

EXHIBIT K

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In the matter of)
MET-COIL SYSTEMS CORPORATION,) Case No. 03-12676
Debtor.)

Bankruptcy Courtroom
Room No. 1- Sixth Floor
Marine Midland Plaza
824 Market Street Mall
Wilmington, Delaware

February 17, 2004
10:31 a.m.

BEFORE: THE HONORABLE MARY F. WALRATH
United States Bankruptcy Judge

TRANSCRIPT OF AN ELECTRONIC RECORDING

WILCOX & FETZER
1330 King Street - Wilmington, Delaware 19801
(302) 655-0477

1 THE COURT: Good morning. Morning.

2 MR. BARLIANT: Morning, Your Honor.

3 Ronald Barliant for the debtor, Met-Coil Systems
4 Corporation. This is our omnibus hearing date. I
5 think the Court has an amended -- excuse me -- notice
6 of agenda.

7 THE COURT: I do.

8 MR. BARLIANT: If I may, Your Honor,
9 before getting into the agenda, if I could just have a
10 moment, I think it's time for a report to the Court
11 about what's happening, and there are a couple of
12 housekeeping things we need to address.

13 THE COURT: Okay.

14 MR. BARLIANT: We filed a disclosure
15 statement and plan in this case on November 5th. And
16 we've continued it twice until now, and now we're
17 about to ask for a third continuance. And I think
18 it's time to explain why and what's going on and what
19 we see in the future.

20 As the Court knows, the case was filed to
21 deal with one problem, which was the liability arising
22 from TCE contamination at one of the debtor's sites.
23 And the plan provided -- or contemplated, I should
24 say, a trust that would be funded to adequately and

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1 fairly compensate future and certain present
2 unliquidated claims arising from the TCE situation,
3 and of course an injunction to protect Mestek, the
4 indirect corporate parent of the debtor, and the
5 debtor and anyone else who contributed adequately to
6 the trust to protect them against the TCE liabilities
7 in the future.

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8 It was always -- it has always been
9 contemplated, it's still contemplated, that Mestek as
10 the corporate parent would provide at least the bulk
11 of the funding for that, for that trust and for the
12 plan in general.

13 The Court, at the debtor's request,
14 appointed Eric Green to represent the future claimants
15 as a legal representative, and Mr. Green assembled a
16 team of experts. Since very early on in this case,
17 before we filed the plan, Mr. Green and his experts
18 have been engaged in discussions, primarily with
19 Mestek -- we have been involved but to a lesser
20 extent -- primarily with Mestek.

21 And I must say they have not been the
22 traditional sort of bankruptcy negotiations, they have
23 been principal discussions about the science and the
24 economics and the law that pertain to the decision as

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1 to the amount that would be required to fund the
2 trust. For better or for worse, this appears to be
3 the first TCE-related bankruptcy that, that I'm aware
4 of, or that apparently anybody else is aware of, which
5 means that we don't have, if this is the right word,
6 the advantages of the asbestos cases. We just don't
7 have that readily available data, agreed principles,
8 where people don't have to talk over the same things
9 all over again, and that sort of thing. There's just
10 no agreement on the basics.

11 So the result has been, the process has
12 been -- has taken much more time than I think probably

13 any of us anticipated, certainly I, than I
14 anticipated, that it would at the outset, which is the
15 reason, the principal reason we have been continuing
16 the plan and disclosure statement.

17 In the debtor's view, however, the process
18 is now near its conclusion, its logical conclusion.
19 The legal representative has been provided with all of
20 the information that is relevant or material to the
21 decision with respect to the trust. And we anticipate
22 that by next Monday the legal representative and his
23 team of experts and other professionals will have
24 completed their analysis, or due diligence, so to

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1 speak, of that information. And we are expecting that
2 shortly thereafter, in other words, we would hope and
3 trust some time next week, Mr. Green will be able to
4 state an amount that based on his analysis he
5 believes -- he has provided amounts up till now but
6 those have always been followed with further
7 discussions. I'm now saying I think we're at the end
8 point. So I think he will provide an amount which he
9 believes is necessary, Mestek will provide an amount
10 that it believes is necessary, we trust. And if there
11 is a gap, then the debtor and, along with the other
12 parties, perhaps the committee, will do everything
13 possible to see if we can bridge that gap and bring
14 those parties together.

