

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS**

**FILING FEE PAID**

**In re: Modern Continental Construction Company, Inc.**

**Chapter 11  
Bankruptcy Case No. 08-14558**

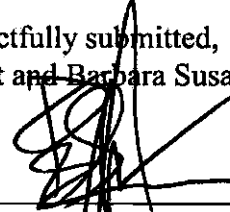
**MOTION FOR RELIEF FROM STAY  
OF ROBERT AND BARBARA SUSAN**

Barbara and Robert Susan hereby move the Court for Relief from the Automatic Stay so that they may proceed with their lawsuit against Modern Continental Construction Company, Inc. (hereinafter "Modern Continental")

The Susans filed suit in Boston Municipal Court alleging that they were injured in an automobile accident caused by the negligence of Modern Continental, in an action captioned Robert Susan and Barbara Susan v. Modern Continental Construction Company, Inc., 2007CV6351. Subsequent to the Boston Municipal Court setting a trial date of January 13, 2009 (Exhibit "A" herewith), while the parties were continuing to conduct discovery, counsel for Modern Continental filed a Suggestion of Bankruptcy in the Boston Municipal Court on June 24, 2008 (Exhibit "B").

In support hereof, attached as Exhibit "C" is a copy of letter of AIG Claims Services indicating insurance coverage with general liability limits of \$25,000,000.00 CSL. The Susans are seeking permission of the Court to proceed with their lawsuit to the extent of available insurance.

Respectfully submitted,  
Robert and Barbara Susan, by their attorneys



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Edward S. Bear Jr. (BBO#645679)  
Office of Donald E. Green, P.C.  
2235 Washington Street  
Roxbury, MA 02119  
617-442-0050

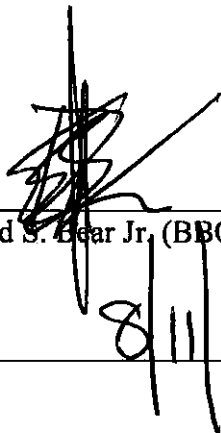
AUG13'08 PM12:04 USH

**CERTIFICATE OF SERVICE**

I, Edward S. Bear Jr., counsel for Robert and Barbara Susan, hereby certify that on the date indicated below I served a copy of the attached document upon counsel for Modern Continental Construction Company, Inc., by first class postage prepaid directed to:

Michael L. Mahoney, Esquire  
Mullen & McGourty  
52 Temple Place  
4<sup>th</sup> Floor  
Boston, MA 02111

Harold B. Murphy, Esq.  
Hanify & King, P.C.  
One Beacon Street  
Boston, MA 02108



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Edward S. Bear Jr. (BBO#645679)

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Date

8/11/08

# **EXHIBIT A**



Commonwealth of Massachusetts  
 TRIAL COURT OF THE COMMONWEALTH  
 BOSTON MUNICIPAL COURT DEPARTMENT - CENTRAL DIVISION

EDWARD W. BROOKE COURT HOUSE  
 24 NEW CHARDON STREET, FIRST FLOOR  
 BOSTON, MASSACHUSETTS 02114

DANIEL J. HOGAN  
 CLERK / MAGISTRATE

*Susan et al*

*v*  
*Modern Continental*

Docket No. 2007CV6351

Your case has been continued to January 13, 2009

for:

**PRETRIAL CONFERENCE AT 8:45 A.M. IN THE MAGISTRATE'S COURT ROOM, FIRST FLOOR.**

**CASE MANAGEMENT CONFERENCE AT 9:00 A.M. IN COURT ROOM "D", FIFTH FLOOR.**

**TRIAL AT 9:00 A.M. IN COURT ROOM "D", FIFTH FLOOR.**

"A"

# **EXHIBIT B**

**MULLEN & MCGOURTY**  
**COUNSELORS AT LAW**

52 TEMPLE PLACE, 4<sup>TH</sup> FLOOR  
BOSTON, MASSACHUSETTS 02111

TELEPHONE (617) 338-9200  
TELEFAX (617) 338-9225

June 24, 2008

Clerk of the Court  
Central Division  
Boston Municipal Court Department  
24 New Chardon Street, First Floor  
Boston, MA 02114

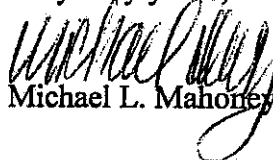
**RE: Barbara & Robert Susan v. Modern Continental Construction Company**  
**Boston Municipal Court**  
**C.A.: 006351**  
**D.O.L.: 04/27/2006**  
**Claim No.: 390-020627**

Dear Sir or Madam:

Enclosed for filing please find the Suggestion of Bankruptcy of Defendant,  
Modern Continental.

