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# 13 NEWS<sup>®</sup>

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*PRACTITIONER'S*

*FORUM:*

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**Carol Gendler & Sandy Lundholm**

***LEGAL INFORMATION SERVICES, INC.***  
***(L.I.S.) PROVIDES BANKRUPTCY SERVICES***

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You need to locate recent Nebraska Bankruptcy Court rulings about concealed assets, but you can't find any published cases. Where can you turn for help? The *complete* opinions of the local bankruptcy courts, including those not in Westlaw or Bankruptcy Reporter, are

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Computerized research in Westlaw, Lexis, Dialog, and many other sources is a specialty of L.I.S. From a wide range of databank suppliers, the company provides efficient, thorough research, and locates hard-to-find documents through the most cost-effective means available supplementing the staff work of many law offices. In addition to legal research, L.I.S. frequently provides clients information from news, business, medical, scientific and public records sources. Recent projects range from obtaining a copy of an 1821 Pottawattamie Indian treaty to locating articles about "huffing", the practice of inhaling fumes of household substances. L.I.S. **Alert** monitors any news, legislative, or court sources on topics of interest to the client.

Carol Gendler and Sandy Lundholm, who formerly managed the Douglas County Law Library, founded the company in 1992 and have continued to expand their operations to now serve several hundred clients throughout Nebraska and beyond. While at the library Gendler developed a program offering fee-for-service computerized research for attorneys, which the women transferred to their company. The explosion of on-line information means that many law firms, companies, and individuals turn to the

expertise of these search professionals for help obtaining information from what can be a confusing and expensive maze of documents and systems. L.I.S. gives rapid service with results usually faxed the same day.

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For more information, contact Carol Gendler or Sandy Lundholm at 11222 Davenport Street, Omaha, Nebraska, 68154-5627, ( 4 0 2 ) 3 3 0 - 8 1 2 3 .

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### **DID YOU KNOW**

Good news! This year sixty-seven percent (67%) of Nebraska Chapter 13 debtors are completing their plans. This represents a 7% increase from the previously reported statistic of sixty percent (60%).

### **THE TRUSTEE PROUDLY INTRO- DUCES . . .**

*Debbie V  
Legal Secretary*

Have you met  
our legal secretary  
named Debbie,  
She is known to be  
industrious and  
steady.  
Five years she's  
been here and  
Without her I fear  
For court we would  
never been ready.



**TRUE OR FALSE QUIZ...**

*Answers on next page*

1. The Nebraska homestead exemption is available only to a head of household and is limited to \$10,000.

True

False

2. If a debtor does not have a homestead, a \$2,500.00 in-lieu-of-homestead exemption may be claimed.

True

False

3. In a joint bankruptcy case, one spouse may claim the homestead exemption and the other may claim the in-lieu-of-homestead exemption. The maximum which may be claimed is \$12,500.00

True

False

4. Nebraska debtors may generally claim their automobiles as exempt under Neb. Rev. Stat. § 25-1556.

True

False

5. In a joint bankruptcy case, both spouses may claim equipment/tools valued at \$1,500.00 for each spouse.

True

False

6. The in-lieu-of-homestead exemption is not available to the spouse eligible to claim homestead, even when the homestead is mortgaged to full value.

True

False

7. The date of conversion to Chapter 7, not the date of the original filing of the Chapter 13 petition, determines the exemptions which may be claimed in the converted case.

True

False

8. Debtor may amend schedules, including schedule containing claimed exemptions, at any time as matter of course until case is closed.

True

False



## ANSWERS

1. TRUE. See Neb. Rev. Stat. § 40-101, *In Re Hartmann*, 19 B.R. 844 (Bankr. D. Neb. 1982) (Judge David L. Crawford)
  2. TRUE. See Neb. Rev. Stat. § 25-1552, *In Re Nachtigal*, 82 B.R. 533 (Bankr. D. Neb. 1988) Judge John C. Minahan, Jr.)
  3. TRUE. See Neb. Rev. Stat. § 40-101, 25-1552, *In Re Hartmann, supra, In Re Nachtigal, supra.*
  4. FALSE. See Neb. Rev. Stat. § 25-1556. See also *In Re Dahlberg*, Case No. 78-0-1356 (Bankr. D. Neb. June 27, 1979) (Judge David L. Crawford). Vehicle could not be claimed, in this case, as “equipment or tools used by the debtor or his family....” While a truck has been held to be exempt as a “tool” when used by a painter in his business, *In Re Bailey*, 172 F.Supp. 925, not every vehicle used by a debtor is exempt as a “tool.” The vehicle must be related to the debtor’s occupation. Here the debtors simply used the vehicle to commute to work....A vehicle is not sufficiently immediate or personal
- to qualify for exemption as an “immediate personal possession of the debtor and his family.”
- See also *Goosey v. McDonald State Bank (In Re Goosey)*, 10 B.R. 285 (Bankr. D. Neb. 1981) (Judge David L. Crawford). Debtor insurance salesman used his automobile approximately 90 percent for business purposes, specifically to sell insurance, obtain property photographs and accomplish on-farm inventories as to clients living in areas of greater Nebraska not served by public transportation. “Use” and “necessity” are the test for whether an item, at least a vehicle, qualifies as a tool of the trade. “Actual use” and “necessity to present employment” were present here. The car was a necessary adjunct to the debtor’s trade as an insurance salesman and qualified as an exempt tool. The case was decided under 11 U.S.C. § 522(d)(6) but presumably would be relevant to Neb. Rev. Stat. § 25-1556.
5. TRUE. See Neb. Rev. Stat. § 25-1556, *In Re Keller*, 50 B.R. 23 (Bankr. D. Neb. 1985) (Judge David L. Crawford). See also *In Re Nachtigal*, 82 B.R. 533 (Bankr. D. Neb. 1988) (Judge John C. Minahan, Jr.). In a joint case, both spouses may claim equipment/tools valued at \$1,500.00 for each spouse. This exemption is not limited to the spouse actually using the equipment/tools. So long as the family uses the equipment “for their

own support,” a spouse claiming the exemption need not personally use the equipment.

6. TRUE. See Neb. Rev. Stat. § 40-101, 25-1552. See also *In Re Hartman, supra*, and *In Re Nachtigal, supra.*
7. TRUE. See *In Re Lindberg*, 735 F.2d 1087 (8th Cir.), *cert. denied*, 469 U.S. 1073 (1984). North Dakota debtors converted their Chapter 13 case to Chapter 7. They were permitted to file an amended schedule changing their homestead exemption upon conversion. The date of conversion to Chapter 7, not the date of the original filing of the Chapter 13 petition, determines the exemptions which may be claimed in the converted case. There was no showing in this case that the debtors’ change of residence had been fraudulent.
8. TRUE. See Bankruptcy Rules 1009, 4003, 11 U.S.C. § 522(l). See also *In Re Welborne*, 63 B.R. 23 (Bankr. D. Neb. 1986) (Judge Timothy J. Mahoney).

### *editor's comment*

*This newsletter is being published to facilitate communication between the Chapter 13 Trustee's Office and the many people we serve. The information is not meant to constitute legal advice or recommendations to individuals. If you would like to contribute an article, conference or program information, law review article, book review, comment, or question for further feedback from others, please call me directly or mail your item to:*

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