15 we do not know whether we're going to
16 succeed in that or not. We don't at this point know
17 what the gap will be, and we don't know whether we're

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18 going to be able, if there is a gap, to bridge it.

19 THE COURT: Okay.

20 MR. BARLIANT: We do believe, however,
21 that this process needs to change course if we can't
22 reach an agreed amount as to the funding of the trust
23 that will get us to confirmation of the plan that we
24 have had on file since November.

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1 we do not anticipate asking for a fourth
2 continuance. If we cannot go forward with the plan
3 that's now on file at the next hearing, which is March
4 22nd, before that date we will have withdrawn the plan
5 and disclosure statement. We have already begun
6 discussions concerning alternatives.

7 AS I've consistently said to this Court,
8 and it remains true, this company is profitable. On
9 an operating basis there's really no reason to be in
10 bankruptcy. They continue to make, make money on
11 operation. They have a significant DIP facility and
12 they have not drawn on that facility, they have
13 managed to live on cash, even including professional
14 fees. So this is clearly a company that deserves and
15 should emerge from Chapter 11 one way or another.

16 we have begun discussions very
17 preliminary, extremely preliminary, with the
18 committee, and even almost as preliminary with Mestek,
19 and obviously we've been talking to our client about
20 alternatives.

21 So I would anticipate that on March 22nd
22 we will report to you one way or the other where we're

23 going with this case.

24 THE COURT: Okay.

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1 MR. BARLIANT: And still before I get to
2 the agenda, can I just deal, if the Court please, with
3 a couple of housekeeping --

4 THE COURT: You may.

5 MR. BARLIANT: -- matters? This Court has
6 reserved a date, March 8th, for a hearing with respect
7 to the Honeywell adversary proceeding, as the Court
8 may recall.

9 THE COURT: Yes.

10 MR. BARLIANT: And I've got good news and
11 bad news about that date. The good news is that
12 Honeywell and Mestek are engaged in settlement
13 discussions, and they have agreed to defer discovery,
14 and wish to request this Court for a different date.
15 They do not anticipate using the March 8th date for
16 that hearing.

17 THE COURT: Okay.

18 MR. BARLIANT: They, they and we and the
19 debtor would request that the Court set a date in
20 early to mid-April for that hearing, should it be
21 necessary.

22 With respect to that March 8th date,
23 however, and getting into the bad news, we are asking
24 the Court, if the Court can, if the Court would, to

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1 keep that date open, at least until the end of next
Page 6

2 week. Let me explain that before the, before the
3 Court makes decisions about its calendar.

4 As the Court is aware, very early on in
5 this case we reached settlements with the plaintiffs
6 in the principal actions against the debtor and
7 Mestek, and also Honeywell, for that matter, including
8 a settlement in the, a class action, a property damage
9 class action pending in Chicago, the Mejdrech case.

10 The settlement was contingent on
11 confirmation of a plan by January 26th, and obviously
12 that contingent, contingency has not been satisfied.
13 Last week the plaintiffs in that case went before the
14 District Court in Chicago and obtained a trial date as
15 against Mestek and Honeywell of April 19th. I would
16 anticipate that they would seek, modify the stay with
17 respect to us, but they haven't done that so far.

18 So obviously we are, in analyzing the
19 situation and anticipate we can't resolve it any other
20 way, seeking an injunction to prevent that trial from
21 going forward. As I say, the trial is now set for
22 April 19th. It's our feeling that that March 8th
23 date, or some date in early or mid-March, would be
24 essentially necessary for us to determine whether we

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1 can obtain the injunction before getting into what
2 would, quite frankly, be very expensive for all the
3 parties, very expensive trial preparation for that
4 case.

5 So what we're requesting of the Court, if
6 the Court is able to do it, is to keep that March 8th

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7 date available. We will let the Court know by the end
8 of next week whether we anticipate needing it or not.

9 But with respect to the Honeywell matter,
10 we are asking the Court for an early to mid-April date
11 for that matter.

