

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

In re:

GLEN M. BORSELLA and
JOANN BORSELLA,

Case No. 6:09-bk-18444-ABB
Chapter 7

Debtors.

ORDER

This matter came before the Court on the Motion Concerning Filing Date of Case (Doc. No. 36) filed by the Debtors Glen M. Borsella and JoAnn Borsella in which the Debtors request the filing date of this case be deemed December 4, 2009.

The Debtors commenced the above-captioned case by filing a joint Chapter 7 petition on December 2, 2009 (Doc. No. 1). They previously filed a joint Chapter 7 case in this Court on December 3, 2001 captioned *In re Glen Michael Borsella and Jo Ann Borsella*, Case No. 6:01-bk-11932-ABB. They were granted a discharge in the previous case on March 27, 2002 and the case was closed on April 11, 2002. The same counsel who represented the Debtors in their 2001 case represents them in their current case.

Section 727(a)(8) of the Bankruptcy Code provides the Court shall not grant a discharge if the debtor has been granted a discharge in a case commenced within eight years before the date of the filing of the petition. Section 302(a) of the Bankruptcy Code provides: "A joint case is commenced . . . by the filing with the bankruptcy court of a single petition . . ." 11 U.S.C. § 302(a).

The Debtors commenced the above-captioned bankruptcy case within eight years of the petition date of their previous case. They assert their present case should have been filed on December 4, 2009, but was filed prematurely through inadvertence. They request the filing date of their current case be deemed December 4, 2009.

A case is commenced upon the filing of a petition pursuant to the plain and unambiguous language of 11 U.S.C. Section 302. The Debtors commenced this case within the eight-year period of 11 U.S.C. Section 727(a)(8). They are not eligible for a discharge in the pending case. This case is due to be dismissed for cause pursuant to 11 U.S.C. Sections 727(a)(8) and 707(a).

Accordingly, it is

ORDERED, ADJUDGED AND DECREED that the Debtors' Motion (Doc. No. 36) is hereby **DENIED** and the above-captioned case is hereby **DISMISSED** pursuant to 11 U.S.C. Sections 727(a)(8) and 707(a).

Dated this 11th day of August, 2010.

/s/ Arthur B. Briskman
ARTHUR B. BRISKMAN
United States Bankruptcy Judge