Thank you for your attention to this matter. Please do not hesitate to contact this  
office with any questions.

Very truly yours,

  
Michael L. Mahoney

MLM/aw  
Enclosure

Cc:  
Edward S. Bear

" " "  
B

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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

BOSTON MUNICIPAL COURT  
C.A. No.: 006351

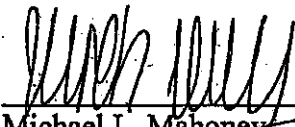
BARBARA AND ROBERT SUSAN,	)
Plaintiffs	)
	)
v.	)
	)
MODERN CONTINENTAL	)
CONSTRUCTION COMPANY,	)
Defendant	)
_____	)

**SUGGESTION OF BANKRUPTCY**  
**of DEFENDANT**  
**MODERN CONTINENTAL CONSTRUCTION, CO. INC.**

Now comes the Defendant, Modern Continental Construction Company, Inc., who represents to this Honorable Court that it has filed for Chapter 11 bankruptcy protection. The bankruptcy case number is 08-14558. The matter is pending before the Honorable William C. Hillman, evidence of said filing is attached hereto.

Dated: June 24, 2008

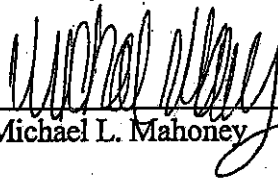
Respectfully Submitted,  
The Defendant,  
Modern Continental  
Construction Company, Inc.,  
By its Attorney,

  
\_\_\_\_\_  
Michael L. Mahoney  
Mullen & McGourty  
52 Temple Place, 4<sup>th</sup> Floor  
Boston, MA 02111  
(617) 338-9200  
BBO# 557562

**CERTIFICATE OF SERVICE**

I, Michael L. Mahoney, hereby certify that I have served a true copy of the within document this 24<sup>th</sup> day of June, 2008, via first class mail, postage prepaid upon the following:

Edward S. Bear, Esq.  
Law Office of Donald E. Green, P.C.  
2235 Washington Street, 2<sup>nd</sup> Floor  
Roxbury, MA 02119

  
\_\_\_\_\_  
Michael L. Mahoney

**United States Bankruptcy Court  
District of Massachusetts**

**Voluntary Petition**

Name of Debtor (if individual, enter Last, First, Middle): <b>Modern Continental Construction Co., Inc.</b>	Name of Joint Debtor (Spouse) (Last, First, Middle):
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names):	All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names):
Last four digits of Social Security or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all): <b>04-2440792</b>	Last four digits of Social Security or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all):
Street Address of Debtor (No. & Street, City, and State): <b>250 Milton Street Dedham, MA 02026-2913</b>	Street Address of Joint Debtor (No. & Street, City, and State):
<b>ZIP CODE</b> <b>02026-2913</b>	<b>ZIP CODE</b>
County of Residence or of the Principal Place of Business: <b>Norfolk</b>	County of Residence or of the Principal Place of Business:
Mailing Address of Debtor (if different from street address):	Mailing Address of Joint Debtor (if different from street address):
<b>ZIP CODE</b>	<b>ZIP CODE</b>

<b>Location of Principal Assets of Business Debtor (if different from street address above):</b>		
<b>Type of Debtor</b> (Form of Organization) (Check one box.)  <input type="checkbox"/> Individual (includes Joint Debtors) <i>See Exhibit D on page 2 of this form.</i> <input checked="" type="checkbox"/> Corporation (includes LLC and LLP) <input type="checkbox"/> Partnership <input type="checkbox"/> Other (If debtor is not one of the above entities, check this box and state type of entity below.)	<b>Nature of Business</b> (Check one box.)  <input type="checkbox"/> Health Care Business <input type="checkbox"/> Single Asset Real Estate as defined in 11 U.S.C. § 101(51B) <input type="checkbox"/> Railroad <input type="checkbox"/> Stockbroker <input type="checkbox"/> Commodity Broker <input type="checkbox"/> Clearing Bank <input checked="" type="checkbox"/> Other  <b>Tax-Exempt Entity</b> (Check box, if applicable.) <input type="checkbox"/> Debtor is a tax-exempt organization under Title 26 of the United States Code (the Internal Revenue Code).	<b>Chapter of Bankruptcy Code Under Which the Petition is Filed (Check one box)</b>  <input type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 9 <input checked="" type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Chapter 13  <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Main Proceeding <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding  <b>Nature of Debts</b> (Check one box.) <input type="checkbox"/> Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose." <input checked="" type="checkbox"/> Debts are primarily business debts.