12 THE COURT: All right, well if you need
13 the March 8th, you'll file your --

14 MR. BARLIANT: Right.

15 THE COURT: -- complaint by the end of next
16 week?

17 MR. BARLIANT: Correct. Or let the Court
18 know that we won't need it. One way or the other you
19 will know.

20 THE COURT: All right, I'll leave it on
21 then. As far as the Honeywell, how about April 12th
22 at 9:30?

23 MR. BARLIANT: Thank you very much, Your
24 Honor.

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1 All right, now if I may -- I'm sorry. I
2 apologize.

3 MR. LANDIS: Your Honor, since
4 Mr. Barliant was speaking about my clients, I thought
5 it a propitious time to jump in.

6 For the record, Adam Landis from Landis,
7 Rath & Cobb on behalf of the Mejdrech plaintiffs and
8 the -- and Schreiber.

9 Obviously we are disappointed that we've
10 had some continuances that have not enabled all of us
11 to get to a confirmed plan in the 150 days

12 contemplated by the settlement we reached early on in
13 the case. We understand that there are some pretty
14 thorny issues here and some issues that we are all
15 hoping can get worked out. We have been patient,
16 we've offered support, and we continue to be patient
17 and offer support.

18 But within that patience and offering of
19 support, we also have to be mindful that we have a
20 number of plaintiffs injured whose class action we
21 agreed to stay as against Honeywell and Mestek to
22 allow this situation to unfold in the bankruptcy case,
23 and one that we would hope would resolve things to
24 everyone's satisfaction.

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1 We have not terminated our letter
2 agreement with the debtors and Mestek. We've reserved
3 the right to do so. We've eagerly anticipated what
4 was going to happen in court. But we are at a point
5 where because the agreement -- the agreed order that
6 was reached in connection with the preliminary
7 injunction litigation was such that after 150 days
8 there would be no stay as against Mestek and
9 Honeywell. At a status conference in front of Judge
10 Donald Weber {Phonetic} in Chicago we asked for a
11 trial date.

12 In that regard, Your Honor, the March 8th
13 date that, that Mr. Barliant has suggested remain open
14 also, I suspect, ought to be, ought to remain open in
15 connection with a potential lift stay motion that we
16 would have to file to proceed to trial as against the

17 debtor, as well as Mestek and Honeywell. And I
18 suppose what I would want to do is -- we can have an
19 awful lot of litigation on essentially the same issue.
20 If the debtor were to file a motion or a complaint
21 seeking to extend the injunction, I suppose that we
22 would want to cross-move to lift the automatic stay in
23 one way or another, rather than file a separate
24 action, although we'll consider doing that as well.

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1 But I did want to alert the Court to the
2 fact that from our perspective, this is out there. In
3 addition to sort of the amassing of troops at the
4 border, discussions are ongoing to try to extend the
5 letter agreement past the 150 days and appropriate
6 consideration for doing that and how we would actually
7 mechanically do it. We're hopeful that we can try to
8 get to an agreement, maybe not entirely optimistic,
9 having heard today that the debtors want to reserve
10 the date for injunction litigation. But we're still
11 hopeful and we're willing to talk, and hopefully we'll
12 hear back and get this resolved consensually.

13 THE COURT: All right. Any objection to
14 hearing any relief from stay request at the same time?

15 MR. BARLIANT: No, I think that's
16 appropriate.

17 THE COURT: All right.

18 MR. BARLIANT: All right, if I may then
19 proceed to the agenda, items 1 and 3 I've essentially
20 covered. Those are the disclosure statement and
21 related motions. We are asking this Court to continue

22 those until March 22nd.

23 THE COURT: One, 2 and 3, okay.

24 MR. BARLIANT: One, 2 and 3, correct.

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1 THE COURT: All right.

2 MR. BARLIANT: With respect to item No. 4
3 on the agenda, with regard to the Hill Engineering
4 claim, we have agreed with Hill Engineering to
5 continue that hearing until April 19th, which is next
6 omnibus date, and to allow Hill Engineering until
7 April 12 to respond to our objection.

8 THE COURT: All right.

9 MR. BARLIANT: If that is all right with
10 the Court.

11 with regard to the claim of New England
12 HVAC Services Corporation, New England HVAC filed a
13 response which meets our, our objection as set forth
14 in the third omnibus objection, and therefore, we've
15 withdrawn that objection.

