

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

In re:)	
)	
ACR MANAGEMENT, L.L.C., <i>et al.</i> , ¹)	Case No. 04-27848-MBM
)	Chapter 11
Debtors.)	(Jointly Administered)
)	
FRED KOMLOSI, an individual ,)	Docket No.: _____
)	
Movant,)	Related Docket No.: 1221
)	
v.)	Objection Deadline: February 22, 2005
)	Hearing Date: March 1, 2005 at 3:00 p.m.
ACR MANAGEMENT, L.L.C., <i>et al.</i> ,)	
)	
Respondents.)	

**RESPONSE OF THE DEBTORS TO [CM/ECF#1221] MOTION OF
FRED KOMLOSI FOR RELIEF FROM AUTOMATIC STAY TO PURSUE CAUSE OF
ACTION AGAINST THE DEBTOR FOR INJURIES TO FRED KOMLOSI, 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 February 2, 2005, CM/ECF#1221, the “Motion”) filed by Fred Komlosi (the “Movant”), 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 June 11, 2001, allegedly the Movant during the course of his employment sustained personal injuries to his body when a cherry picker crane that was being operated by one of the Debtors' employees, collided with the Movant allegedly crushing him against the truck at which he stood.

2. Prior to the Petition Date, the Movant initiated a proceeding against the Debtors in the 239th Judicial District Court of Brazoria County, Texas, Cause No. 17654*JG01 (the "Action"), alleging causes of action in negligence. The Movant also initiated the Action against AVS and Liebherr-Werk Ehingen GmbH, the manufacturer of the crane.

3. U.S. Contractors, Inc. has agreed to defend and indemnify the Debtors for any liability arising out of the Movant's accident.

4. By the Motion, the Movant now seeks 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.

5. 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.

6. 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.

7. 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.

8. On December 30, 2004, this Court entered an Order confirming the Debtors’ Plan of Reorganization. On January 28, 2005, the Debtors’ Plan of Reorganization became effective pursuant to its terms.

CONDITIONS TO MOVANT’S RELIEF

9. The Debtors do not object to the Movant’s request for this Court to lift the automatic stay so as to permit the Movant to continue its prosecution of the Action, so long as (i) the relief is limited to liability covered by the Policies, (ii) the only relief that the Movant 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 Movant, if any, by the Bar Date; (iii) the relief does not seek to impose or allow the Movant 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.

10. Accordingly, the Debtors request that the Movant’s relief be conditioned upon the following:

- a. The relief from stay be limited, as to the Debtors, to allowing the Movant to liquidate his claims and recover from any applicable insurance coverage, and the Movant 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 Movant not be precluded from pursuing recovery upon the Movant’s claims from any other party to the Action that may, for any cognizable reason, be liable therefore.

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; or (ii) granting such other relief the Court deems just and proper.

Dated: Pittsburgh, Pennsylvania
February 17, 2005

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CERTIFICATE OF SERVICE

I, Salene R. Mazur, here by certify that on February 18, 2005, I caused a true and correct copy of the forgoing RESPONSE OF THE DEBTORS TO MOTION OF FRED KOMLOSI FOR RELIEF FROM AUTOMATIC STAY TO PURSUE CAUSE OF ACTION AGAINST THE DEBTOR FOR INJURIES TO FRED KOMLOSI, WITH RECOVERY TO BE LIMITED TO AVAILABLE INSURANCE COVERAGE AND NOT FROM ASSETS OF THE BANKRUPTCY ESTATE to be served by first class mail, postage prepaid, upon the following parties:

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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.

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