

THIS OPINION IS NOT INTENDED  
FOR PUBLICATION

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

FILED  
03 MAR 27 PM 3:16  
U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
CLEVELAND

WILLIAM D. CAMPBELL,	)	Case No. 94-14704
	)	
Debtor.	)	Chapter 13
_____	)	
	)	Judge Pat E. Morgenstern-Clarren
	)	
WILLIAM D. CAMPBELL,	)	Adversary Proceeding No. 03-1012
	)	
Plaintiff,	)	
	)	
v.	)	<b><u>MEMORANDUM OF OPINION</u></b>
	)	
ROBERT B. WELTMAN, et al.,	)	
	)	
Defendants.	)	

On January 8, 2003, the United States District Court for the Northern District of Ohio referred this adversary proceeding to this Court. (Docket 24). The Plaintiff-Debtor has now filed a Motion to Hear Related Case in which he asks the Court to hear the case of *Irwin Union Bank & Trust v. Campbell*, No. CV 02 489812, filed in the Cuyahoga County Court of Common Pleas, as a related case. The Debtor cites Local Bankruptcy Rules 1015-2 and 1014-1 in support of his motion. (Docket 39). Defendants Robert B. Weltman, Weltman, Weinberg & Reis, Co., LPA, and The Cadle Company oppose the motion on the ground that the Court lacks subject matter jurisdiction over the state court case. These Defendants also argue that the case cannot be removed to federal court for the same reason. (Docket 56). The Debtor filed an additional brief in support of his position. (Docket 59).

**DISCUSSION**

**I.**

The Debtor's motion is based primarily on Local Bankruptcy Rules 1015-2 and 1014-1, which provide:

**Rule 1014-1 TRANSFER OF CASES**

Transfer of Cases. A petitioner requesting the transfer of a case within the district shall file the motion for transfer with the petition.

**Rule 1015-2 RELATED CASES**

(a) Related Cases Defined. A petition involving a related case shall be filed at the Court location where the first related case was filed, which may be accomplished by electronic means established by the Court. Related cases include cases in which the debtors are:

- (1) Identical individuals or entities, e.g., DBAs, FDBAs, other cases of the same person;
- (2) A corporation and any major shareholder thereof;
- (3) Affiliates;
- (4) A partnership and any of its general partners;
- (5) An individual and his or her general partner or partners;
- (6) An individual and his or her spouse; or
- (7) Entities having substantial identity of financial interests or assets.

(b) Assignment of Related Cases by Clerk. A related case shall be assigned by the Clerk to the Judge to whom the first of the related cases was assigned.

(c) Reassignment of Related Cases. Notwithstanding the foregoing, if a related case is assigned to a Judge (the "Second Judge") other than the Judge to whom the prior related case was assigned (the "First Judge"), the Second Judge shall, *sua sponte* or on the motion of any party, reassign the case to the First Judge unless the Second Judge in his or her sole discretion decides to retain jurisdiction over the related case because of convenience of the parties, considerations of judicial

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economy, or other cause. Nothing in the Local Bankruptcy Rules shall preclude the First Judge from reassigning, at his or her sole discretion, the prior case to the Second Judge with the consent of the Second Judge.

These rules apply to assigning judges to bankruptcy cases filed with a United States Bankruptcy Court in the Northern District of Ohio. They do not provide for hearing a case that, as in this situation, is filed in a state court. Because the state court lawsuit is not a related case within the meaning of the Local Bankruptcy Rules, the Debtor's argument is without merit.

**II.**

In his additional brief, the Debtor quotes language drawn from 28 U.S.C. §1334(b) to show that jurisdiction exists here because the state court lawsuit is related to this bankruptcy case. This argument presupposes that the Debtor has followed the appropriate procedures for removing an action from state court to federal court. After removal, the question would then become whether the Court has jurisdiction over the lawsuit. If jurisdiction is lacking, the state court action would be remanded to state court. *See* 28 U.S.C. §§ 1441 and 1452. The Debtor did not, however, follow the removal procedures which include strict time limitations. As a result, the state court lawsuit was not removed and the Court need not reach the jurisdictional issue.

Even if the state court case had been properly removed, however, the Debtor's argument still would not prevail. As noted above, the Debtor refers to 28 U.S.C. § 1334(b). That statute—when read together with 28 U.S.C. § 157(a)—provides that on referral from a district court, bankruptcy courts “. . . shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.” 28 U.S.C. § 1334(b). The Sixth Circuit has adopted this standard for deciding when a case is related to a bankruptcy case so as to confer jurisdiction: whether the outcome of the dispute “could alter the debtor's rights, liabilities, options, or freedom of action (either positively or negatively) and which in any way

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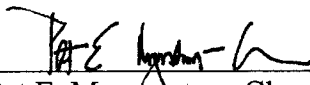
impacts upon the handling and administration of the bankruptcy estate.” *Lindsey v. O’Brien, Tanski, Tanzer, and Young Health Care Providers of Connecticut (In re Dow Corning Corp.)*, 86 F.3d 482, 489 (6th Cir. 1996), quoting with approval *Pacor, Inc. v. Higgins (In re Pacor)*, 743 F.2d 984, 994 (3d Cir. 1984).

In this case, the state court complaint is a collection action filed by a third party against the Debtor based on a transaction entered into in 2000. (See exhibit attached to Debtor’s motion). The Debtor received his bankruptcy discharge on June 18, 1999, with the bankruptcy case closed shortly thereafter. (See Bankruptcy Case No. 94-14704, Docket 61 and entries for 6/30/99). There is nothing to indicate that this transaction, which was initiated after the bankruptcy case was closed, will have any impact upon the bankruptcy estate. The Court would not, therefore, have jurisdiction over the state court lawsuit even if it had been properly removed to this Court.

**CONCLUSION**

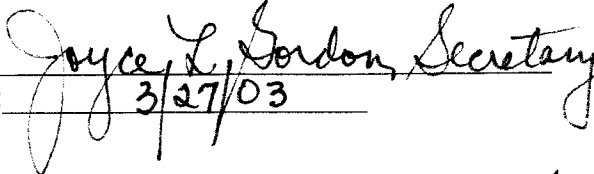
For the reasons stated, the Debtor’s Motion to Hear Related Case is denied. A separate order will be entered reflecting this decision.

Date: 27 Mar 2003

  
\_\_\_\_\_  
Pat E. Morgenstern-Clarren  
United States Bankruptcy Judge

Served by mail on:

Mr. William Campbell  
Harry Greenfield, Esq.  
Philip Lamos, Esq.  
Tracey Turnbull, Esq.  
Rene Rimelspach, Esq.  
Robert Rosplock, Esq.  
Steven Paffilas, Esq.  
Craig Syby, Esq.

By:   
Date: 3/27/03

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Plaintiff,	)	
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v.	)	<b><u>ORDER</u></b>
	)	
ROBERT B. WELTMAN, et al.,	)	
	)	
Defendants.	)	

For the reasons stated in the Memorandum of Opinion filed this same date, the Plaintiff-Debtor's Motion to Hear Related Case is denied. (Docket 39).

IT IS SO ORDERED.

Date: 27 Mar 2003

Pat E. Morgenstern-Clarren  
Pat E. Morgenstern-Clarren  
United States Bankruptcy Judge

Served by mail on:

- Mr. William Campbell
- Harry Greenfield, Esq.
- Philip Lamos, Esq.
- Tracey Turnbull, Esq.
- Rene Rimelspach, Esq.
- Robert Rosplock, Esq.
- Steven Paffilas, Esq.
- Craig Syby, Esq.

By: Joyce L. Gordon, Secretary  
Date: 3/27/03