16 THE COURT: All right.

17 MR. BARLIANT: And there is nothing else
18 on the third omnibus objection that requires hearing
19 today.

20 THE COURT: All right.

21 MR. BARLIANT: Respect to item No. 5,
22 motion to assume executory contracts, we have filed a
23 certificate of no objection, and I think the Court has
24 already entered an order --

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1 THE COURT: Yeah, my notes --

2 MR. BARLIANT: -- if I understand
3 correctly.

4 THE COURT: My notes show I did enter the
5 order.

6 MR. BARLIANT: Thank you, Your Honor.
7 With respect to, if I can take them a
8 little bit out of order, agenda items 6 and 7, and
9 then 11 and 12, those items deal with motions to
10 settle disputes with insurance carriers, Travelers and
11 AIG, which we had anticipated going forward with
12 today.

13 We received an objection from another
14 insurance carrier, Ace. We'd like to continue those
15 four motions, 6, 7, 811 and 12 to March 22nd to give
16 us some time to see if we can work through Ace's
17 problems.

18 THE COURT: All right. I have some
19 concern about sealing --

20 MR. BARLIANT: That's one of the issues
21 that --

22 THE COURT: -- the settlements, but if
23 everything is resolved, then maybe there's no purpose
24 to sealing.

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1 MR. BARLIANT: I'm not sure that's going
2 to be true. I'm learning that insurance companies
3 tend to be very secretive.

4 THE COURT: All right.

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5 MR. BARLIANT: So we may need to address
6 the Court's concerns and we'll be prepared to do so.
7 If the Court wants to ask some specific questions now,
8 we can be ready to answer those or just wait till that
9 hearing.

10 THE COURT: well I just wonder whether,
11 since you're in bankruptcy, there can be any sealing
12 of the terms of a settlement which may impact on
13 creditors' claims.

14 MR. BARLIANT: Right. We have -- I'll
15 just keep it brief and we can address it on March
16 22nd. Just so the Court knows, we have disclosed the
17 terms of the settlement to the committee, trying to
18 remember if we have to the U.S. Trustee and I don't,
19 but the committee and other interested parties. So we
20 may be able to address those concerns that the Court
21 has. We anticipated that the Court would have those
22 concerns.

23 THE COURT: All right.

24 MR. BARLIANT: And we will -- and the

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1 insurance carriers will be here as well to explain
2 their, their need, which I have to say seems to run
3 across the industry so far as I can tell, their need
4 for secrecy.

5 THE COURT: All right.

6 MR. BARLIANT: But in any event, if it's
7 all right with the Court, then we'll continue that
8 till March 22nd.

9 THE COURT: It can be continued.

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10 MR. BARLIANT: Item No. 8 is the HVAC, New
11 England HVAC motion for relief from the stay. I
12 believe counsel for HVAC is here, so I'll cede the
13 podium, since that is a contested matter.

14 THE COURT: All right, all right.

15 MR. FINIZIO: Morning, Your Honor.

16 GianClaudion Finizio of The Bayard Firm on behalf New
17 England HVAC.

18 we did file a motion for relief from stay
19 in November, and we're seeking to continue our action
20 in state court in New Jersey, which deals with breach
21 of contract, breach of warranty claims against the
22 debtor and other nondebtor parties.

23 In the way of background, Your Honor, my
24 client, New England HVAC, is in the business of

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1 installing and repairing, maintaining heating,
2 ventilation, air conditioning systems. The debtor
3 manufactured a piece of machinery, bulk end plasma
4 cutter which was used, it was intended to be used in
5 the HVAC industry to cut sheet metal.

6 New England purchased this product in July
7 of '97, and purchased the product from the debtor's
8 distributor, has had ongoing problems, and has
9 attempted to correct those problems and cure those
10 problems, both with the debtor and the nondebtor
11 parties. However, after a certain point, it didn't
12 seem like any remedy was going to correct the
13 situation.

14 They filed suit on July 11, 2003 in the

15 Superior Court of New Jersey, as I mentioned, against
16 the debtor and the distributor of the machinery, and
17 also against the manufacturer of the software that
18 operates the machinery. And today we're here to seek
19 relief from the stay. I don't believe that there is
20 any dispute as to the, the factors that the Court is
21 to evaluate in granting relief.

