property.²²

In Indiana, the doctrine of tenancy by the entirety presents particular difficulties for a creditor seeking judgment on debts of an estate in bankruptcy.²³ This difficulty is exemplified in the case of *Paeplov v. Foley*, 128 B.R. 429 (N.D. Ind. 1991), aff’d, 972 F.2d 730 (7th Cir. 1992). In that case, the Seventh Circuit Court of Appeals affirmed that when only one spouse files for bankruptcy, a creditor has no claim before the bankruptcy court for that spouse’s individual liability on property owned by the joint spouses.²⁴

C. Valuation of exempt property, generally.

"In order to be effective, property claimed as exempt must be identified with specificity and its value must be stated."²⁵ In Indiana, as a general rule, the value of property in which a debtor claims an exemption is determined upon sale or other disposition of the property.²⁶

In making a claim to an exemption on Bankruptcy Schedule C, a debtor is required to identify both the "value of the claimed exemption" and the "market value of the property" in which the exemption has been claimed.²⁷ A debtor is not required to claim an exemption for its entire interest in a particular piece of property.²⁸ Instead, the debtor may claim only a portion of the property's value as exempt, leaving the remaining value for the trustee to administer on behalf of creditors.²⁹ While creditors are required to react rather quickly in objecting to a claimed exemption,³⁰ neither the Bankruptcy Code nor the Bankruptcy Rules contain any requirement or procedure for objecting to the value of property in which an exemption has been claimed.³¹ Thus, the value a debtor places upon a particular asset (which may or may not be correct) is not determinative, and a dispute over an asset's valuation, therefore is not subject to the time limitations for objecting to a claimed exemption.³² Regardless of what a debtor's scheduled value for an asset may have been, if the asset has a value in excess of the amount of a claimed exemption the trustee is entitled to administer that excess for the benefit of creditors.³³

D. Determining the right to exemptions after misrepresentation of asset values.

Section 522(e) of the Bankruptcy Code provides that a waiver of exemptions or of the right to avoid transfers is not enforceable in bankruptcy. However, several cases have found grounds upon which to estop the debtor from claiming those rights.³⁴ Instructive on this issue is the case of *In re Goodwin*, 133 B.R. 141 (Bankr. S.D. Ind. 1990). In that case, the "debtor's prior representations that certain items were business equipment and inventory provided grounds to equitably estop the debtor from claiming an exemption in the items as household furnishings and apparel and avoiding the security interest under § 522(f)(2) [now § 522(f)(1)(B)], because the creditor had relied upon the earlier representations to its detriment."³⁵

A similar holding was made in the First Circuit Court of Appeals decision in *In re Hannigan*, 409 F.3d 480, Bankr. L. Rep. (CCH) P 80293 (1st Cir. 2005). In that case, it was held the debtor was not entitled to amend schedules to take full advantage of the allowed homestead exemption where the debtor had intentionally undervalued his home. The bankruptcy court found that the debtor had intentionally undervalued his home by providing an assessment relating to only one of two parcels on which the home was located. Debtor had also claimed an improper homestead exemption amount. Debtor later moved to amend schedules to claim proper higher exemption, but the First Circuit Court of Appeals affirmed the bankruptcy court's denial of the amendment based on a lack of clear error in the holding.³⁶

II. OBJECTIONS TO EXEMPTIONS

A. The filing of objections, generally.

The filing of objections to exemptions is controlled by Bankruptcy Rule 4003 and Bankruptcy Code Section 522(l). Section 522(l) does not itself specify the time limitations for objecting to a claimed exemption. However, it sets forth the procedure for claiming exemptions and objecting to exemptions as follows:

"The debtor shall file a list of property that the debtor claims as exempt under subsection (b) of this section. If the debtor does not file such a list, a dependent of the debtor may file such a list, or may claim property as exempt from property of the estate on behalf of the debtor. Unless a party in interest objects, the property claimed as exempt on such list is exempt."³⁷

If the debtor does not claim an exemption with respect to particular property, the rule of inclusion stated in Bankruptcy Code § 541 controls, and the property then goes to the trustee as part of the bankruptcy estate to be distributed to creditors.³⁸

Bankruptcy Rule 4003 controls procedures for claiming timely objections to exemptions in bankruptcy.

