

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
(Eastern Division)

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In re:)	
)	
MODERN CONTINENTAL)	Chapter 11
CONSTRUCTION CO., INC.,)	
)	Case No. 08-14558 (WCH)
Debtor.)	
)	

JOINT EMERGENCY MOTION OF MODERN CONTINENTAL CONSTRUCTION CO., INC., NEW YORK STATE OFFICE OF THE ATTORNEY GENERAL, AND THE NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE FOR AN ORDER CONTINUING THE HEARING AND RESPONSE DEADLINES WITH RESPECT TO THE DEBTOR'S OBJECTIONS TO PROOF OF CLAIM NOS. 37, 38, 39, 40 AND 137
(Emergency consideration requested)

Modern Continental Construction Co., Inc., the above-captioned debtor and debtor-in-possession (the "Debtor"), the New York State Office of the Attorney General (the "Attorney General"), and the New York State Department of Taxation and Finance ("NYDOT") and together with the Debtor and the Attorney General, the "Movants"), respectfully request that the Court enter an order on an emergency basis continuing the September 19, 2009 response deadline and September 23, 2009 hearing with respect to the *Debtor's Objection to Proof of Claim Nos. 37, 38, 39, and 40 Filed by the New York State Office of the Attorney General* (Docket No. 997) and the *Debtor's Objection to Proof of Claim No. 137 Filed by the New York State Department of Taxation and Finance* (Docket No. 1126) (collectively, the "Objections") to the first dates that are available and convenient to this Court's calendar in November 2009. In support of this motion, the Movants respectfully aver as follows:

1. On June 23, 2008 (the "Petition Date"), the Debtor filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101 et seq. (the



9/18/2009 Granted, hearing assignment of Sept 23 2009 regarding the debtor's' objections to claims, documents (997 and 1126) are vacated and rescheduled for hearing Nov.18, 2009 at 9:30 a.m. responses due Nov 16, 2009 by 4:00 p.m. Movant to notify parties of hearing date and submit a c/s to the court

“Bankruptcy Code”) in the United States Bankruptcy Court for the District of Massachusetts (the “Court”). The Debtor continues to operate its business as a debtor-in-possession.

2. On July 8, 2009, the Debtor filed an objection to the Attorney General’s proofs of claim. On August 7, 2009, the Debtor filed an objection to the NYDOT’s proof of claim. The Attorney General and the NYDOT are being represented by the same counsel. The Debtor continues to negotiate with the Attorney General and the NYDOT to resolve the disputes arising from the Objections to their claims. The Attorney General and the NYDOT desire additional time to respond to the Objections, absent a settlement. The Movants also desire to exchange documentation to clarify the allowed amount and priority, if any, of the claims. Accordingly, the Movants request that the Court continue the hearing, currently scheduled for September 23, 2009 at 9:30 a.m., and the related response deadlines, currently scheduled for September 19, 2009, to the first dates that are available and convenient to this Court’s calendar in November 2009.

4. The Movants file this motion on an emergency basis pursuant to MLBR 9013-1(h) because the Attorney General and NYDOT’s response deadlines expire within one day of the filing of this motion. The Movants respectfully request that the Court enter an order relieving them of the obligation under MLBR 9013-1(h) to file a separate Motion for Emergency Hearing, on the grounds that under the circumstances, such a motion may be deemed superfluous and/or unnecessary.

5. Pursuant to MLBR 5071-1, the Debtors will serve a copy of this motion by this Court’s ECF System or by first-class mail, postage prepaid and/or by this Court’s CM/ECF System, “upon all previously served parties in a manner reasonably sufficient to reach said parties prior to their attendance at the subject hearing.” MLBR 5071-1(c). Counsel for the Attorney General and the NYDOT has provided the Debtor with her email address and the

Debtor shall serve the Attorney General and the NYDOT with a copy of the motion. The parties asserting liens or security interests against the Debtor's assets have subscribed to this Court's CM/ECF System. No other parties have responded to the Objections. Therefore, all parties-in-interest will receive notice of this motion upon its filing.

WHEREFORE, the Movants respectfully request that this Court enter an order on an emergency basis: (a) continuing the hearing on the Objections, currently scheduled for September 23, 2009 at 9:30 a.m., and the related response deadlines, currently scheduled for September 19, 2009, to the first dates that are available and convenient to this Court's calendar in November 2009; and (b) granting to the Movants such other and further relief as the Court deems just and proper in the circumstances.

Respectfully submitted,

MODERN CONTINENTAL
CONSTRUCTION CO., INC.,

By its counsel,

Dated: September 18, 2009

/s/ Christian J. Urbano
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[signatures continued on next page]

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¹ Pursuant to ECF Rule 8(b)(2), I, Christian J. Urbano, represent that Attorney Fivel has authorized me to attach his electronic signature to this motion.

UNITED STATES BANKRUPTCY COURT
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Debtor.)	
)	

CERTIFICATE OF SERVICE

I, Christian J. Urbano, hereby certify that on this 17th day of August, 2009, I caused to be served a copy of the *Joint Emergency Motion of Modern Continental Construction Co., Inc., New York State Office of the Attorney General, and the New York State Department of Taxation and Finance for an Order Continuing the Hearing and Response Deadline with Respect to the Debtor's Objection to Proofs of Claim Nos. 37, 38, 39, 40 and 137*, by electronic mail and/or by this Court's CM/ECF System to the persons and entities listed on the attached Service List.

Dated: September 18, 2009

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Case Number: 08-14558 (WCH)
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