22 And either -- at this time I'm happy to
23 walk through those factors, I also have with me my
24 client, the president of HVAC, if necessary, to

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1 testify.

2 THE COURT: well, are you seeking money
3 judgment against the debtor only?

4 MR. FINIZIO: Yes.

5 THE COURT: And not to collect? Is there
6 insurance that would cover this type of --

7 MR. FINIZIO: No, I don't believe so, Your
8 Honor.

9 THE COURT: All right, well let me hear
10 from the debtor on this, as far as liquidating the
11 amount.

12 MR. BARLIANT: We have filed a response,
13 Your Honor. I won't repeat what's there, but I think
14 there are several reasons why we're resisting this
15 motion, and I'm going to ask the Court to deny it.

16 First of all, HVAC is suing several other
17 parties in that New Jersey action, and there's no
18 reason why they can't proceed against the other
19 parties. They don't need the debtor to obtain the

20 relief against those parties.

21 With respect to their claim against the
22 debtor, in our view this is an extremely weak claim.
23 It's a claim for economic loss. The debtor has no
24 contract, no contractual relationship with HVAC. The

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1 debtor had a contract with the distributor. It's the
2 distributor who has a contract with the, with HVAC.
3 And the debtor's contract disclaims all warranties.
4 And since it's a claim for economic loss, there is no
5 basis in noncontract law, there is no basis in tort.

6 THE COURT: Well wouldn't a motion to
7 dismiss in the state court deal with it then?

8 MR. BARLIANT: So would a motion -- next
9 point I was going to raise. We believe we can resolve
10 this very quickly. We have filed a substantive
11 objection to this claim, and we think it can be
12 resolved quickly in this Court on some very simple
13 papers. We'd be prepared to file something next month
14 and allow whatever time HVAC needs to file something.

15 Our concern, of course, is if we get
16 involved in the New Jersey proceeding with all those
17 other parties, we could be there for some time. And
18 yes, we would file motion to dismiss, we may be
19 involved in other pleadings, we may be involved with
20 motions of other parties, we may ultimately be
21 involved in a trial, even though we don't think we
22 should be, which could take months to resolve.

23 We believe that we can present to this
24 Court the law very quickly and the Court will see very

1 quickly that there is no claim. If we're wrong, if
2 the Court finds that there is a claim, then I suppose
3 there is a basis for modifying, the state will
4 liquidate it in the New Jersey proceeding.

5 But we think the first step ought to be to
6 get the claim dealt with here in the Bankruptcy Court
7 as part of the claims adjudication process. And this
8 is not a complicated claim. This is not one that
9 would require a great deal of briefing, or I would
10 anticipate not a great deal of the Court's time.

11 THE COURT: Any response?

12 MR. FINIZIO: Yes, Your Honor. I have
13 some concerns with, with going forward in that matter,
14 and I'll explain why. First of all, in the debtor's
15 response they do allude to other nondebtor parties
16 being the responsible parties. Obviously we disagree
17 with that. We believe the debtors do certainly have
18 liability. And our concern is if the debtors are able
19 to just go forward in the Bankruptcy Court, that they
20 could effectively point to another nondebtor party,
21 point the liability there, and then if we go to the
22 state court in New Jersey, those nondebtor parties
23 perhaps do the same thing, we could be left with
24 inconsistent decisions and my client's left with no

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1 remedy.

2 with respect to the claims, the, the
3 debtors contend that there's no contractual privity so

4 that we have no basis for asserting these claims.
5 However, under New Jersey law, this product was sold
6 to my client in New Jersey. Privity is not a
7 requirement to assert a breach of warranty claim, even
8 against a remote manufacturer. So we feel we
9 certainly have a valid claim with respect to privity.

10 And I think, as the debtor's mentioned,
11 they're prepared to liquidate this claim, as are we.
12 We feel that the proper place is in the state court.
13 It's my understanding the debtor has retained counsel
14 in New Jersey to represent it in this action.

