Opinion Title: 09/27/2005 UNPUBLISHED In re Thomas Michael Tuttle and Heather Lee Tuttle, 05-26753, Judge Thurman.

Body: Chapter 7 Trustee challenged the validity of the Debtors' claimed exemptions for various wood-working tools and machines. The Trustee alleged that the tools were, in fact, property of a closely-held corporation, founded and operated by the Debtors. The Debtors argued that they owned the tools personally, pointing to evidence that they purchased the tools before forming the corporation.The Court held that the Debtors may not claim exemptions for the tools. First, the Court held that under the alter ego theory , the Debtors had commingled corporate assets with individual assets to the extent that the fiction of corporate formalities should be disregarded to better reflect reality. Alternatively, the Court held that Debtors were equitably estopped from arguing that they owned the tools. The Court emphasized that the Debtors allowed the tools to stay at the corporation's place of business throughout the life of the corporation. A creditor of the corporation could rationally believe that the corporation owned the tools.The Debtors also argued that the tools were encumbered by a security interest orally granted to the father of one of the Debtors. The Court held that a valid security interest was not created. The Court noted that even where there is a judicial admission satisfying the statute of frauds, the admission is not sufficient to disregard the requirement under the UCC that a security agreement be in a writing.

File: 482.pdf [1]

Judge: Judge William T. Thurman [2]

Date: Tuesday, September 27, 2005

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