

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

|                       |   |                      |
|-----------------------|---|----------------------|
| IN RE:                | : | CASE NO. 09-94073-JB |
|                       | : |                      |
| EDWARD JOHN UDELL,    | : |                      |
|                       | : | CHAPTER 13           |
| Debtor.               | : |                      |
| _____                 | : |                      |
|                       | : |                      |
| BETSY J. ANDERSON,    | : |                      |
|                       | : | CONTESTED MATTER     |
| Movant,               | : |                      |
|                       | : |                      |
| v.                    | : |                      |
|                       | : |                      |
| EDWARD JOHN UDELL and | : |                      |
| MARY IDA TOWNSON,     | : |                      |
|                       | : |                      |
| Respondents.          | : |                      |

ORDER

This Chapter 13 case came before the Court on August 30, 2011 on a motion for relief from stay filed by debtor's ex-wife, Betsy Anderson, who seeks relief from the stay to continue a contempt proceeding against debtor in the Superior Court of Gwinnett County based on debtor's alleged violations of the couple's divorce decree (Docket No. 106). Shannon Bruce appeared for the debtor, Edward Udell, and Mr. Udell was also present. Ms. Anderson appeared *pro se*. Sonya Buckley was present on behalf of the Chapter 13 Trustee. While the debtor and Ms. Anderson are each represented by counsel in the contempt proceeding in state court, neither party's domestic relations counsel was present at the hearing. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(G).

Ms. Anderson stated that the contempt proceeding concerns violations by Mr. Udell of

the divorce decree based on debtor's failure to remove his name from a vehicle awarded to Ms. Anderson and debtor's use of real property awarded to Ms. Anderson, a condominium in St. Simons, as security for a personal loan. It appears that the parties disagree whether the obligation in the divorce decree that requires debtor to make payments on tax debt is in the nature of support so as to constitute a "domestic support obligation" under 11 U.S.C. § 101(14A). This will be relevant to whether that portion of debtor's obligation will be discharged should debtor complete the Chapter 13 Plan payments. *See* 11 U.S.C. § 1328(a)(2) and § 523(a)(5). The parties agreed that any issue regarding alimony awarded to Ms. Anderson in the divorce decree was resolved upon confirmation of debtor's Chapter 13 Plan and that the debtor has remained current under the Plan.

After considering the representations made at the hearing and upon review of the record, the Court concludes that Ms. Anderson's motion should be and is hereby granted. The automatic stay under 11 U.S.C. § 362(a) is modified to permit Ms. Anderson to continue to prosecute motions regarding alleged violations of the divorce decree relating to the vehicle, the St. Simons condominium, and a determination regarding the marital tax debt in the Superior Court of Gwinnett County.

IT IS SO ORDERED, this 15<sup>th</sup> day of September, 2011.

  
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JOYCE BIARY  
UNITED STATES BANKRUPTCY JUDGE

Distribution List:

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