

Intersection of Divorce and Bankruptcy

CONCURRENT SESSION

Hon. George W. Emerson, Jr.

U.S. Bankruptcy Court (W.D. Tenn.); Memphis

Hon. Audrey R. Evans

U.S. Bankruptcy Court (E.D. & W.D. Ark.)
Little Rock

DISCOVER



**asset sales
databank**

363.abi.org

Retrieve Asset Sales Information



Asset Sales Databank – The Key to § 363

With 363:

- **View by asset sales price, circuit, date and court**
- **Read summaries of key terms of recent asset sales**
- **Receive notification of new asset sales via email or RSS**
- **Use it FREE as an ABI member**

Stay Current on Sales Trends

363.abi.org

44 Canal Center Plaza • Suite 400 • Alexandria, VA 22314-1546 • phone: 703.739.0800 • abi.org

Join our networks to expand yours:



© 2012 American Bankruptcy Institute All Rights Reserved.

INTERSECTION

OF

DIVORCE AND BANKRUPTCY

Honorable Audrey R. Evans
United States Bankruptcy Court
Eastern and Western Districts of Arkansas

Honorable George W. Emerson, Jr.
United States Bankruptcy Court
Western District of Tennessee

Materials:

I. The Automatic Stay

II. The Bankruptcy Estate

III. The Discharge

IV. Procedures and Examples

V. Forms

These materials are intended to provide attorneys with basic information pertaining to legal and procedural issues which may arise through the intersection of domestic relations law and consumer bankruptcy law in their practice.

I. THE AUTOMATIC STAY

11 U.S.C. § 362 (a) generally provides that with certain exceptions, the filing of a bankruptcy petition operates to stay certain legal actions against the debtor that could have been commenced prior to the filing of the petition.

11 U.S.C. § 362(b) provides specific exceptions to the stay. As of October 17, 2005, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (hereinafter “BAPCPA”) included several important exceptions for the family law practitioner.

11 U.S.C. § 362(b)(2) provides that the filing of a petition does not operate as a stay,

“(2) under subsection (a)-

(A) of the commencement or continuation of a civil action or proceeding -

(i) for the establishment of paternity;

(ii) for the establishment or modification of an order for domestic support obligations;

(iii) concerning child custody or visitation;

(iv) for the dissolution of a marriage, **except to the extent that such proceeding seeks to determine the division of property that is property of the estate;**

or

(v) regarding domestic violence;

(B) of the collection of a domestic support obligation from property that is **not property of the estate;**

(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order or a statute;”(emphasis added)

(D) of the withholding, suspension, or restriction of a driver’s license, a professional or occupational license, or a recreational license, under State law, as specified in section 466(a)(16) of the Social Security Act;

(E) of the reporting of overdue support owed by a parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act;

(F) of the interception of a tax refund, as specified in sections 464 and 466(a)(3) of the Social Security Act or under analogous State law; or

(G) of the enforcement of a medical obligation, as specified under title IV of the Social Security Act.

BAPCPA clarified that the automatic stay does not apply to paternity actions, domestic support actions, child custody actions or marital dissolution proceedings.

Tennessee allows enforcement of child support orders through denial, suspension or revocation of licenses, certifications, registrations, permits and similar documents which grant authority to engage in a profession, trade, occupation, business or industry to hunt or fish and to operate a motor vehicle. *See* Tenn. Code Ann. §§ 36-5-701 and 36-5-706. Law licenses are not included in the licenses which are subject to such enforcement due to their regulation by the Tennessee Supreme Court. *See* Tenn. Code Ann. § 23-1-108. Tennessee regulates consumer reporting agencies through its consumer protection statutes, but reporting overdue support to a credit bureau is excepted from the automatic stay. *See* Tenn. Code Ann. § 47-18-1002 et seq. and 11 U.S.C. § 362(b)(2)(E) above. While Tennessee does not have a state income tax for interception purposes pursuant to 11 U.S.C. § 362(b)(2)(F) above, both Mississippi and Arkansas have such an income tax which is subject to interception for the enforcement of child support orders. *See* Ark. Code Ann. § 9-14-206 and Miss. Code Ann. § 27-7-515.