In pertinent part, Rule 4003 provides:

- (b) A party in interest may file an objection to the list of property claimed as exempt only within 30 days after the meeting of creditors held under § 341(a) is concluded or within 30 days after any amendment to the list or supplemental schedules is filed, whichever is later. The court may, for cause, extend the time for filing objections if, before the time to object expires, a party in interest files a request for extension.

Additionally, at a hearing regarding an objection to an exemption, Bankruptcy Rule 4003(c) places the burden on the objecting party to prove that the exemption was not properly claimed.³⁹

B. Timely filing of objections is required.

Bankruptcy Code §522(l) renders property claimed exempt by the debtor automatically exempt if a party in interest does not object.⁴⁰ Indiana follows this general rule of law, as established in *Jajuga v. Lukens*, 631 N.E.2d 920 (Ind.App. 3 Dist. 1994). In that case, the court recognized that unless there is a timely objection from a party in interest, any property that is claimed exempt by a debtor, regardless of whether claimed exemption is valid, is automatically exempt.⁴¹

Section 522(l) was applied literally by the United States Supreme Court in *Taylor v. Freeland*, 503 U.S. 638, 642, 112 S.Ct. 1644, 118 L.Ed.2d 280 (1992), despite the lack of any colorable basis for the claimed exemption.⁴² In *Taylor*, the Chapter 7 debtor had claimed an exemption in the potential proceeds from a pending employment discrimination suit, no formal objection was filed, and the debtor then settled the suit.⁴³ It was asserted that Bankruptcy Code § 105 permits courts to disallow exemptions not claim in good faith.⁴⁴ The Supreme Court recognized that several courts have accepted this position,⁴⁵ but declined to consider the implication of § 105(a) in this case due to the procedural manner in which the issue was raised.⁴⁶ The Supreme Court held that in accordance to § 522(l) and Rule 4003(b), the Chapter 7 trustee could not contest the validity of the claimed exemption after the thirty-day period for objecting had expired and no extension had been obtained, even though the debtor had no colorable or good faith basis for claiming the exemption.⁴⁷

Since § 522(l) has been applied literally by the Supreme Court, the trustee and creditors should take heed of Bankruptcy Rule 4003(b), which provides that a party in interest must file an objection to an exemption claim within 30 days after the meeting of creditors or of the filing of any amendment to the list of claimed exemptions.⁴⁸

The time within which the court can extend the period for objecting to the debtor's asserted exemptions is jurisdictional, and may not be extended unless the order is entered not later than 30 days after the conclusion of the § 341 (a) meeting.⁴⁹ This occurs if the trustee fails to expressly continue the meeting to a later date, the trustee by written notice states that the meeting is closed, or the bankruptcy court orders the examination closed.⁵⁰ Instructive on this matter was a decision by the Ninth Circuit Court of Appeals, which held that the 30-day period for objecting to exemptions does not begin to run unless the debtor's schedule of exempt property adequately advises the trustee of what property is being claimed as exempt.⁵¹

An untimely request for additional time to file an objection to a claimed exemption may not be granted because Rule 4003(b) is one of the Rules specifically enumerated in Bankruptcy Rule 9006(b)(3), where the enlargement of a specific time period is limited to the extent and the conditions stated in the Rule.⁵² However, although a debtor is entitled to a claimed exemption because of the trustee's untimely objection, the trustee may nonetheless avoid debtor's transfer of property under § 522(f) that was the

subject of the exemption.⁵³ A challenge to the debtor's exemption which involves the avoidance of property asserted by the debtor and affects the rights of a non-debtor, requires an adversary proceeding against both the debtor and the non-debtor.⁵⁴

The Seventh Circuit Court of Appeals addressed the issue of filing timely objections to exemptions in *In re Schoonover*, 331 F.3d 575 (7th Cir. 2003). In that case, the court held that a creditor's failure to timely object to a debtor's claimed homestead exemption prevents the creditor from later objecting to the validity of the exemption, as well as to lien avoidance motions under § 522(f). Additionally, the court in *In re Puckett*, 254 B.R. 910 (Bankr. D. Idaho 2000) held that Rule 4003(b)'s 30-day period cannot be enlarged because of excusable neglect.