15 And in addition, the --

16 THE COURT: When is the trial in this?
17 Has there been a trial date scheduled?

18 MR. FINIZIO: No, Your Honor, there has
19 not. I don't --

20 THE COURT: When was --

21 MR. FINIZIO: I don't believe that the
22 debtor's filed their response in this action yet.

23 THE COURT: In the New Jersey action?

24 MR. FINIZIO: That's correct. And I'm not

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1 familiar with the, the law in New Jersey regarding
2 expediting the proceeding. I understand that that's
3 their concern, but we'd certainly be more than
4 agreeable to, to moving this forward on an expedited
5 basis if that's possible.

6 My client is currently continuing to try
7 and use this machinery, and I mean estimates losing
8 500 to \$750 a day because it's not performing properly

9 in the way of lost metal and down time. So my client
10 certainly wants to move forward on this action and is
11 agreeable to expedite it in whatever way possible.

12 THE COURT: well, let me do this. I hear
13 the debtor's argument, but I think it might be
14 quickest for the debtor to, if they're correct on the
15 state of the law, to file a motion to dismiss in the
16 state court action. The state court judge is more
17 familiar with New Jersey law on privity of contract
18 than I.

19 So I'll grant relief from the stay to
20 allow the prosecution. If the debtor's incorrect on
21 the state of the law and isn't kicked out in
22 dispositive motions, I'll hear this again because I'm
23 not sure that the debtor won't need to do an
24 estimation proceeding if the debtor loses on the legal

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1 theory that they're propounding.

2 MR. FINIZIO: Just to make sure I'm clear,
3 Your Honor, stay relief granted to the extent filing
4 dispositive motions.

5 THE COURT: Yes.

6 MR. FINIZIO: Okay.

7 THE COURT: Yes. And without prejudice to
8 the debtor's right to file an estimation proceeding
9 if, in fact, after the dispositive motions there is a
10 legal basis for a claim.

11 MR. BARLIANT: We can work together on the
12 terms of an order.

13 MR. FINIZIO: Yeah, and we'll submit on
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14 the certification.

15 THE COURT: All right, thank you.

16 MR. FINIZIO: Thank you, Your Honor.

17 MR. BARLIANT: That brings us to agenda
18 item No. 9, which is the second omnibus objection.
19 And given the Court's ruling, I guess what we ought to
20 do with New England, with our objection to New England
21 HVAC's claim, is simply to continue that, probably
22 continue it from time to time until the matter is one
23 way or another resolved in New Jersey.

24 THE COURT: Yeah, and the debtor had filed

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1 a, a status report regarding that. I still had some
2 concerns about the form of order submitted, so maybe
3 we should put it on for hearing at a time when you
4 have a witness that perhaps can answer some of the --

5 MR. BARLIANT: You just simply want to do
6 that on April 19 -- or --

7 THE COURT: April 9th?

8 MR. BARLIANT: I'm sorry, our next status
9 date is March 22nd, if you wanted to do it March 22nd,
10 or April 19th, at the Court's pleasure.

11 THE COURT: All right, let's set it for
12 March 22nd.

13 MR. BARLIANT: So that those matters that
14 are still pending on the second omnibus objection, as
15 to those, the Court is going to want to hear a
16 witness, is that correct?

17 THE COURT: Have a witness available just
18 to answer the Court's questions, and he can be

19 available by phone if, if that's more convenient.

20 MR. BARLIANT: That's fine, Your Honor.

21 The other -- there are other matters, the Hartford
22 accident indemnity and Oxford Machinery, Red River, et
23 cetera, claims which we're adjourning to March 22nd,
24 which I guess at this point makes all the sense in the

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1 world. we've allowed them until March 15th to file
2 responses.

3 THE COURT: Okay.

4 MR. BARLIANT: With respect to the Formtek
5 and Kaiser Properties' claims, we're adjourning those
6 until April 19th with the response deadline of April
7 12th.

8 THE COURT: All right.

9 MR. BARLIANT: Okay, so the other matters
10 then will be -- on that objection will be before the
11 Court on March 22nd.

12 THE COURT: Okay.

13 MR. BARLIANT: Finally, Your Honor, item
14 No. 10 is not our motion. Illinois & CASCO [Phonetic]
15 has moved to modify the stay. We are not in
16 opposition to that motion, but there has been an
17 objection filed. So I will cede the podium.