Arkansas also provides for the suspension of professional, occupational, business, drivers, and most other type of license (including license plates) for failure to pay child support “[u]nless the obligor executes an installment agreement or makes other necessary and proper arrangements with the office”. Ark. Code Ann. § 9-14-239. Additionally, Arkansas law requires the entities issuing such licenses to transmit all licensing information (name, address, and social security number) to the Office of Child Support Enforcement on a quarterly basis. *See* Ark. Code Ann. § 17-1-104. Also similar to Tennessee’s law, Ark. Code Ann. § 9-14-239 specifically limits its application to licenses created under the specific Titles of the Arkansas Code, none of which apply to attorneys.

The exceptions to the automatic stay do not extend to actions concerning property division, as emphasized above.

“Domestic Support Obligation” is defined by BAPCPA in 11 U.S.C. §101(14A)

“a debt that accrues before, on, or after the date of the order for relief in a case under this title, including interest that accrues on that debt as provided under applicable non-bankruptcy law notwithstanding any other provision of this title, that is-

(A) owed to or recoverable by-

(i) a spouse, former spouse, or child of the debtor or such child’s parent, legal guardian, or responsible relative; or

(ii) a governmental unit;

(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child’s parent, without regard to whether such debt is expressly so designated;

(C) established or subject to establishment before, on, or after the date of the order for relief in a case under this title, by reason of applicable provisions of -

(i) a separation agreement, divorce decree, or property settlement agreement;

(ii) an order of a court of record; or

(iii) a determination made in accordance with applicable non-bankruptcy law by a governmental unit; and

(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child of the debtor, or such child’s parent, legal guardian, or responsible relative for the purpose of collecting the debt.”

Relief from the automatic stay may be obtained under 11 U.S.C. § 362(d),

“On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by **terminating, annulling, modifying or conditioning** such stay-

(1) for cause, including the lack of adequate protection of an interest in property of such party in interest;

(2) with respect to a stay of an act against property under subsection (a) of this section, if-

(A) the debtor does not have an equity in such

property; and
(B) such property is not necessary to an effective reorganization;...”

Note that the Bankruptcy Court and the State Court share concurrent jurisdiction to determine whether or not a Divorce Decree entered by the State Court creates a domestic support obligation. *See, e.g., In re Gandy*, 327 B.R. 796, 801 (Bankr. S.D. Tex. 2005) (“In areas where state courts have concurrent jurisdiction, the jurisdiction may not be exercised when the automatic stay precludes the matter from proceeding in state court. The Code allows only the bankruptcy court to annul or modify the automatic stay.” (Internal citations omitted). *See also* Lynne F. Riley and Maria C. Furlong, *Intersection of Divorce and Bankruptcy: BAPCPA and Other Developments*, 2010 NRTN-ASBL 15 (“State divorce courts share jurisdiction with bankruptcy courts to determine many of the bankruptcy issues that can impact a divorce proceeding. Importantly, pursuant to 28 U.S.C.A. § 1334, a divorce court has concurrent jurisdiction to determine whether, upon the filing of a bankruptcy petition, a matter pending before it is subject to the automatic stay. The state court must explicitly rule on whether the automatic stay applies prior to acting on the underlying matter.” (Internal citations omitted).

II. THE BANKRUPTCY ESTATE

The filing of the debtor’s bankruptcy petition commences a bankruptcy case under 11 U.S.C. §§ 301, 302 and 303. The commencement of a case creates a bankruptcy estate under 11 U.S.C. § 541. Some subparts of § 541 to keep in mind are:

“(a) Such estate is comprised of all the following property, wherever located and by whomever held:

(1)...all legal and equitable interests of the debtor in property as of the commencement of the case.

