

**WOLK, THEODORE STEPHEN**, Bankr. No. 09-50082, Chapter 7, (Bench Ruling, September 17, 2009). **Issue:** Whether Debtor's estranged spouse was entitled to relief from the automatic stay to permit the state court to equitably divide the parties' marital property, including property of the bankruptcy estate? **Ruling:** No. The filing of Debtor's chapter 7 petition created a bankruptcy estate over which the bankruptcy court has exclusive jurisdiction. The chapter 7 trustee has a duty to liquidate all property of the bankruptcy estate and distribute the proceeds in the manner specified in the bankruptcy code, which would include a distribution to Debtor's creditors but would not include a distribution to Debtor's estranged spouse (who would not have a claim against Debtor until the state court entered a final decree). Granting Debtor's estranged spouse the relief requested would thus violate several provisions of the bankruptcy code, including §§ 541, 704, and 726. However, Debtor's estranged spouse did not need relief from the automatic stay to proceed with the divorce, request an order for domestic support, or seek an equitable division of any property that was not property of the estate (*e.g.*, exempt property, post-petition earnings, property excluded from the estate, property abandoned by the chapter 7 trustee, and any surplus under § 726(a)(6)). In addition, while Debtor's estranged spouse could not seek an equitable division that would involve a distribution in kind of any property that was property of the estate, the Court did not find anything in the bankruptcy code that would prevent the state court from taking the value of that property into account in crafting an equitable division of property between the parties. Finally, whatever claim Debtor's estranged spouse may ultimately have against Debtor following their divorce would be a post-petition claim and would not be discharged in, or otherwise affected by, Debtor's bankruptcy.