

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

<hr/>)	
)	
ACR MANAGEMENT, L.L.C., <i>et al.</i> , ¹)	Case No. 04-27848-MBM
)	Chapter 11
Debtors.)	(Jointly Administered)
)	
<hr/>)	Docket No.: _____
JOHN GOLLET AND PHILLIP)	
MACOMBER, individuals)	
)	Related Docket No.: 1117
Movants,)	
)	Objection Deadline: January 25, 2005
v.)	Hearing Date: February 1, 2005, at 3:00
)	p.m. (EST)
ACR MANAGEMENT, L.L.C., <i>et al.</i> ,)	
)	
Respondents.		
<hr/>		

**RESPONSE OF THE DEBTORS TO [CM/ECF# 1117]
MOTION OF JOHN GOLLET AND PHILLIP MACOMBER FOR RELIEF FROM
AUTOMATIC STAY TO PURSUE CAUSE OF ACTION AGAINST THE DEBTOR FOR
INJURIES TO JOHN GOLLET AND PHILLIP MACOMBER, WITH RECOVERY TO
BE LIMITED TO AVAILABLE INSURANCE COVERAGE AND NOT
FROM ASSETS OF THE BANKRUPTCY ESTATE**

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 1/08/2005, CM/ECF#1117, the “Motion”) filed by John Gollet and Phillip Macomber (the “Movants”), for relief from the automatic stay to pursue a cause 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 February 4, 2002, allegedly the Movants during the course of their employment sustained personal injuries to their bodies when a line on a Grove Crane came out of a sheave, dropping approximately 30 feet, a basket holding the Movants. The Movants allege that one of the Debtors negligently sold the Grove Crane.

2. On or about June 30, 2003, the Movants initiated a proceeding against one of the Debtors in the District Court of Jefferson County, Texas 172nd Judicial District, Cause No. E-0170494 (the “Action”), alleging causes of action in negligence.

3. By the Motion, the Movants now seek relief from the automatic stay to pursue the Action against the Debtors with recovery to be limited to filing a proof of claim in the Debtors’ bankruptcy cases and to recovering 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 Action. 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 Action, 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 Action, 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 Action 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 24, 2005

KIRKLAND & ELLIS LLP
David L. Eaton
Anup Sathy
Roger J. Higgins
200 East Randolph Drive
Chicago, IL 60601
Telephone: (312) 861-2000
Facsimile: (312) 861-2200

-and-

Campbell & Levine, LLC
/s/ Salene R. Mazur
Douglas A. Campbell (PA I.D. #23143)
David B. Salzman (PA I.D. #39360)
Salene R. Mazur (PA I.D. #86422)
1700 Grant Building
Pittsburgh, PA 15219
Telephone: (412) 261-0310
Facsimile: (412) 261-5066

Co-Counsel for the Debtors and Debtors in Possession