(2) All interests of the debtor and the debtor’s spouse in community property as of the commencement of the case that is -

(A) under the sole, equal, or joint management and

- control of the debtor; or
 - (B) liable for an allowable claim against the debtor, or for both an allowable claim against the debtor and an allowable claim against the debtor's spouse, to the extent that such interest is so liable....
- (5) Any interest in property that would have been property of the estate if such interest had been an interest of the debtor on the date of the filing of the petition, and that the debtor acquires or becomes entitled to acquire within 180 days after such date -
- (A) by bequest, devise or inheritance
 - (B) **as a result of a property settlement agreement with the debtor's spouse, or of an interlocutory or final divorce decree;** or
 - (C) as a beneficiary of a life insurance policy or of a death benefit plan....”

In order to exempt property, on the debtor's schedules, the debtor must list his or her claimed exemptions on his or her bankruptcy petition in accordance with Tennessee's statutory exemption scheme. Both Tennessee and Mississippi have opted out of the federal exemptions found in 11 U.S.C. § 522(d), and accordingly, debtors in those states may only exempt property that is exempt under state law or non-bankruptcy federal law. *See* Miss. Code Ann. § 85-3-2 and Tenn. Code Ann. § 26-2-112. Arkansas allows a debtor to choose between the federal exemptions found in § 522(d) or the exemptions provided by Arkansas law or other federal laws. *See* Ark. Code Ann. § 16-66-217.

Tennessee's exemptions include a \$5,000.00 homestead exemption for individuals (\$7,500.00 joint), a \$12,500.00 homestead exemption for individuals over the age of 62 (\$25,000.00 joint or \$20,000.00 if only one spouse is over the age of 62) and a homestead exemption of \$25,000.00 for an individual with one or more minor children in the individual's custody (\$50,000.00 joint). *See In re Hogue*, 286 S.W. 3d 890 (Tenn. 2009), and Tenn. Code Ann. § 26-2-301.

If a debtor owns property with a nondebtor spouse as a tenancy by the entireties, only the debtor's survivorship interest is subject to execution, not the debtor's present, possessory interest. *In re Arwood*, 289 B.R. 889 (Bankr. E.D. Tenn. 2003).

Certain retirement plans are exempt from creditors, with the exception of the State of Tennessee and alternate payees under qualified domestic relations orders. Tenn. Code Ann. 26-2-105 and *Jordan v. Jordan*, 147 S.W. 3d 255 (Tenn. Ct. App. 2004) and *Custer v. Custer*, 776 S.W. 2d 92 (Tenn. Ct. App. 1988). The "Miscellaneous exemptions" provisions of Tenn. Code Ann. § 26-2-111 also exempt social security, unemployment, veterans benefits, alimony and child support.

Other available exemptions include \$10,000.00 in personal property along with an absolute exemption in necessary and proper wearing apparel, receptacles for wearing apparel, family pictures, Bibles and school books. The wearing apparel exemption is only limited by what is necessary and proper or serviceable. Tenn. Code Ann. §§ 26-2-103 and 26-2-104. *See In re Lebovitz*, 360 B.R. 612 (6th Cir. B.A.P. 2007) (5-carat diamond ring, among other luxury items, even if included in wearing apparel exemption, were not "necessary and proper" within meaning of Tennessee exemption statute).

Article 9 of the Arkansas Constitution provides exemptions for personal property (\$200 for any resident or \$500 for a married individual or head of household); wearing apparel (no limit); and a homestead which is limited to residents who are married or qualify as head of household (a rural homestead is limited to 80 acres without regard to value while an urban homestead is limited to 1/4 of an acre without regard to value). In addition to the exemptions provided by the Arkansas Constitution, the Arkansas Code provides certain statutory exemptions in Ark. Code Ann. §§ 16-66-218. However, all of those statutory exemptions have been called into question because several were found to be unconstitutional because they contradict the Arkansas constitution's \$500 personal

property exemption. *See e.g., In re Holt*, 894 F.2d 1005 (8th Cir. 1990) (invalidating unlimited exemption for life, health, accident and disability insurance proceeds found in Ark. Code Ann. §§ 16-66-218(7) and 16-66-209); *In re Giller*, 127 B.R. 215 (Bankr. W.D. Ark. 1990) (finding unconstitutional Ark. Code Ann. § 16-66-218(a)(2)-(4) regarding personal property, and Ark. Code Ann. § 16-66-218(b)(4) regarding individual retirement accounts); *In re Thomas*, 1990 WL 300700 (Bankr. W.D. Ark. 1990) (declaring exemption for worker's compensation benefits found in Ark. Code Ann. §§ 16-66-218(b)(14) unconstitutional).