However, at least one court has held that a debtor's claim of exemption must be unambiguous or the trustee's failure to timely object will not result in the property becoming exempt under § 522(l). See *In re Mercer*, 53 F.3d 1 (1st Cir. R.I. 1995).

C. Objections to amendments of exemptions.

"Bankruptcy Rule 1009(a) provides that the debtor may amend an exemptions claim at any time before the case is closed."⁵⁵ Several cases condition that right of amendment on payment by the debtor of expenses incurred by the trustee or a creditor as a result of the debtor's delay.⁵⁶ "The right to change the election or to amend the list of exemptions may be denied if the change would cause undue prejudice to creditors or would interfere with efficient administration of the case."⁵⁷ Several courts have held that "amendment may also be denied if the earlier non-disclosure was in bad faith."⁵⁸ In the case of *In re Wood*, 291 B.R. 219 (B.A.P. 1st Cir. 2003), the court held that bad faith or prejudice to creditors can be considered in connection with objections to the debtor's amended schedules.⁵⁹ In that case, the debtor had added assets she previously failed to disclose and amended exemptions claims, despite the bankruptcy court's having permitted the amendments.⁶⁰ Also instructive on this issue is the case of *In re Bauer*, 298 B.R. 353 (B.A.P. 8th Cir. 2003). In that case, amendment to exemptions was disallowed where debtors had acted in bad faith in valuing their home at \$80,000 in their schedules when, the month before, they had increased insurance coverage to \$276,000, the house was valued for tax purposes at \$203,000, and less than two months after filing the debtors summarily rejected an offer to purchase the house "as is" for \$150,000.⁶¹ Similarly, the court in *In re Grogan*, 300 B.R. 804 (Bankr. D. Utah 2003) disallowed debtors' claim of exemption in previously undisclosed assets where blatant dishonesty in preparation of the original schedules suggested an intent to hinder the trustee's administration of the estate's assets, and constituted both bad faith and prejudice to creditors.⁶²

According to Rule 4003(b), if the debtor files an amended schedule to change his or her exemption claims, a new 30-day period is available to the trustee within which an objection can be raised.⁶³ It is well-established that the objection may only relate to the exemption added by the amendment.⁶⁴ The Seventh Circuit Court of Appeals addressed this issue in the case of *In re Kazi*, 985 F.2d 318 (7th Cir. Ill. 1993). In that case, the court held that when the debtor amends its previously claimed exemptions, Rule 4003(b) creates a new 30-day period for objecting to the exemptions, but does not provide additional time to object to exemptions that are not affected by the amendments.⁶⁵

In a situation where the asset is not scheduled until after the § 341 meeting, the 30-day period runs from the time the debtor amends the schedules to include the asset claimed as exempt.⁶⁶ In addition, failure to notify the trustee of an amendment that claims a previously unclaimed exemption, tolls the time period set out in Rule 4003(b).⁶⁷

D. Objections to exemptions: conversion of a case to Chapter 7.

Currently, there is a jurisdictional split as to whether conversion of a case to a different bankruptcy chapter starts a new time period for objecting to exemptions. The Eighth Circuit Court of Appeals has held that where a case is converted to Chapter 7, the time for objecting to exemptions starts anew and runs from the conclusion of the meeting of creditors in the Chapter 7 case.⁶⁸ However, the

court held that exemption rights are determined as of the date of the original petition even in a case converted from Chapter 13 to 7.⁶⁹

Alternatively, other jurisdictions, including the Ninth Circuit and Second Circuit Courts of Appeals, have held that conversion of a case to Chapter 7 does not start a new time period for objecting to exemptions.⁷⁰