<b>Filing Fee (Check one box.)</b> <input checked="" type="checkbox"/> Full Filing Fee attached <input type="checkbox"/> Filing Fee to be paid in installments (Applicable to individuals only) Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form 3A. <input type="checkbox"/> Filing Fee waiver requested (Applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.	<b>Chapter 11 Debtors</b> <b>Check one box:</b> <input type="checkbox"/> Debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). <input checked="" type="checkbox"/> Debtor is not a small business debtor as defined in 11 U.S.C. § 101(51D). <b>Check if:</b> <input type="checkbox"/> Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,190,000 <hr/> <b>Check all applicable boxes:</b> <input type="checkbox"/> A plan is being filed with this petition. <input type="checkbox"/> Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
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<b>Statistical/Administrative Information *** Harold B. Murphy, Esq. (BBO #362610) ***</b> <input checked="" type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors. <input type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.	<b>THIS SPACE IS FOR COURT USE ONLY</b>
<b>Estimated Number of Creditors</b> <input type="checkbox"/> 1-49 <input type="checkbox"/> 50-99 <input type="checkbox"/> 100-199 <input checked="" type="checkbox"/> 200-999 <input type="checkbox"/> 1,000-5,000 <input type="checkbox"/> 5001-10,000 <input type="checkbox"/> 10,001-25,000 <input type="checkbox"/> 25,001-50,000 <input type="checkbox"/> 50,001-100,000 <input type="checkbox"/> OVER 100,000	
<b>Estimated Assets</b> <input type="checkbox"/> \$0 to \$50,000 <input type="checkbox"/> \$50,001 to \$100,000 <input type="checkbox"/> \$100,001 to \$500,000 <input type="checkbox"/> \$500,001 to \$1 million <input type="checkbox"/> \$1,000,001 to \$10 million <input type="checkbox"/> \$10,000,001 to \$50 million <input type="checkbox"/> \$50,000,001 to \$100 million <input checked="" type="checkbox"/> \$100,000,001 to \$500 million <input type="checkbox"/> \$500,000,001 to \$1 billion <input type="checkbox"/> More than \$1 billion	
<b>Estimated Debts</b> <input type="checkbox"/> \$0 to \$50,000 <input type="checkbox"/> \$50,001 to \$100,000 <input type="checkbox"/> \$100,001 to \$500,000 <input type="checkbox"/> \$500,001 to \$1 million <input type="checkbox"/> \$1,000,001 to \$10 million <input type="checkbox"/> \$10,000,001 to \$50 million <input type="checkbox"/> \$50,000,001 to \$100 million <input type="checkbox"/> \$100,000,001 to \$500 million <input checked="" type="checkbox"/> \$500,000,001 to \$1 billion <input type="checkbox"/> More than \$1 billion	

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<b>Voluntary Petition</b> <i>(This page must be completed and filed in every case)</i>	Name of Debtor(s): <b>Modern Continental Construction Co., Inc.</b>
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**Signatures**

**Signature(s) of Debtor(s) (Individual/Joint)**

I declare under penalty of perjury that the information provided in this petition is true and correct.  
 [If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12 or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7.

[If no attorney represents me and no bankruptcy petition preparer signs the petition] I have obtained and read the notice required by 11 U.S.C. § 342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X \_\_\_\_\_  
 Signature of Debtor

X \_\_\_\_\_  
 Signature of Joint Debtor

\_\_\_\_\_  
 Telephone Number (if not represented by attorney)

\_\_\_\_\_  
 Date

**Signature of a Foreign Representative**

I declare under penalty of perjury that the information provided in this petition is true and correct, that I am the foreign representative of a debtor in a foreign proceeding, and that I am authorized to file this petition.

(Check only one box.)

I request relief in accordance with chapter 15 of title 11, United States Code. Certified copies of the documents required by 11 U.S.C. § 1515 are attached.

Pursuant to 11 U.S.C. § 1511, I request relief in accordance with the chapter of title 11 specified in this petition. A certified copy of the order granting recognition of the foreign main proceeding is attached.

