

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF MISSOURI

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In re:

Chapter 11  
Case No. 02-50557-jwv

Farmland Industries, Inc., a  
Kansas Corporation,

Debtor.

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MEMORANDUM IN SUPPORT  
OF MOTION

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Cindy K. Anderson ("Movant") submits this memorandum of law in support of her motion for relief from the stay in the above-entitled matter.

FACTS

Movant is the plaintiff in an action in Freeborn County Minnesota. Movant seeks to pursue her complaint against Debtor to liquidate the amount owing by Debtor, provided however, Movant will limit her recovery to any applicable insurance coverage owned by Debtor.

ARGUMENT

Pursuant to Section 362(d)(1) of the Bankruptcy Code, relief from the automatic stay shall be granted upon request of a creditor "for cause, including the lack of adequate protection of an interest in property of such [creditor]." 11 U.S.C. Section 362(d)(1). An insurance policy constitutes property of the bankruptcy estate. In re St. Clare's Hospital and Health Center, 934 F.2d 15 (2<sup>nd</sup> Cir. 1991). Section 362(a) read broadly prohibits any entity from exercising any control over property of the estate or continue any legal proceeding affecting property of the estate. In order for Movant to continue the Freeborn County Court action Movant must obtain an order granting relief from stay. In re Profile Systems, Inc., 193 B.R. 507 (Bkrtcy.D.Minn. 1996);

In re Pintlar Corporation, 175 B.R. 379 (Bankr. Idaho 1994); In re Johns-Manville Corp., 31 B.R. 965 (S.D.N.Y. 1983).

The automatic stay may be lifted for “cause”. See, 11 U.S.C. § 362(d). The Bankruptcy Code does not define “cause” and it is left to the courts to determine what constitutes sufficient cause to lift the stay. Christensen v. Tucson Estates, Inc. (In re Tuscon Estates, Inc.), 912 F.2d 1162, 1166 (9th Cir.1990); Pursifull v. Eakin, 814 F.2d 1501, 1506 (10th Cir.1987); Mac Donald v. Mac Donald (In re Mac Donald), 755 F.2d 715, 717 (9th Cir.1985). In most cases there should be only one forum to determine all of these major issues involved in a dispute. American Motorists Insurance Co. v. Philip Carey Corp., 482 F.Supp. 711 (S.D.N.Y.1980). Relief from stay is appropriate to permit the continuation of an action regarding the Debtor’s liability and pursue the Debtor’s insurance policy if all parties’ rights can be resolved in one forum. In re Atlantic Ambulance Associates, Inc., 166 B.R. 613 (Bankr. E.D. Va. 1994); In re Johns-Manville Corp., 31 B.R. 965 (S.D.N.Y. 1983).

#### CONCLUSION

For all the reasons set forth herein, Movant is entitled to an order terminating the automatic stay of 11 U.S.C. § 362(a) to liquidate her claim against the Debtor and pursue any applicable insurance policies.

Dated: October 17, 2002

Respectfully submitted,

By /s/ Cynthia F. Grimes  
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