

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION



In re:) Case No. 07-15542
)
JAMES B. DOUGLASS and) Chapter 7
HOLLY R. DOUGLASS,)
) Judge Pat E. Morgenstern-Clarren
Debtors.)
) **ORDER GRANTING MOTION TO**
) **TRANSFER VENUE**

The chapter 7 trustee filed a motion under federal rule of bankruptcy procedure 1014(a) to transfer this case to the United States Bankruptcy Court for the Southern District of Florida. (Docket 10). The debtors objected. (Docket 17). The court heard arguments relating to this motion on September 27, 2007. For the reasons stated, the motion is granted.

The facts are not disputed. The debtors filed their bankruptcy case in this district on July 25, 2007, approximately seventy-four days after moving from Ohio to Florida. They have a single piece of real estate in this district, but they live in Cape Coral, Florida, where the remainder of their assets are located. Their schedules show that only the husband is employed and he works in Florida. The chapter 7 trustee commenced the 341 meeting of creditors, *see* 11 U.S.C. § 341, but adjourned it to file this motion. (Docket 12).

The parties agree that venue is proper in the Northern District of Ohio. The only question is whether the court should transfer this case to Florida “in the interest of justice or for the convenience of the parties,” under rule 1014(a)(1). FED. R. BANKR. P. 1014(a)(1).

Under 28 U.S.C. § 1412, “[a] district court may transfer a case or proceeding under title 11 to a district court for another district, in the interest of justice or for the convenience of the parties.” 28 U.S.C. § 1412. Rule 1014 implements § 1412 with respect to bankruptcy cases, and provides in part that:

If a petition is filed in a proper district, on timely motion of a party in interest, and after hearing on notice to the petitioners, the United States trustee, and other entities as directed by the court, the case

may be transferred to any other district if the court determines that the transfer is in the interest of justice or for the convenience of the parties.

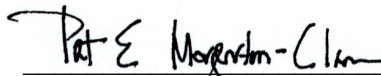
FED. R. BANKR. P. 1014(a)(1).

The party requesting transfer, in this case the trustee, has the burden of proving, by a preponderance of the evidence, that the case should be transferred either in the interest of justice or for the convenience of the parties. *In re Laguardia Assocs., L.P.*, 316 B.R. 832, 837 (Bankr. E.D. Pa. 2004). When venue is proper, a debtor's choice of forum is entitled to great weight. *Id.* At the same time, consideration of a motion to transfer venue requires the court to balance this factor with several others. For example, "[t]he 'interest of justice' component . . . is a broad and flexible standard which must be applied on a case-by-case basis. It contemplates a consideration of whether transferring venue would promote the efficient administration of the bankruptcy estate, judicial economy, timeliness, and fairness" *Gulf States Exploration Co. v. Manville Forest Prods. Corp. (In re Manville Forest Prods. Corp.)*, 896 F.2d 1384, 1391 (2d Cir. 1990). When considering the convenience of the parties, courts generally examine (1) the proximity of all creditors to the court; (2) the proximity of the debtors to the court; (3) the proximity of the witnesses necessary to the administration of the estate; (4) the location of the assets; (5) the economic administration of the estate; and (6) the necessity for ancillary administration if bankruptcy liquidation should result. *See, e.g., In re Weatherly Frozen Food Group, Inc.*, 133 B.R. 862, 865 (Bankr. N.D. Ohio 1991). Among these factors, the efficient and economic administration of the estate is considered to be the most important. *See In re Gurley*, 215 B.R. 703, 709 (Bankr. W.D. Tenn. 1997); *GEX Kentucky, Inc. v. Wolf Creek Collieries Co. (In re GEX Kentucky, Inc.)*, 85 B.R. 431, 435 (Bankr. N.D. Ohio 1987).

On balance of the relevant factors, the court finds that transfer of this case to the Southern District of Florida is clearly in the interest of justice and the convenience of the parties. The continued adjudication in this district would result in significantly higher costs of administration to the estate than if the case were transferred because most of the assets, including

vehicles, are in Florida. The debtors' counsel argued that the assets do not have value to be administered which weighs in favor of keeping the case here. This is, however, an issue to be examined in the first instance by the chapter 7 trustee, and it will be far more economical for a Florida trustee to carry out that statutory responsibility should an appraisal or other activity be needed. In addition, the majority of the creditors are located outside of Ohio and no creditor has objected to the motion to transfer. The fact that the debtors live, and the husband works, in Florida weighs in favor of transferring the case there, as little, if any, economic harm would befall them by the transfer. *See In re Blumeyer*, 224 B.R. 218, 220 (Bankr. M.D. Fla. 1998). For these reasons, and for the reasons stated in open court and on the record, the trustee has carried his burden of showing that transfer to the Southern District of Florida is appropriate.

IT IS, THEREFORE, ORDERED that the chapter 7 trustee's motion to transfer is granted and the debtors' opposition is overruled. The Clerk of the United States Bankruptcy Court for the Northern District of Ohio is directed to transfer this case to the Southern District of Florida.



Pat E. Morgenstern-Clarren
United States Bankruptcy Judge