E. Other options for a party in interest who fails to file a timely objection.

Where a party in interest has failed to file a timely objection to a debtor's claimed exemption in accordance to §522(l) and Rule 4003(b), that party has several remaining options in which to attack a particular exemption. To begin with, a party in interest can contest the valuation of an asset's claimed exemption.⁷¹ Second, a trustee who fails to file a timely objection may still compel turnover of exempt property so that the value over and above the exemption can be realized by the estate.⁷² Third, the trustee can pursue a fraudulent transfer action regarding property transferred pre-petition, in which the debtor claims an exemption.⁷³ Fraudulently transferred property is not estate property until it is recovered, and debtors may claim exemptions only in property of the estate.⁷⁴ Finally, a creditor who fails to object in accordance with Rule 4003(b) may nevertheless contest the merits of the exemption in the context of a motion under § 522(f) to avoid debtor's transfer of property.⁷⁵

III. QUESTIONS REGARDING PROPERLY EFFECTING AN EXEMPTION CLAIM

1. Debtor claims \$5,000 exemption in household goods.
2. Debtor claims \$1 exemption in potential insurance proceeds.
3. Debtor claims \$1,000 exemption in car on Schedule C. The car is clearly identified on Schedule B, but is simply referred to as "car" on Schedule C.
4. Debtor claims \$150,000 exemption in his residence, in which he only has \$100,000 in equity.

