

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS**

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

**MOTION FOR EXPEDITED HEARING ON SMYRNA REBAR’S INC.**  
**MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

Smyrna Rebar, Inc. (“Smyrna”), through its counsel, the Law Offices of Kenneth M. Diesenhof, P.C. and the Law Offices of Thomas A. Dougherty request that the Court to set an expedited hearing on or about July 17, 2008, on its concurrently submitted Motion for Relief from the Automatic Stay. The Motion requests relief from the automatic stay (i) allowing Smyrna to appeal the rulings of Farbricant, J. and Bornstein, J.’s in Superior Court Docket No. 00-1192B and to proceed in the Appeals Court Docket No. 2008-P-58, (“The State Action”) (ii) allowing any and all actions to reach and implement settlements between the Plaintiff and non-debtor defendants in the State Action and to proceed until December 31, 2009, and (iii) scheduling a hearing prior to December 31, 2009 to consider granting relief from the stay for further proceedings in the State Action.

In support of the Motion, Smyrna States the following:

1. On June 23, 2008 MCC filed for bankruptcy protection under Chapter 11 of the United States Bankruptcy Code.

2. As of this date of this motion MCC has not filed a Suggestion of Bankruptcy in the State Court Action.

3. The parties have been involved in eight years of litigations and the documents that the Smyrna has received from MCC in discovery occupy an entire office suite.

4. Upon information and belief there are at least two insurance policies available to pay some or all of Smyrna's claims:

Name of Insurer: U.S. Fidelity and Guaranty Company

Bond No.: 24-0120-17960976 & 11133291143

Amount of Bond: \$200,000,000.00

Name of Insurer: Fireman's Fund Insurance Company

Bond No.: 24-0120-17960976 & 11133291143

Amount of Bond: \$200,000,000.00

5. The limited nature of the relief requested by Smyrna in this Motion does not require the Court to determine at this time the extent to which Smyrna may recover on its claims against the available insurance. Information concerning MCC's insurance is provided because it substantiates that there is little prejudice or harm to MCC.

6. There are currently several other non-debtor defendants in this action.

**WHEREFORE;** Smyrna respectfully requests that the court schedule a hearing on or about July 17, 2008 to consider its request to obtain relief from the automatic stay in accordance with the proposed Order attached to the Motion as Exhibit "A" (i) allowing Smyrna to appeal the rulings of Farbricant, J. and Bornstein, J.'s in Superior Court Docket No. 00-1192B and to proceed in the Appeals Court Docket No. 2008-P-58,

(“The State Action”) (ii) allowing any and all actions to reach and implement settlements between the Plaintiff and non-debtor defendants in the State Action and to proceed until December 31, 2009, (iii) scheduling a hearing prior to December 31, 2009 to consider granting relief from the stay for further proceedings in the State Action.

Respectfully Submitted, and (iv) granting such other relief as the Court deems necessary and just.

SMYRNA REBAR, INC.  
By its attorneys

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Date: July 10, 2008