Property which is properly exempted by a Debtor is not available to creditors during or after the bankruptcy case unless such property falls within a narrow set of exceptions as set forth in 11 U.S.C. § 522(c), including the “domestic support obligation” exception to discharge which is set forth in 11 U.S.C. § 523(a)(5).

The conflict between what is property of the bankruptcy estate (and therefore under the exclusive jurisdiction of the bankruptcy court) and what is property belonging to the nonfiling spouse is usually resolved with the state court defining what the debtor's rights are in the marital property and the bankruptcy court then exercising jurisdiction only over what is considered the property of the bankruptcy estate. *See Coffey v. Coffey (In re Coffey)*, 348 B.R. 775 (Bankr. E.D. Tenn. 2006) and *Hohenberg v. Hohenberg (In re Hohenberg)*, 143 B.R. 480 (Bankr. W.D. Tenn. 1992). *See also In re Mueller*, 215 B.R. 1018 (B.A.P. 8th Cir. 1998) (“We are bound to apply state law as we are able to discern it from the rulings of the state's courts.”) (quoting *Fogie v. THORN Americas, Inc.*, 95 F.3d 645, 653 (8th Cir.1996) (internal citations omitted)).

III. THE DISCHARGE

A discharge under 11 U.S.C. § 727 discharges the debtor from all non-excepted pre-petition

debts. A discharge under 11 U.S.C. § 1328(c) and the individual Chapter 11 discharge of 11 U.S.C. § 1141, once granted, discharges the debtor from all unsecured debts provided for by the plan of reorganization. Excepted from these discharges are those debts found to be nondischargeable under 11 U.S.C. § 523.

11 U.S.C. § 523(a)(5) provides:

“(a) A discharge under section 727, 1141, 1228(a), 1228(b), or 1328(b) of this title does not discharge an individual debtor from any debt- ...

(5) for a domestic support obligation;...

(15) to a spouse, former spouse or child of the debtor and not of the kind described in paragraph (5) that is incurred by the debtor in the course of a divorce or separation or in connection with a separation agreement, divorce decree or other order of a court of record, or a determination made in accordance with State or territorial law by a governmental unit.”

The nonfiling spouse must prove that it has been determined that “the rights or obligations” between the parties as awarded by the state court constitute a “debt” as contemplated by 11 U.S.C. § 523. See *Coffey v. Coffey (In re Coffey)*, 348 B.R. 775 (Bankr. E.D. Tenn. 2006). Because the definition of “domestic support obligation” was derived from the definition of nondischargeable debt under pre-BAPCPA § 523(a)(5), some courts have used pre-BAPCPA case law construing that section to determine what debts fall under 11 U.S.C. §101(A)(14)(B) as being “in the nature of alimony maintenance or support...without regard to whether such debt is expressly so designated.” *In re Knox*, 2007 WL 1541957 (Bankr. E.D. Tenn. 2007); *In re Andrews*, 434 B.R. 541 (Bankr. W.D. Ark. 2010). The main pre-BAPCPA cases which courts in the Sixth Circuit look to in order to determine whether a debt is “in the nature of alimony, maintenance or support” are *Long v. Calhoun (In re Calhoun)*, 715 F.2d 1103 (6th Cir. 1983), *Fitzgerald v. Fitzgerald (In re Fitzgerald)*, 9 F.3d 517 (6th Cir. 1993) and *Sorah v. Sorah (In re Sorah)*, 163 F.3d 397 (6th Cir. 1998). In the Eighth Circuit,

courts routinely apply *Holliday v. Kline (In re Kline)*, 65 F.3d 749 (8th Cir.1995), to determine to what debts are in the nature of support. *In re Andrews*, 434 B.R. at 546 (“Bankruptcy courts in the Eighth Circuit have ruled that the BAPCPA amendment does not substantively change the statute and, therefore, does not supercede the holding in *Kline* or other Eighth Circuit precedent.”).

