

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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In re:)	
)	
ACR MANAGEMENT, L.L.C., <i>et al.</i> , ¹)	Case No. 04-27848-MBM
)	Chapter 11
Debtors.)	(Jointly Administered)
)	
<hr/>)	Docket No.: _____
EMMANUEL MARTINEZ, DONALD)	
WEYGANT, AND SANDRA WEYGANT,)	
individuals)	Related Docket No.: 1111
)	
Movants,)	Objection Deadline: January 25, 2005
)	Hearing Date: February 1, 2005, at 3:00
v.)	p.m. (EST)
)	
ACR MANAGEMENT, L.L.C., <i>et al.</i> ,)	
)	
Respondents.		
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**RESPONSE OF THE DEBTORS TO [CM/ECF# 1111]
MOTION OF EMMANUEL MARTINEZ, DONALD WEYGANT, AND
SANDRA WEYGANT FOR RELIEF FROM AUTOMATIC STAY TO PURSUE
CAUSES OF ACTION FOR PERSONAL INJURIES**

The above-captioned Debtors-in-Possession (collectively, the “Debtors²”) by and through their undersigned attorneys, hereby submit this response (the “Response”) to the motion (filed on 1/06/2005, CM/ECF#1111, the “Motion”) filed by Emmanuel Martinez, Donald Weygant, and Sandra Weygant (the “Movants”), for relief from the automatic stay to causes of action against the Debtors for negligence. In support of this Response, the Debtors respectfully represent as follows:

¹ The Debtors are the following entities: ACR Management, L.L.C., Anthony Crane Rental Holdings, L.P., ACR/Dunn Acquisition, Inc., Anthony Crane Capital Corporation, Anthony Crane Holdings Capital Corporation, Anthony Crane International, L.P., Anthony Crane Sales & Leasing, L.P., Anthony International Equipment Services Corporation, Anthony Sales & Leasing Corporation, Carlisle Equipment Group, L.P., Carlisle GP, L.L.C., Husky Crane, Inc., Anthony Crane Rental, L.P., d/b/a Maxim Crane Works, Maxim Crane Works, LLC, Sacramento Valley Crane Service, Inc., The Crane & Rigging Company, LLC, Thompson & Rich Crane Service, Inc.

² All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

RELEVANT BACKGROUND

1. On or about March 6, 2000, allegedly Mr. Martinez and Mr. Weygant during the course of their employment sustained personal injuries to their bodies when a crane leased from one of the Debtors either came into contact with or came too close to an overhead power line and Mr. Martinez and Mr. Weygant were electrocuted.

2. The Movants initiated the following proceedings against one of the Debtors for personal injuries sustained, lost wages, reimbursement of medical bills, pain and suffering, loss of consortium, etc.: (i) Emmanuel Martinez, Donald Weygant, Sandra Weygant v. Duke Energy Corporation, Camp Dresser & McKee Inc., Anthony Crane Rental, L.P., and Terek Corporation, Case No. 03-CP-23-6357 (the “State Court Action”) in the Court of Common Pleas, County of Greenville, in the Sate of South Carolina, and (ii) Emmanuel Martinez, Donald Weygant, Sandra Weygant v. Duke Energy Corporation, Camp Dresser & McKee Inc., Anthony Crane Rental, L.P., and Terek Corporation, Case No. 6-03-49-20 (the “District Court Action,” together with the State Court Action, the “Actions”) in the United States District Court for the District of South Carolina, Greenville Division.

3. By the Motion, the Movants now seek relief from the automatic stay to pursue the Actions against the Debtors with recovery to available insurance proceeds.

4. The Debtors are covered by various insurance policies for possible liability arising out of incidents such as the one underlying the Actions. Depending on the year in which an incident occurs, the Debtors may have several layers of third party liability insurance coverage, and the policies involved and the deductibles and/or self-insured retention liabilities may vary.

5. In the time period relevant to the incident giving rise to the Actions, the Debtors

were covered by several layers of third party liability and indemnity coverage pursuant to various policies (the “Policies”). Pursuant to the terms of some of these Policies, there may have been retentions and/or deductibles.

6. This Court set a bar date of November 17, 2004, for filing proofs of claim for all pre-petition claims other than those of governmental units, and a bar date of December 13, 2004, for governmental units to file proofs of claim (collectively, the “Bar Date”). Accordingly, these deadlines for filing proofs of claim have passed.

7. On December 30, 2004, this Court entered an Order confirming the Debtors’ Plan of Reorganization.

CONDITIONS TO MOVANTS’ RELIEF

8. The Debtors do not object to the Movants’ request for this Court to lift the automatic stay so as to permit the Movants to continue their prosecution of the Actions, so long as (i) the relief is limited to liability covered by the Policies, (ii) the only relief that the Movants may pursue as to the Debtors directly or indirectly, shall be to participate in the distribution afforded pre-petition unsecured claims based upon any timely-filed Proof of Claim that was filed by the Movants, if any, by the Bar Date; (iii) the relief does not seek to impose or allow the Movants to impose liability upon the Debtors’ insurers beyond the express terms of the Policies; (iii) and the relief does not cause the Debtors to bear extraordinary expense.

9. Accordingly, the Debtors request that the Movants’ relief be conditioned upon the following:

- a. The relief from stay be limited, as to the Debtors, to allowing the Movants to liquidate their claims and recover from any applicable insurance coverage, and the Movants may not seek to enforce any judgment obtained

against any asset of the Debtors, or property of the Debtors' estate other than their applicable insurance coverage; provided however, the Movants not be precluded from pursuing recovery upon the Movants' claims from any other party to the Actions that may, for any cognizable reason, be liable therefor;

WHEREFORE, the Debtors respectfully request that this Court enter an Order (a proposed form of order is being filed simultaneously herewith) (i) granting the Motion subject to the above conditions; and (ii) granting such other relief the Court deems just and proper.

Dated: Pittsburgh, Pennsylvania
January 21, 2005

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