

**HANDOUT FOR DISCUSSION OF *SCHWAB V RILEY*  
RELATE TO OBJECTIONS TO EXEMPTIONS**

1- **SCHWAB V RILEY**, 130 SCt 2652 (2010). Holding:

when the Bankruptcy Code defines the property a debtor is authorized to exempt as an interest, the value of which may not exceed a certain dollar amount, in a particular type of asset, and the debtor's schedule of exempt property accurately describes the asset and declares the "value of [the] claimed exemption" in that asset to be an amount within the limits that the Code prescribes, an interested party is entitled to rely upon that value as evidence of the claim's validity and need not object to the exemption in order to preserve the estate's ability to recover value in the asset beyond the dollar value the debtor expressly declared exempt.

2- **BASIC FACTS**: Chapter 7 debtor Reilly scheduled value property she sought to exempt (kitchen equipment) at \$10,718. Trustee Schwab claimed they were worth \$17,200 and wanted to sell the equipment, pay Reilly her \$10,718 exemption, and keep the balance for the estate. The trustee lost at the bankruptcy, district court and 3<sup>rd</sup> Circuit level, which said he had not made a timely objection to Reilly's claim of exemption, so could not sell it. The Supreme Court reversed on the issue of whether the trustee had missed the deadline to object to exemptions.

3- **STATUTE AND FRBP**:

– **11 USC § 522(l)**:

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.*

– **FRBP 4003(b)**:

(b) Objecting to a claim of exemptions.

(1) Except as provided in paragraphs (2) and (3), *a party in interest may file an objection to the list of property claimed as exempt 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 an extension.

(2) The trustee may file an objection to a claim of exemption at any time prior to one year after the closing of the case if the debtor fraudulently asserted the claim of exemption. The trustee shall deliver or mail the objection to the debtor and the debtor's attorney, and to any person filing the list of exempt property and that person's attorney. [subsections (3) and (4) omitted]

4- **EXEMPTION SCHEDULES FROM SCHWAB AND TAYLOR-**

Schedule C (Property Claimed as Exempt) in *Schwab v Reilly* (2010) [objection to exemption did not have to be made within 30 days after § 341(a) meeting was concluded]:

Schedule C-Property Claimed as Exempt			
Description of Property Schedule B Personal Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Market Value of Property Without Deducting Exemptions
See attached list of business equipment.	11 U.S.C. § 522(d)(6) 11 U.S.C. § 522(d)(5)	1,850 8,868	10,718

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Schedule C (Property Claimed as Exempt) in *Taylor v Freeland and Kronz* (1992) [objection was untimely because not made within 30 days]:

Schedule B-4.-Property Claimed Exempt			
Type of Property	Location, Description, and, So Far As Relevant to the Claim of Exemption, Present Use of Property	Specify the Statute Creating the Exemption	Value Claimed Exempt
Proceeds from lawsuit	Winn v. TWA Claim for lost wages	11 U.S.C. 522(b)(d)	\$ unknown

[Note that *Schwab* added a column, Current Market Value of Property Without Deducting Exemption, that was not on the form when *Taylor* was decided.]

5- BASIC RATIONALE OF MAJORITY AND MINORITY IN SCHWAB-

In *Schwab v Reilly*, here's what **Justice Thomas** said for the **majority**:

“ . . . we conclude that Schwab was entitled to evaluate the propriety of the claimed exemptions based on three, and only three, entries on Reilly's Schedule C: the description of the business equipment in which Reilly claimed the exempt interests; the Code provisions governing the claimed exemptions; and the amounts Reilly listed in the column titled “value of claimed exemption.” In reaching this conclusion, we do not render the market value estimate on Reilly's Schedule C superfluous. We simply confine the estimate to its proper role: aiding the trustee in administering the estate by helping him identify assets that may have value beyond the dollar amount the debtor claims as exempt, or whose full value may not be available for exemption because a portion of the interest is, for example, encumbered by an unavoidable lien.

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[in response to the suggestion that the majority's ruling would hinder debtors in attaining a fresh start] “This approach [the one suggested by the minority] threatens to convert a fresh start into a free pass.”

**Justice Ginsburg** said for the **minority**:

“Because an asset's market value is key to determining the character of the interest the debtor is asserting in that asset, Rule 4003(b) is properly read to require objections to valuation within 30 days, just as the Rule requires timely objections to the debtor's description of the property, the asserted legal basis for the exemption, and the claimed value of the exemption.”