IN THE UNITED STATES BANKRUPTCY COURT

FOR THE SOUTHERN DISTRICT OF ALABAMA

In re: )

)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, ) Case No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

)

Debtor. )

ORDER MODIFYING AUTOMATIC STAY IN CHAPTER 13 CASE

TO ALLOW DIVORCE PROCEEDING

This matter is before the Court on the motion for relief from the automatic stay filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. The Court has jurisdiction to hear this matter pursuant to 28 U.S.C. § 157 and § 1334 and the order of reference of the District Court. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(G), and this Court has the authority to enter a final order. The Court determines that the automatic stay of 11 U.S.C. § 362 is due to be and hereby is modified in this case to the following extent:

Debtor and his or her spouse may prosecute a divorce proceeding to conclusion and the entry of a final judgment in state court. However, any agreement or state court order concerning property settlement is subject to review by this Court, and this Court retains jurisdiction to adjudicate the impact of the state court’s division of property in this bankruptcy case in accordance with the Bankruptcy Code. Any enforcement of the state court judgment against or involving debtor’s property or earnings -- other than income withholding for payment of a domestic support obligation as defined by 11 U.S.C. § 101(14A) -- must take place in this Court.

Debtor is reminded that (1) failure to pay post-petition domestic support obligations is grounds for dismissal of a Chapter 13 case and (2) a debtor cannot receive a discharge under Chapter 13 unless all prepetition domestic support obligations have been paid and all postpetition domestic support obligations are current.

The stay provision of Bankruptcy Rule 4001(a) is waived, and this order may be immediately enforced and implemented. This order shall survive conversion of the case to any other chapter of the Bankruptcy Code.