



Opinion 540

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Opinion Title: 04/12/2010 PUBLISHED In re Duffin, Case No. 09-28879, Judge Mosier.

Body: Under U.C.A. § 78B-5-505(1)(a)(xiii) in the absence of a creditor's levy or execution, proceeds or avails of insurance policies are exempt. Because the Trustee's rights and powers as a hypothetical creditor under § 544 are based on hypothetical events Section 544(a)(2) is inapplicable to U.C.A. § 78B-5-505(1)(a)(xiii). In the absence of express Congressional intent the Trustee's rights and powers as a hypothetical creditor under § 544 may not be used to limit state law exemptions provided for and allowed by Congress in § 522.

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Judge: [Chief Judge R. Kimball Mosier](#) [2]

Date: Monday, April 12, 2010

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