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- ¹ *Matter of Burns*, 218 B.R. 897 (Bankr. N.D. Ind. 1998).
- ² *Taylor v. Freeland*, 503 U.S. 638, 642, 112 S.Ct. 1644, 118 L.Ed.2d 280 (1992); see 11 U.S.C. § 541.
- ³ *Id.*; see 11 U.S.C. § 522.
- ⁴ 2 Norton Bankr. L. & Prac. 2d § 46:1.
- ⁵ *In re Vale*, 110 B.R. 396 (Bankr. N.D. Ind. 1989); *Butner v. Bowser*, 104 Ind. 255, 3 N.E. 889 (1885); *Miller v. Swhier*, 40 Ind. App. 465, 79 N.E. 1092 (1907); *Rich v. C. Callahan Co.*, 179 Ind. 509, 101 N.E. 810 (1913)(laws providing for householders' exemptions were liberally construed).
- ⁶ 2 Norton Bankr. L. & Prac. 2d § 46:34; *In re Wolf*, 248 B.R. 365 (B.A.P. 9th Cir. 2000).
- ⁷ 11 U.S.C. § 522(b)(3)(A)-(B).
- ⁸ *Taylor*, 503 U.S. at 642; see 11 U.S.C. § 522(l).
- ⁹ *Matter of Burns*, 218 B.R. 897 (Bankr. N.D. Ind. 1998).
- ¹⁰ 14 Ind. Law Encycl. Exemptions § 2 (2006); see IC 34-55-10-1.
- ¹¹ *Id.*; *Coppage v. Gregg*, 1 Ind. App. 112, 27 N.E. 570 (1891).
- ¹² *Id.*; *Moss v. Jenkins*, 146 Ind. 589, 45 N.E. 789 (1897).
- ¹³ *Id.*; *Martin v. Loula*, 208 Ind. 346, 194 N.E. 178 (1935).
- ¹⁴ *Id.*; *Snell v. Gresso*, 215 Ind. 424, 19 N.E.2d 1011 (1939).
- ¹⁵ *Id.*; *Holman v. Martin*, 12 Ind. 553, 1859 WL 4716 (1859).
- ¹⁶ *Id.*; *Crane v. Waggoner*, 33 Ind. 83, 1870 WL 3636 (1870).
- ¹⁷ *Id.*
- ¹⁸ 14 Ind. Law Encycl. Exemptions § 7 (2006); but cf. *In re Richards*, 92 B.R. 369 (Bkrtcy.N.D.Ind. 1988)(holding the fact that workers' compensation proceeds received by debtor may have been exemptible from bankruptcy estate did not alter preferential character of transfer of proceeds to third parties).
- ¹⁹ *Id.*; citations omitted.
- ²⁰ *Id.*; *Sharp v. Baker*, 51 Ind. App. 547, 96 N.E. 627 (Div. 2 1911).
- ²¹ 14 Ind. Law Encycl. Exemptions § 2 (2006); see IC 34-55-10-14.
- ²² *In re Metcalf*, 2005 Bankr. LEXIS 1807 (Bankr. N.D. Ind. 2005).
- ²³ *Paeplow v. Foley*, 128 B.R. 429 (N.D. Ind. 1991), *aff'd*, 972 F.2d 730 (7th Cir. 1992).
- ²⁴ *Id.*
- ²⁵ 2 Norton Bankr. L. & Prac. 2d § 46:34; see, e.g., *In re Kelley*, 255 B.R. 783 (Bankr. N.D. Ala. 2000) (denying an exemption in the proceeds of a favorable judgment arising out of an automobile accident for failure to disclose its true value); *In re Berryhill*, 254 B.R. 242 (Bankr. N.D. Ind. 2000) (debtor's claim of an exemption in real estate valued at \$0 was the equivalent of no exemption at all; without a claimed exemption there was nothing for § 522(f)(1) to protect, so judicial liens against debtors' real estate were not avoidable); *In re Raymond*, 132 B.R. 53 (Bankr. D. Colo. 1991), subsequently *aff'd*, 987 F.2d 675 (10th Cir. 1993)(claim of exemption in jewelry, without identifying the jewelry or stating its current market value, is insufficiently specific to be given effect).
- ²⁶ *Matter of Sherbahn*, 170 B.R. 137 (Bankr. N.D. Ind. 1994).
- ²⁷ *In re Salzer*, 180 B.R. 523, 529 (Bkrtcy.N.D.Ind.,1993).
- ²⁸ *Id.*
- ²⁹ *Id.*
- ³⁰ See 11 U.S.C. § 522(a); Fed.R.Bankr.P. 4003(b).
- ³¹ *Id.*
- ³² *Id.*; *In re Hyman*, 123 B.R. 342, 348-49 (9th Cir. BAP 1991), *aff'd*, 967 F.2d 1316 (9th Cir.1992); *Addison*, 158 B.R. 53; *In re Bronner*, 135 B.R. 645, 647 (9th Cir. BAP 1992); *Matter of Isakson*, 106 B.R. 21, 24 (Bankr.D.Conn.1989).
- ³³ *Id.*
- ³⁴ 2 Norton Bankr. L. & Prac. 2d § 46:34.
- ³⁵ *Id.*; see also *In re Lane*, 103 B.R. 816 (Bankr. N.D. Tex. 1987).
- ³⁶ 9 Norton Bankr. L. & Prac. 2d Fed. R. Bankr. P. 4003 (2007); *In re Hannigan*, 409 F.3d 480, Bankr. L. Rep. (CCH) P 80293 (1st Cir. 2005).
- ³⁷ *Taylor*, 503 U.S. at 642; see 11 U.S.C. § 522(l).
- ³⁸ *Payne v. Wood*, 775 F.2d 202, 204 (7th Cir. 1985); see also *In re Friedrich*, 100 F. 284 (7th Cir. 1900).

