

In re David Fisher and Susan Fisher, Debtor
Case Number: 02-35823

The bankruptcy trustee objected to a claim of exemption by the debtors that their interest in a trust was exempt. The trust was set up by the debtor, Susan Fisher's father, Joseph Saunders, in 1982 in Massachusetts. Mr. Saunders was the settlor of the trust and named his wife, Ms. Saunders and another third party as the trustees of the trust. Under the terms of the trust, the debtor was to receive a lump sum payment of \$50,000 or 20% of the principal payment upon the death of her mother, Ms. Saunders. Ms. Saunders was 78 years old at the time of the hearing, Mr. Saunders died pre-petition.

The trustee argues that the trust does not contain the valid spendthrift language such that the interest in the trust is exempt. To the contrary, the Court determined that the language in the trust was sufficient to establish a spendthrift trust that applies to both the income and the corpus of the trust. Because the trust was created and administered in Massachusetts, Massachusetts law governs the validity of this trust and the spendthrift language. Ultimately, the Court determined that the spendthrift language was valid and that the future payment is excluded from property of the estate.