18 THE COURT: All right, thank you.

19 MR. SULLIVAN: Good morning, Your Honor.
20 Bill Sullivan on behalf of Illinois & CASCO Insurance
21 Company.

22 Your Honor, Illinois & CASCO seeks relief
23 from the stay to proceed forward with a declaratory

24 judgment action it filed in Illinois. Briefly, the

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1 background on that action is it is to determine
2 Illinois & CASCO's liability on its duty to defend and
3 duty to indemnify a company by the name of Lindy
4 Manufacturing. Illinois & CASCO insured Lindy for a
5 period of 11 years, from 1991 to 2002, under both CGL
6 policies and umbrella policies. And, Your Honor,
7 Illinois & CASCO filed this lawsuit with respect to
8 certain environmental claims that are pending against
9 it.

10 This only tangentially involves the
11 debtor, Your Honor, in that the debtor is the entity
12 which brought Lindy Manufacturing into certain
13 environmental claims as a -- naming of them as an
14 additional PRP. And under Illinois law, because the
15 coverage action that we filed against Lindy could
16 affect potentially the debtor's right to collect on
17 those third-party claims, they are required to be a
18 party to our lawsuit. But they're really just there
19 to observe and to see, you know, what happens with
20 respect to the coverage that we would or would not be
21 providing to Lindy.

22 So for that reason, Your Honor, we believe
23 that relief from the stay is appropriate to move
24 forward with the declaratory action.

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1 THE COURT: All right, and the debtor has

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2 no objection. Let me hear from ACE.

3 Mr. CASARINO: Morning, Your Honor, Marc
4 Casarino on behalf of the ACE Group of Insurers. We
5 had filed a limited objection to this request,
6 primarily just to protect the ACE Group of Insurers'
7 rights with respect to their coverages for the
8 debtors.

9 I've had an opportunity to discuss the
10 matter with Mr. Sullivan, and I understand his
11 client's position vis-a-vis the debtors and Lindy, and
12 with his representations that there's no implication
13 here in his opinion of the ACE Group of Insurers'
14 coverages by this lift stay motion, I'm willing to
15 withdraw our limited objection.

16 THE COURT: All right.

17 Mr. CASARINO: I do, however, want to
18 preserve on the record all of the reservations that
19 ACE has made in its limited objection, docket item 544
20 with respect to its coverages for the debtors.

21 THE COURT: All right.

22 Mr. CASARINO: Thank you, Your Honor.

23 THE COURT: Then I'll grant the motion as
24 unopposed.

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1 MR. SULLIVAN: Your Honor, the only thing
2 that I want to add to that is with respect to
3 representations by me with respect to the debtor's
4 insurance coverage. I certainly have no knowledge of
5 the insurance coverage. I'm not aware how this could
6 affect the debtor's insurance coverage, and that was

7 the nature of the conversation I had with
8 Mr. Casarino.

9 THE COURT: All right, that's fine.

10 MR. SULLIVAN: Your Honor, I have an order
11 if --

12 THE COURT: You may hand it up. The same
13 as that attached to the motion?

14 MR. SULLIVAN: Yes.

15 THE COURT: All right, then I'll enter
16 that order as unopposed.

17 MR. SULLIVAN: Thank you, Your Honor.

18 MR. BARLIANT: Your Honor, I believe that
19 concludes our agenda. If the Court or nobody else has
20 anything else, I thank you for your time.

21 THE COURT: All right, thank you. Stand
22 adjourned.

23 MR. BARLIANT: See you next month.

24 (The hearing was adjourned at 11:03 a.m.)

CERTIFICATE

1
2 STATE OF DELAWARE)
3)
4 NEW CASTLE COUNTY)

5 I, Julie H. Parrack, Registered
6 Professional Reporter and Notary Public, do hereby
7 certify that the foregoing record, pages 2 to 28
8 inclusive, is a true and accurate transcription of an
9 electronic recording, to the best of my ability, in
10 the above-captioned matter.

11 IN WITNESS WHEREOF, I have hereunto set

12 metcoil.txt
13 my hand and seal this 18th day of February, 2004.

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Julie H. Parrack, RMR-CRR
Certification No. 102-RPR
(Expires January 31, 2005)

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