X \_\_\_\_\_  
 Signature of Foreign Representative

\_\_\_\_\_  
 Printed Name of Foreign Representative

\_\_\_\_\_  
 Date

**Signature of Attorney\***

X /s/ Harold B. Murphy, Esq.  
 Signature of Attorney for Debtor(s)  
**Harold B. Murphy, Esq. (BBO #362610)**  
 Printed Name of Attorney for Debtor(s)  
**Hanify & King, Professional Corporation**  
 Firm Name  
**One Beacon Street**  
**Boston, 02108**  
 Address  
**(617) 423-0400 Fax:(617) 423-0498**  
 Telephone Number  
**June 23, 2008**  
 Date

\*In a case in which § 707(b)(4)(D) applies, this signature also constitutes a certification that the attorney has no knowledge after an inquiry that the information in the schedules is incorrect.

**Signature of Debtor (Corporation/Partnership)**

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X /s/ John H. Pastore  
 Signature of Authorized Individual  
**John H. Pastore**  
 Printed Name of Authorized Individual  
**President**  
 Title of Authorized Individual  
**June 23, 2008**  
 Date

**Signature of Non-Attorney Bankruptcy Petition Preparer**

I declare under penalty of perjury that: 1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110; 2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. §§ 110(b), 110(h), and 342(b); and, 3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110(h) setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required in that section. Official form 19 is attached.

\_\_\_\_\_  
 Printed Name and title, if any, of Bankruptcy Petition Preparer

\_\_\_\_\_  
 Social Security number (If the bankruptcy petition preparer is not an individual, state the Social Security number of the officer, principal, responsible person or partner of the bankruptcy petition preparer.) (Required by 11 U.S.C. § 110.)

\_\_\_\_\_  
 Address

X \_\_\_\_\_

\_\_\_\_\_  
 Date

Signature of Bankruptcy Petition Preparer or officer, principal, responsible person, or partner whose social security number is provided above.

Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual

If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.

*A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both 11 U.S.C. § 110; 18 U.S.C. § 156.*

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# **EXHIBIT C**



**AIG Claim Services**  
**Primary Claims – Eastern Zone**  
**Dedicated Construction Division**  
P.O. Box 52260  
Boston, MA 02205-8207  
617.457.2700  
1.866.356.2383 Easylink Fax  
617.457.2760 (Fax)

June 2, 2006

Law Office of Donald Green  
Attention: David Callahan, Esq.  
2235 Washington Street  
Roxbury, MA 02119

RE: **Insured:** MHD et al.  
**Claimant:** Robert F. Susan & Barbara Susan  
**Claim #:** 390-020627  
**Date of Loss:** 04/27/06

Dear Attorney Callahan:

As you may be aware, AIG Claim Services is the designated adjusting facility for National Union Fire Insurance Company, insurers of MHD et al. for the construction of the Central Artery Tunnel Project. The insurance extends to property damage and/or bodily injury to third parties due to the negligence of our insureds. Our obligation is to pay only those claims for which our insured is legally responsible. The above captioned file has been assigned to me for handling.

This will serve to acknowledge your letter of representation dated May 30, 2006 which was received at this office on June 2, 2006. Pursuant to your request, please be advised the policy limits for the general liability policy for the above captioned insured are \$25,000,000.00 CSL.

To assist in the handling of your client's claim, kindly provide us with the following information:

- A brief written summary of your clients' injury as well as their current status.
- The identification and claim number for the Susan's automobile insurance carrier.
- Your written theory of liability as it pertains to this accident.
- The identification of any witnesses.
- The identification of all health care providers who treated and/or are treating your clients for injuries related to the 04/27/06 incident.
- Copies of all medical records and bills from all health care providers who treated and/or are treating your clients.
- Any information and/or documentation relating to lost wages.

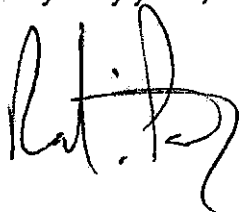
Attached you will find medical and wage authorization forms. Kindly have your clients sign and return them to me in the postage paid envelope at your earliest convenience.

"C"

Also, we would like to obtain a recorded statement from your clients pertaining to the 04/27/06 incident. Please contact me at your earliest convenience to arrange for a mutually convenient time to have our field investigator meet with you and your clients so we may obtain their statements.

If you have any questions, please do not hesitate to contact me at (617)457-5868.

Very truly yours,

A handwritten signature in black ink, appearing to read "R. Panetta". The signature is stylized with a large, sweeping flourish at the end.

Ralph J. Panetta  
Claim Specialist II

cc: Annie Miller