

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

**ENTERED ON**  
**FEB 20 2007**

**DOCKET**

IN RE:	)	CHAPTER 7
	)	
RICHARD DELCO	)	CASE NO. 04-92036-MHM
	)	
Debtor	)	
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MARTHA A. MILLER, Trustee	)	
	)	
Plaintiff	)	
v.	)	<b>ADVERSARY PROCEEDING</b>
	)	<b>NO. 05-6300</b>
HENRIETTA DELCO	)	
THOMAS DELCO	)	
	)	
Defendants	)	
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MARTHA A. MILLER, Trustee	)	
	)	
Plaintiff	)	
v.	)	<b>ADVERSARY PROCEEDING</b>
	)	<b>NO. <del>05-6377</del></b>
RICHARD DELCO	)	<b>04-6377</b>
	)	
Defendant	)	

**ORDER GRANTING PLAINTIFF'S MOTION TO CONSOLIDATE**

Trustee filed a motion to consolidate the two above-styled adversary proceedings. One of these proceedings is an action against Debtor seeking to deny his discharge pursuant to 11 U.S.C. §727 and seeking recovery of fraudulent transfers to his parents

alleged under 11 U.S.C. §544b, §547, §548, §550 and the Georgia Uniform Fraudulent Conveyance Act, O.C.G.A. 18-2-70, and common law. The second proceeding was filed by Trustee against Debtor's parents to recover alleged fraudulent transfers. A review of the complaints in each of these adversary proceedings shows that the facts alleged in each of them are essentially the same.

Defendants Henrietta and Thomas Delco oppose consolidation, denying that the evidence in both proceedings will be largely the same and denying that the two proceedings have common questions of law and fact. Defendants, however, provide no illustration of the differences between the two cases except that Trustee alleges Debtor's discharge should be denied because he engaged in a fraudulent transfer within one year before the petition date and Trustee alleges the transfers to Debtor's parents are avoidable because they were made within two years of the petition date. To the extent that these allegations are inconsistent, Plaintiff will have the burden of proof at trial to resolve any such inconsistency.

The facts alleged in the two complaints are similar and those that support the §727 claims against Debtor are inextricably intertwined with those that support the fraudulent transfer and preference claims. The benefit to be gained by trying the claims separately because some of the evidence may *not* overlap is outweighed by the benefits of avoiding duplicative litigation and of allowing Plaintiffs to control the presentation of their case. Accordingly, it is hereby

ORDERED that Plaintiff's motion for consolidation is *granted*. It is further  
ORDERED that a status conference in these two adversary proceedings will be  
held at 11:00 a.m. on April 2, 2007, by telephone. Lead  
counsel for each party should contact the courtroom deputy clerk, Sandra Wiley, to  
provide a direct dial telephone number for the telephone status conference.

IT IS SO ORDERED this the 16<sup>th</sup> day of February, 2007.

  
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MARGARET H. MURPHY  
UNITED STATES BANKRUPTCY JUDGE