In re Westerfield, 403 B.R. 545 (E.D. Tenn. 2009) provides not only an example of how a bankruptcy court determines whether a debt is in the nature of support, but also provides an insightful look at the effect of a Chapter 13 bankruptcy filing on the payments being made pursuant to a marital dissolution agreement and divorce decree for the benefit of a creditor spouse. (See also 11 U.S.C. § 1328 (a)(2), which provides that a debt of the kind specified in 11 U.S.C. § 523(a)(5) is among the specific exceptions to a Chapter 13 discharge). It is important to note, however, that debts which are characterized as 11 U.S.C. § 523(a)(15) debts are not excepted from discharge in a Chapter 13. See *In re Boller*, 393 B.R. 569 (Bankr. E.D. Tenn. 2008) (debts within a Compromise Agreement, which was incorporated into final divorce decree, were not labeled support, alimony was waived, all remittances were to third party creditors and payments were not contingent upon death or remarriage, all indicating that debts were not in the nature of support and therefore dischargeable); *In re Phegley*, 443 B.R. 154, 157 (B.A.P. 8th Cir. 2011) (“If, on the other hand, the obligation is not a domestic support obligation, it would fall under 11 U.S.C. § 523(a)(15), which obligations are not excepted from discharge in Chapter 13 cases, nor are they entitled to priority status.”).

In a Chapter 7 case, debts owed to a nonfiling creditor spouse will also survive a discharge if found to be “incurred by the debtor in the course of a divorce or separation or in connection with a separation agreement, divorce decree or other order of a court...” 11 U.S.C. § 523(a)(15). In such instances, the bankruptcy court will examine the nexus between the debt and the marital dissolution

agreement or other court order. Again, pre-BAPCPA decisions offer some guidance, but the Sixth Circuit takes “a broad view of nondischargeability under Section 523(a)(15)...” *Woosley v. Woosley* (*In re Woosley*), 2010 WL 500423 (M.D. Tenn. 2010) (the Bankruptcy court went on to find that a post-divorce agreement, entered into between the spouses four months after the entry of the final decree of divorce was, in essence, a reaffirmation of the obligation between the parties memorialized in the final decree and “the circumstances suggest that the debt is one from which the defendant should not justifiably be discharged.”). *See also In re Marble*, 426 B.R. 316 (B.A.P. 8th Cir. 2010) (debt to debtor’s ex-wife did not arise out of the parties’ pre-dissolution indemnity agreement with insurance company, but from debtor’s obligation to hold ex-wife harmless under the indemnity agreement in the marital settlement agreement and resulting judgment for dissolution of marriage). The statutory language itself does provide some limits to the reach of a nondischargeability action, however, and one of the requirements for a debt to fall within the exception is that it has to be payable to a “spouse, former spouse or child” of the debtor. A co-guarantor seeking to stand in the shoes of a former spouse will lack standing to prosecute such an action. *Gabel v. Olson* (*In re Olson*), 355 B.R. 649 (E.D. Tenn. 2006). *But see In re Andrews*, 434 B.R. 541 (Bankr. W.D. Ark. 2010) (Mixon, J.) (finding that a debt payable to former spouse’s attorney for attorney’s fees awarded in divorce action qualified as a “domestic support obligation” despite being payable directly to the former attorney; Court stated, “[t]he partial phrases ‘owed to or recoverable by’ clarify but do not alter the type of debt previously characterized as nondischargeable and entitled to priority under pre-BAPCPA law. Furthermore, the fact that BAPCPA does not add attorneys to the expanded list of specific payees does not overrule [*Holliday v. Kline* (*In re Kline*), 65 F.3d 749 (8th Cir.1995)]. Attorneys were not mentioned as payees in the pre-BAPCPA statute under which *Kline* was decided, but the Eighth Circuit ruled that a fee owed to an attorney could nevertheless be

