

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

In Re: ) Case No. 04-35439  
)  
Brian M. Glonek ) Chapter 7  
Tonya A. Glonek, )  
)  
Debtors. ) JUDGE MARY ANN WHIPPLE

**ORDER DENYING MOTION FOR SEPARATE ADMINISTRATION  
OF DEBTORS' ESTATES**

This case is before the court on Debtors' Motion for Separate Administration of Debtors' Estates [Doc. # 40]. Debtors are husband and wife. They filed a joint petition under Chapter 7 of the Bankruptcy Code on June 29, 2004. In their petition, Debtors properly identified ownership of real and personal property as either jointly or individually owned and identified who is liable on each debt. In so doing, Debtors disclosed on Schedule B that Tonya Glonek owns, among other things, a personal injury claim of undetermined value. Debtors's motion seeks an order that any money received from the personal injury claim be administered separately as a separate bankruptcy estate with funds exceeding the sum of Debtors' joint debt and Tonya Glonek's individual debt being distributed to Tonya Glonek. For the reasons that follow, Debtors' motion will be denied as moot.

A joint petition filed under 11 U.S.C. § 302(a) does not result in a substantive consolidation of the estates of both debtors but, rather, creates two separate estates. *In re Bowshier*, 313 B.R. 232, 239 (Bankr. S.D. Ohio 2004); *In re Hicks*, 300 B.R. 372, 378 (Bankr. D. Idaho 2003); 2 Alan N. Resnick, et al., *Collier on Bankruptcy* ¶ 302.01(15<sup>th</sup> ed. 2002). That separate estates are created is acknowledged by the statute's provision that "[a]fter the commencement of a joint case, the court shall determine the extent, if any, to which the debtors' estates shall be consolidated." 11 U.S.C. § 302(b). As one court explained, the filing of a joint petition "has the effect of allowing two estates to be administered by one Trustee on the theory that this would allow for more efficient administration." *In re McCulley*, 150 B.R. 358, 360 (Bankr. M.D. Pa. 1993). Substantive consolidation, on the other hand, creates a single estate from the two individual estates but does not occur absent a specific determination by the court. *See Hicks*, 300 B.R. at

In this case, no party in interest has requested consolidation of the estates and the court has not determined that Debtors' jointly filed Chapter 7 petition should be consolidated. Therefore, the trustee must administer the two estates separately that were created at the time of filing. *Id.* As such, Debtors' motion to separately administer the estates is unnecessary and will be denied as moot.

**THEREFORE**, for the foregoing reasons, good cause appearing,

**IT IS ORDERED** that Debtors' Motion for Separate Administration of Debtors' Estates [Doc. # 40] be, and hereby is, **DENIED as moot**.

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Mary Ann Whipple  
United States Bankruptcy Judge