



# MEMORANDUM

**To:** Middle Georgia Bankruptcy Bar  
**From:** William E. Tanner, Clerk of Court  
**Subject:** Orders Lifting Automatic Stay of 11 U.S.C. Section 1301 May 26, 2010

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PLEASE TAKE IMMEDIATE NOTE that all orders presented for signature by the court granting relief from the stay pursuant to 11 U.S.C. Section 1301 should only contain language that grants relief from that stay and should not make reference to any collateral or authorize any additional action. I suggest that the following language be a part of orders granting motions for relief from co-debtor stay under 11 U.S.C. Section 1301. "IT IS HEREBY ORDERED that the automatic stay of 11 U.S.C. Section 1301 is hereby lifted." The order should not provide for the relief as to any particular estate property nor should it make reference to authorizing any other remedies whether those remedies are allowable under state law or bankruptcy law. The order should simply state the language I set out above, and any additional relief that may be necessary with respect to estate property including any property possessed by the co-debtor should be addressed in a separate motion for relief under Section 362.

As all of you know, Section 1301 creates a stay against acts against a co-debtor in a Chapter 13 case. It does not provide stays as to acts against property or property of the estate. It is merely protection for the co-debtor as a person, and it is therefore a stay as to acts against the person. Legally, this can also take the form of acts against assets of a person, but to avoid any possible confusion between relief under Section 362 and relief under 1301, orders granting relief from co-debtor stay should use the language as set out above.

You may be contacted by members of the clerk's office asking for amended orders to comply with this memorandum. The sooner those orders are amended, the faster your motion can be terminated by processing an appropriate order.

If anyone has any questions, please feel free to direct them to me.

WET/kp