a nondischargeable support debt.”). *Andrews* also lists cases which held otherwise (see *Tucker v. Oliver*, 423 B.R. 378, 381 (W.D. Okla. 2010); *Shaver v. Forgette (In re Forgette)*, 379 B.R. 623, 625–26 (Bankr. W.D. Va. 2007); *Loe, Warren, Rosenfield, Katcher, Hibbs & Windsor v. Brooks (In re Brooks)*, 371 B.R. 761, 765 (Bankr. N.D. Tex. 2007)), as well cases offering a “variation” on the “point of view that debts may qualify as support even if owed to parties other than payees named in the statute” (see *In re Johnson*, 397 B.R. 289, 296 (Bankr.M.D.N.C.2008); *In re Poole*, 383 B.R. 308, 313 (Bankr. D.S.C. 2007)); *Kassicieh v. Battisti (In re Kassicieh)*, 425 B.R. 467, 476–77 (Bankr. S.D. Ohio 2010); *Levin v. Greco*, 415 B.R. 663, 666–67 (N.D. Ill. 2009)). *Id.* at 547-548.

IV. PROCEDURES AND EXAMPLES

Ex.1 One day Jane wakes up and decides that she has had it with John’s domestic incompetence and kicks him to the curb. John’s long client list had dried up the year prior to Jane’s epiphany, leaving him operating at a deficit every month. John is in an active Chapter 13 case whereby he is able to keep his beloved Chevrolet 4-wheel drive pick-up truck and discharge part of the deficiency indebtedness owed to his former landlord by paying \$1,000.00 into his plan on a monthly basis.

1. Does Jane have to obtain relief from the automatic stay to file her divorce complaint?
2. What type of relief will the bankruptcy judge likely fashion?

Ex.2. Jane woke up from her exhausted stupor 10-years ago and realized what a bum John was for making her mow the grass on top of doing all the other household chores for the last ten years.

She filed for divorce and after a long and protracted case, a marital dissolution agreement and divorce decree were entered into between the two. The parties’ real property and personal property were divided, with each quit-claiming or signing over certain real property to the other. Two weeks after the decree becomes final, John files a voluntary Chapter 7 bankruptcy petition.

1. Was the marital property “transferred” within the fraudulent transfer period of 11 U.S.C.

§ 548? See *Corzin v. Fordu (In re Fordu)*, 201 F.3d 693 (6th Cir. 1999), *Reisz v. Stinson (In re Stinson)*, 364 B.R. 278 (Bankr. W.D. Ky 2007), *Slone v. Lassiter (In re Grove-Merritt)*, 406 B.R. 778) (following *Fordu* and finding that a stipulation in the debtor’s divorce decree that there was “zero equity” in property being divided is not relevant for determining the value of the debtor’s equity in property. The issue before a divorce court is the fair and just settlement of property under state law, but the issue before a bankruptcy court examining a fraudulent transfer claim is “whether the debtor received reasonably equivalent value under the Code or applicable state fraudulent conveyance law.”) (internal citation omitted).

2. John files a Ch.13 instead of a Ch. 7. Different result?

3. John files a Ch. 13 and then converts to a Ch. 7 three years later. Different result?

Ex.3. John’s Chapter 7 Trustee discovered \$400,000.00 that John was owed in attorneys fees from his last Phen-Fen case and was never paid. The Trustee sends notice to John’s creditors that assets have been discovered and they need to file proofs of claims in order to receive a distribution. Sam Snell represented John in John’s divorce and is still owed \$5,000.00 from John. How can Sam file a proof of claim?

