

# BANKRUPTCY <sup>UP</sup>DATE

## December 16, 2014

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### CLN Decision

You can use the link in the "Links" section below to view the following decision:

#### *Allred v. Nickeson (In re Nickeson)*

**Issue:** Whether the trustee-plaintiff or certain defendants were entitled to partial summary judgment on the trustee-plaintiff's claims requesting judgment against certain defendants, the avoidance of the debtor's transfers of shares of stock to one of the defendants, and the recovery of those shares for the bankruptcy estate under 11 U.S.C. §§ 548(a)(1)(A), 548(a)(1)(B), and 544(b), and S.D.C.L. §§ 54-8A-4(a)(1) and 54-8A-4(a)(2)?

**Ruling:** No, the Court denied both motions. The trustee-plaintiff's claims were pled with sufficient particularity under Fed.R.Civ.P. 9(b), the subject transfers were made within the two-year reach-back period of 11 U.S.C. § 548(a)(1), the shares of stock were assets that could be the subject of a fraudulent transfer, the transfers were of an interest in property held by the debtor, and the debtor was insolvent at the time of the transfers or became insolvent as a result of them. The actual value of the

shares when the transfers were made and whether the consideration given for the shares was “reasonably equivalent” to their actual value were issues for trial.

## **Links**

[Allred v. Nickeson \(In re Nickeson\)](#)

[Previous Bankruptcy<sup>UP</sup> dates](#)

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