

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
(Eastern Division)**

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

**MOTION BY DEBTOR TO LIMIT NOTICE WITH RESPECT TO MOTION FOR (A)
APPROVAL OF SETTLEMENT AGREEMENT RELATING TO FORT POINT
CHANNEL INSURANCE COVERAGE DISPUTE, AND (B) RELATED RELIEF**

Pursuant to 11 U.S.C. § 105(a), Rule 2002 of the Federal Rules of Bankruptcy Procedure and MLBR 2002-1(b) and 9019-1(c), Modern Continental Construction Co., Inc., the debtor and debtor-in-possession in the above-captioned Chapter 11 case (the “Debtor”),¹ moves this Court for an order limiting the service required with respect to the proposed settlement between the Debtor and Zurich American Insurance Company and Ace American Insurance Company (collectively the “Defendants,” and together with the Debtor, the “Parties”), and in support of this motion avers as follows:

1. The Parties have entered into the Settlement Agreement, which memorializes the Proposed Settlement of the Parties’ coverage dispute relating to the Debtor’s insurance claims made with respect to Contract No. 97356-C09B1, a contract for a portion of work on the Central Artery/Tunnel “Big Dig” project, and related relief. The Proposed Settlement represents another major step towards the resolution of the Debtor’s bankruptcy proceeding.

¹ Capitalized terms not otherwise defined in this motion have the meanings given to them in the *Motion for (A) Approval of Settlement Relating to Fort Point Channel Insurance Coverage Dispute, and (B) Related Relief* (the “Settlement Motion”), filed contemporaneously with this motion.

William J. Bellman

2. The Settlement Agreement and the Settlement Motion (collectively, the “Settlement Pleadings”) have been filed contemporaneously with this motion.

Relief Requested and Basis for Relief

3. The Debtor requests that this Court establish notice procedures respecting the Settlement Pleadings. Absent an order of this Court, MLBR 9019-1(c) requires the Debtor to serve all of the Settlement Pleadings on all creditors and parties in interest.

4. There are over eight hundred creditors in the above-captioned case, most of whom have had little or no participation in this case and are unlikely to have an interest in or respond to the Settlement Motion. The cost of mailing full copies of the Settlement Pleadings to the full creditor list is substantial and would unnecessarily deplete the Debtor’s resources.

5. The Debtor requests that notice and service of the Settlement Motion be limited to the following parties: (a) the Office of the United States Trustee, (b) any secured creditors of the Debtor, (c) any taxing authorities that the Debtor believes may have claims against the Debtor, (d) counsel to the Committee, (e) creditors named on the Debtor’s list of the twenty largest general unsecured claims against the Debtor; (f) all parties that have filed a notice of appearance in this case; and (g) counsel to the Defendants.

6. The Debtor has already served the Settlement Motion on the foregoing parties, and will serve notice of any hearing established by the Court on the same parties.

7. The Court has authority to approve the relief requested in this motion pursuant to 11 U.S.C. § 105(a), Rule 2002(m) of the Federal Rule of Bankruptcy Procedure and MLBR 9019-1(c).

8. The purpose of this motion is to avoid the burdensome costs associated with serving the Settlement Pleadings themselves on all creditors and parties in interest. Accordingly, no party in interest will be prejudiced by the relief requested in this motion.

WHEREFORE, the Debtor respectfully requests that this Court enter an Order: (a) granting the relief requested in this motion; (b) finding that service of and notice with respect to the Settlement Pleadings will be sufficient if served as described in this motion; and (c) granting to the Debtor such other and further relief as this Court deems just and proper in the circumstances.

Respectfully submitted,

MODERN CONTINENTAL
CONSTRUCTION CO., INC.,

By its counsel,

/s/ Christian J. Urbano
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