

2027

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)
)	
BRANDON TOOTHMAN and CARRIE)	Docket No.: _____
TOOTHMAN,)	
)	Related Docket No.: _____
Movants,)	
v.)	Objection Deadline: _____
)	Hearing Date: _____
ACR MANAGEMENT, L.L.C., <i>et al.</i> ,)	
)	
Respondents.)	

**STIPULATION AND AGREED ORDER GRANTING BRANDON TOOTHMAN
AND CARRIE TOOTHMAN RELIEF FROM THE DEBTORS'
DISCHARGE INJUNCTION TO CONTINUE WITH PERSONAL INJURY SUIT**

This Stipulation is made this 6th day of July, 2005, by and between the Reorganized Debtors² and Brandon Toothman and Carrie Toothman (the "Claimants") (together with the Reorganized Debtors, the "Parties").

WHEREAS, on or about August 6, 2003, the Claimants filed a civil action in the Supreme Court, County of Niagra, State of New York styled *Brandon Toothman and Carrie Toothman, v ARCON Management, Inc., Eriez Construction, Inc., and Breton Steel Corporation*, Index No. 115535 (the "Action"), to recover for alleged person injuries suffered by Brandon Toothman on or about December 16, 2002;

WHEREAS, Arcon Management, Inc. and Breton Steel Corporation brought one of the above-captioned Debtors, Anthony Crane Rental, L.P., d/b/a Maxim Crane into the Action as a third-party defendant;

0_____

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 Plan.

WHEREAS, on June 14, 2004, (the "Petition Date"), the above-captioned Debtors filed their Chapter 11 bankruptcy cases (the "Chapter 11 Cases") with this Bankruptcy Court;

WHEREAS, the Action was stayed as to the Debtors, as a result of the filing of the Debtors' Chapter 11 Cases;

WHEREAS, 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 were retentions and/or deductibles;

WHEREAS, on December 30, 2004, the Bankruptcy Court entered an order confirming The Debtors' Third Amended Joint Plan Of Reorganization Under Chapter 11 Of The Bankruptcy Code, dated December 29, 2004 (the "Plan"), and such Plan became effective pursuant to its terms on January 28, 2005;

WHEREAS, the Debtors' Plan provides in Article X.I., that from and after the Effective Date, all Persons and Entities are permanently enjoined from continuing in any manner against the Debtors or the Reorganized Debtors or their assets and properties, any suit respecting any liability released or to be released pursuant to the Plan or the Confirmation Order (the "Discharge Injunction");

WHEREAS, the Claimants now seek a lifting of this Discharge Injunction in order to continue to pursue the Action against the Debtors' applicable insurance;

WHEREAS, to date, the Claimants did not file any Proof of Claim against the Debtors in their Chapter 11 Cases;

WHEREAS, the Debtors agree to lift the Discharge Injunction on the terms set forth herein;

NOW, THEREFORE, the Parties, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, agree as follows:

1. The Discharge Injunction shall be lifted to allow the Claimants to continue with the Action, and any and all appeals that may result in said Action, subject to the following conditions:

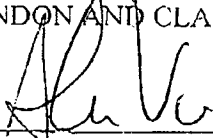
- a. Relief from stay shall be limited, as to the Debtors, to allowing the Claimants to liquidate their claims and recover from any applicable insurance Policies, and the Claimants may not seek to enforce any award obtained against any asset of the Debtors, or property of the Debtors' estates, other than the Debtors' applicable insurance Policies; provided however, this provision shall not preclude the Claimants from pursuing recovery upon the Claimants' claims from any other party to the Action that may, for any cognizable reason, be liable therefore;
- b. The Claimants recognize that Policy providing the Debtors' first layer of insurance coverage, contains a self-insured retention (the "Retention") of \$500,000 for indemnity and \$500,000 for defense costs;

- c. With respect to any verdict or settlement for the Claimants relating to the Retention or relating to any other deductible, retention, or amount not covered by the applicable insurance Policies, the Claimants hereby agree to waive any right to file a Proof of Claim against the Debtors' Estates in the Debtors' Chapter 11 bankruptcy cases or otherwise to recover from the Debtors or their Estates;
- d. The relief granted herein is limited to only the Claimants and not to any other party to the Action, unless such party independently seeks the same relief from this Bankruptcy Court.
2. This Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

IN WITNESS WHEREOF the Parties have caused this Stipulation to be executed and delivered by their respective duly authorized representatives as of this ____ day of June, 2005.

Dated: July 6, 2005

BRANDON AND CLAIRE TOOTHMAN

By: 
Alan D. Voos
COLLINS & MAXWELL LLP
267 North Street
Buffalo, New York 14201
(716) 885-9700 Office
Email: avoos@cckm.com
Counsel for the Claimants

[continued on next page]

Dated: July 6, 2005

THE REORGANIZED DEBTORS

By: Salene R. Mazur
Salene R. Mazur (#86422)
CAMPBELL & LEVINE, LLC
1700 Grant Building
Pittsburgh, PA 15219
Phone: 412.261.0310, ext. 120
Fax: 412.261.5066
Email: srm@camlev.com
Counsel for the Reorganized Debtors

IT IS SO ORDERED:

Pittsburgh, Pennsylvania

Dated: 7/11, 2005

J. Bruce McCullough
JUDGE M. BRUCE MCCULLOUGH
UNITED STATES BANKRUPTCY JUDGE

FILED

JUL 12 2005

CLERK, U.S. BANKRUPTCY COURT
WEST. DIST. OF PENNSYLVANIA

Enterprise Systems Incorporated
11487 Sunset Hills Road
Reston, Virginia 20190-5234

CERTIFICATE OF SERVICE

District/off: 0315-2
Case: 04-27848

User: csus
Form ID: pdf900

Page 1 of 1
Total Served: 1

Date Rcvd: Jul 13, 2005

The following entities were served by first class mail on Jul 15, 2005.
aty +Salene R. Mazur, Campbell & Levine LLC, 1700 Grant Building, Pittsburgh, PA 15219-2348

The following entities were served by electronic transmission.
NONE.

TOTAL: 0

***** BYPASSED RECIPIENTS *****

NONE.

TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

I, Joseph Speetjens, declare under the penalty of perjury that I have served the attached document on the above listed entities in the manner shown, and prepared the Certificate of Service and that it is true and correct to the best of my information and belief.

First Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jul 15, 2005

Signature:

A handwritten signature in black ink, reading "Joseph Speetjens", written over a horizontal line.