

BANKRUPTCY ^{UP}DATE

March 9, 2015

If someone else would like to receive these ^{UP}dates, please send an e-mail to Mary_Frederickson@sdb.uscourts.gov.

New Member

Please welcome Nicole Tupman to the group.

CLN Decision

In re Smith (bench ruling, February 19, 2015)

Issues: (1) Whether the debtors, South Dakota residents who formerly resided in Idaho, are eligible under 11 U.S.C. § 522(b)(3) to claim the federal exemptions under 11 U.S.C. § 522(d)? (2) Whether the debtors are prohibited by 11 U.S.C. § 522(d)(3) from claiming an exemption exceeding \$575.00 in any particular item of personal property?

Rulings: (1) Pursuant to the hanging paragraph after 11 U.S.C. § 522(b)(3), the debtors may utilize the federal exemptions under 11 U.S.C. § 522(d) because, under Idaho law, the only property of the bankruptcy estate in which there is any equity may only be claimed exempt by residents of Idaho. Since the effect of Idaho's domiciliary requirement concerning the only property of the bankruptcy estate in which there is any equity renders the debtors ineligible for any exemption under Idaho law, the

debtors may use the federal exemptions. (2) Pursuant to 11 U.S.C. § 522(d)(3), the debtors are prohibited from claiming an exemption exceeding \$575.00 in any particular item of personal property.

Link

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As always, should you have questions regarding this ^{UP}date or anything else concerning your dealings with the Court or the Clerk's office, please let us know.