In the Bankruptcy Courts for the Western District of Tennessee (as well as the Bankruptcy Courts in Arkansas) all documents are now filed electronically with the exception of pro se Debtors. In order to file pleadings, an attorney would normally have to register with and receive training from the Clerk’s office in order to obtain the proper credentials for filing. Because Sam does not plan on becoming a regular filer with the Bankruptcy Court of the Western District of Tennessee, there is a method for filing the occasional proof of claim form that will not entail the training and registration that are normally required. Sam will first want to visit the Bankruptcy Court’s website, www.tnwb.uscourts.gov. The proof of claim form is available as a “fillable” .pdf document on the

court's website. After filling out the form, it should be saved to a disk as a .pdf document and delivered to the clerk's office at 200 Jefferson Ave., Suite 413 for filing. For an Arkansas case, the same form should be mailed to the clerk's office at 300 W.2nd Street, Little Rock, AR 72201.

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

In Re:

Case No. 11-00000
Chapter 13

JOHN DOE

Debtor(s)

MOTION TO LIFT STAY

COMES NOW Jane Doe, by and through her attorney of record, Sally Smith, and files this Motion to Lift Stay, and in support thereof, Jane Doe would respectfully state as follows:

That the Debtor, John Doe, and the Petitioner, Jane Doe, are currently involved in divorce proceedings in the Chancery Court of Fayette County, Tennessee, Docket Number 10000.

That the automatic stay should be lifted so as to allow the Debtor, John Doe, and Petitioner, Jane Doe, to proceed with their divorce action through the Chancery Court of Fayette County, Tennessee.

WHEREFORE, PREMISES CONSIDERED, PETITIONER PRAYS:

1. That this matter be set for a hearing and that notice be given to all interested parties.
2. That the automatic stay should be lifted so as to allow the Debtor, John Doe, and Petitioner, Jane Doe, to proceed with their divorce action through the Chancery Court of Fayette County, Tennessee.

/s/ Sally Smith

SALLY SMITH #55555

Attorney for Jane Doe, Petitioner

3333 Summer Avenue

Memphis, Tennessee 38122

(901) 555-1111

CERTIFICATE OF SERVICE

I, Sally Smith, as attorney for the Petitioner, hereby certify that a copy of the foregoing has been furnished to the following by e-mail, hand-delivery, facsimile, or by first-class mail, postage prepaid, this 24th day of March, 2012.

/s/ Sally Smith
Sally Smith

Debtor
Debtor's Attorney
Case Trustee
All entities on Matrix

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

In Re: Case No. 11-00000
JOHN DOE Chapter 13
Debtor(s)

CONSENT ORDER LIFTING AUTOMATIC STAY

COME NOW the parties, by and through their attorneys of record, and would announce to the Court, subject to the Court's approval, that they are agreed upon the following:

That the Debtor, John Doe, and his wife, Jane Doe are currently involved in divorce proceedings in the Chancery Court of Fayette County, Tennessee, Docket Number 10000.

That the automatic stay should be lifted so as to allow the Debtor, John Doe, and his wife, Jane Doe, to proceed with their divorce action through the Chancery Court of Fayette County, Tennessee.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

That the automatic stay is hereby lifted so as to allow the Debtor, John Doe, and his wife, Jane Doe, to proceed with their divorce action through the Chancery Court of Fayette County, Tennessee.

/s/ Martin Thompson
MARTIN THOMPSON #22222
Attorney for Debtor
1000 Poplar Avenue
Memphis, Tennessee 38111

/s/ Sally Smith
SALLY SMITH #55555
Attorney for Jane Doe, Petitioner
3333 Summer Avenue
Memphis, Tennessee 38122
(901) 555-1111

CERTIFICATE OF SERVICE

I, Sally Smith, as attorney for the Petitioner, hereby certify that a copy of the foregoing has been furnished to the following by e-mail, hand-delivery, facsimile, or by first-class mail, postage prepaid, this 30th day of March, 2012.

/s/ Sally Smith
SALLY SMITH

Debtor
Debtor's Attorney
Case Trustee
All entities on Matrix