³⁹ 2 Norton Bankr. L. & Prac. 2d § 46:34.
⁴⁰ *Id.*; other citations omitted.
⁴¹ See also 11 U.S.C.A. § 522(b); Fed.Rules Bankr.Proc.Rule 4003.
⁴² *Id.*
⁴³ *Taylor*, 503 U.S. at 638-39.
⁴⁴ *Id.*
⁴⁵ See, e.g., *Radgsdale v. Genesco, Inc.*, 674 F.2d 277, 278 (CA4 1982); *In re Staniforth*, 116 B.R. 127, 131 (Bkrtcy. Ct. WD Wis.1990); *In re Budinsky*, 1991 WL 105640 (WD Pa., 1991); but cf. *Matter of Sadkin*, 36 F.3d 473 (5th Cir.1994); *Matter of Stoulig*, 45 F.3d 957 (5th Cir.1995).
⁴⁶ *Id.*
⁴⁷ *Id.* at 645-46.
⁴⁸ 2 Norton Bankr. L. & Prac. 2d § 46:34; other citations omitted.
⁴⁹ *In re Laurain*, 113 F.3d 595 (6th Cir. 1997).
⁵⁰ *In re Bernard*, 40 F.3d 1028 (9th Cir.Cal.1994).
⁵¹ *Preblich v. Battley*, 181 F.3d 1048 (9th Cir.1999).
⁵² 9 Norton Bankr. L. & Prac. 2d Fed. R. Bankr. P. 4003 (2007), editor's comment (b).
⁵³ See *In re Greenfield*, 65 Fed. Appx. 549 (6th Cir. 2003); *In re Duncan*, 329 F.3d 1195 (10th Cir. 2003); *In re Smith*, 235 F.3d 472 (9th Cir. 2000).
⁵⁴ *Havoco of America, Ltd. v. Hill*, 197 F.3d 1135 (11th Cir.1999).
⁵⁵ 2 Norton Bankr. L. & Prac. 2d § 46:34; other citations omitted.
⁵⁶ *Id.*; *In re Harris*, 101 B.R. 210 (Bankr. E.D. Cal. 1989).
⁵⁷ *Id.*; see *In re Arnold*, 252 B.R. 778 (B.A.P. 9th Cir. 2000); *In re Knapp*, 283 B.R. 819 (Bankr. W.D. Pa. 2002)(court refused to permit amendment when the trustee detrimentally relied on the lack of an exemption claim and, if exemption were permitted, administrative expenses would not have been paid).
⁵⁸ *Id.*; see, e.g., *In re Colvin*, 288 B.R. 477 (Bankr. E.D. Mich. 2003); *In re Robinson*, 292 B.R. 599 (Bankr. S.D. Ohio 2003).
⁵⁹ *Id.*
⁶⁰ *Id.*
⁶¹ *Id.*
⁶² *Id.*
⁶³ *In re Kahan*, 28 F.3d 79 (9th Cir. 1994).
⁶⁴ *In re Bernard*, 40 F.3d at 1028.
⁶⁵ *In re Kazi*, 985 F.2d 318, (7th Cir. Ill. 1993).
⁶⁶ *In re Woodson*, 839 F.2d 610 (9th Cir.1988).
⁶⁷ *In re Moore*, 269 B.R. 864 (Bankr. D. Idaho 2001).
⁶⁸ *In re Alexander*, 236 F.3d 431 (8th Cir. 2001); *In re Lang*, 276 B.R. 716 (Bankr. S.D. Fla. 2002)(holding that conversion from Chapter 11 to Chapter 7 creates a new period for the trustee to object to debtor's exemptions claims; to hold otherwise would deny due process to a newly appointed trustee and impede administration of the case, and debtors will not be prejudiced by renewed periods if their exemptions are proper); *In re Fish*, 261 B.R. 754 (Bankr. M.D. Fla. 2001)(new 30-day period triggered after conversion of case from Chapter 13 to Chapter 7).
⁶⁹ *In re Alexander*, 236 F.3d 431 (8th Cir. 2001).
⁷⁰ *In re Smith*, 235 F.3d 472 (9th Cir. 2000); *In re Bell*, 225 F.3d 203 (2d Cir. 2000); *In re Rogers*, 278 B.R. 201 (Bankr. D. Nev. 2002).
⁷¹ 2 Norton Bankr. L. & Prac. 2d § 46:34; *In re Alderman*, 195 B.R. 106 (B.A.P. 9th Cir. 1996).
⁷² *Id.*; *Garzoni v. Taunt*, 56 Fed. Appx. 214 (6th Cir. 2003); *In re Zupansic*, 259 B.R. 388 (M.D. Fla. 2001), *aff'd*, 273 F.3d 399 (11th Cir. 2001).
⁷³ *Id.*; *In re Woodin*, 294 B.R. 436 (Bankr. D. Conn. 2003).
⁷⁴ *Id.*
⁷⁵ *Id.*; *In re Jarski*, 301 B.R. 342 (Bankr. D. Ariz. 2003); *In re Thompson*, 263 B.R. 134 (Bankr. W.D. Okla. 2001); but cf. *In re Butler*, 271 B.R. 807 (Bankr. E.D. Tenn. 2001).