

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS

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

**MOTION FOR RELIEF FROM AUTOMATIC STAY**

Now comes David Harper and requests that this Court grant him relief from the automatic stay/injunction to allow him to proceed with his personal injury claim against the debtor, Modern Continental Construction Co., Inc, in the case David Harper v. Modern Continental Construction Co., Inc., and Brokk Pro's, Inc., Suffolk Superior Court Docket No. 05-0710F.

In support of this motion, David Harper states:

1. Mr. Harper alleges in his action pending in the Massachusetts state court that he was injured as a result of the negligence of employees of Modern Continental Construction Co., Inc. Modern was the general contractor and had safety responsibilities at a construction site.
2. Mr. Harper's complaint was filed in the Suffolk Superior Court on or about February 23, 2005 and was served upon defendant Modern Continental Construction Co., Inc. on or about March 22, 2005.
3. Upon information and belief, the defendant has filed bankruptcy in this Court in June of 2008.



6/30/2008 Motion denied without prejudice as it appears the motion was not served on all interested parties. See MLBR 9013-3(a), (c).

4. David Harper seeks relief from the automatic stay under 11 U.S.C. Sec. 362(d)(1), insofar as insurance exists with respect to his claim.

WHEREFORE, David Harper requests that this Court enter an order:

1. Modifying the automatic stay to permit him to continue with his personal injury action in the Suffolk Superior Court against the debtor, Modern Continental Construction Co., Inc.

2. Modify any injunction issued in connection with the bankruptcy plan to permit him to continue his personal injury action to the extent that the debtor has insurance.

3. Allow Mr. Harper to seek a settlement or judgment on his claims in the Suffolk Superior Court to the extent of the debtor's insurance coverage.

4. Grant such other or further relief as is just and proper.

By his attorney,




---

Gerald Tutor, BBO#505160  
Corrigan, Johnson & Tutor, P.A.  
246 Walnut St., Suite 101  
Newton, MA 02460  
Tel. 617-969-3100

CERTIFICATE OF SERVICE

I, Gerald Tutor, of the law firm of Corrigan, Johnson & Tutor, P.A., hereby certify that I forwarded a copy of the foregoing document to all parties, postage prepaid, on June 27, 2008:

Harold B. Murphy, Esq.  
Hanify & King  
One Beacon St.  
Boston, MA 02108



---

Gerald Tutor

JUN30'08 AM11:37 USB