

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK


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SUFFOLK READY MIX, LLC,

Debtor.

Case#8-09-75473-reg  
**NOTICE OF MOTION  
UNDER 362[a] TO LIFT STAY**

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**PLEASE TAKE NOTICE**, that upon the annexed Affirmation of Jonathan M. Goidel, dated October 22, 2009, and upon all of the proceedings had in this matter, Creditors, STACY ROMEO, individually and as mother and natural guardian of PAIGE ROMEO; CARI DeVAUL CASTILLO, individually and as mother and natural guardian of DEREK DeVAUL, will move before Hon. Robert E. Grossman, USBJ, at the Courthouse, 290 Federal Plaza, room 860, Central Islip, NY 11722-9013 on the 2nd day of December, 2009 at 1-30 PM, or as soon thereafter as counsel may be heard, for an Order lifting the stay as against said Creditors and permitting said Creditors to proceed with their personal injury lawsuits against the Debtor on condition that damages sought and received be confined to all available insurance coverage issued to the Debtor.

Dated: New York, New York  
October 22, 2009

  
Jonathan M. Goidel, Esq. (JG 7385)  
**GOIDEL & SIEGEL, LLP**  
Attorneys for Creditors  
Stacy Romeo m/n/g of Paige Romeo  
Cari DeVaul Castillo m/n/g of Derek Devaul  
Office and Post Office Address  
122 East 42<sup>nd</sup> Street  
Suite 4500  
New York, NY 10168  
(212) 840-3737

To: Lance Ehrenberg, Esq.  
Attorney for Creditor Steven Pepper  
122 East 42<sup>nd</sup> Street  
Suite 4500  
New York, NY 10168  
(212) 730-0200

Michael G. McCaullife, Esq.  
Attorney for Debtor  
48 South Service Rd. Suite 102  
Melville, NY 11747  
(631) 465-0044

Francis G. Conrad, Esq.  
Jagr Smith, PC  
Counsel for Creditor's Committee  
485 Madison Ave.  
New York, NY 10022  
(212) 683-3520

Hon. Stan Yang  
Office of the US Trustee  
560 Federal Plaza  
Central Islip, NY 11722  
(631) 715-7800

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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SUFFOLK READY MIX, LLC,

Case # 8-09-75473-reg

**AFFIRMATION IN SUPPORT OF  
CROSS-MOTION UNDER  
362[a] TO LIFT STAY**

Debtor.

-----X

JONATHAN M. GOIDEL, ESQ., an attorney duly admitted to practice in the Eastern District of New York and State of New York, hereby affirms the truth of the following:

1. Affirmant is the Attorney for Creditors, STACY ROMEO, individually and as mother and natural guardian of PAIGE ROMEO; CARI DeVAUL CASTILLO, individually and as mother and natural guardian of DEREK DeVAUL, and as such and from a review of my file and fully familiar with the content of this Affirmation.

2. On July 11, 2008 Paige Romeo and Derek DeVaul sustained serious and permanent personal injuries when the car in which they were passengers was struck in the rear by a truck owned by the debtor and operated by one of its employees. An action was commenced to recover monetary damages for personal injuries. That

action is entitled Stacy Romeo m/n/g Page Romeo, Cari DeVaul Castillo m/n/g Derek DeVaul vs. Suffolk Ready Mix LLC and Richard M. Valentino, EDNY Index No. 09-CV-02253(Seybert, J.)(Wall, MJ). Approximately one year after the accident a chapter 11 proceeding was filed by the debtor Suffolk Ready Mix LLC.

3. This application is submitted to request an Order lifting the automatic stay of the claims of my clients, provided that said claims be satisfied solely out of the motor vehicle liability insurance policy of the Debtor.

4. Granting of this motion would not prejudice the estate of the Debtor because the Plaintiffs agree to collect all judgments or settlements in this case only from Debtor's automobile liability insurance policies. On the other hand, if the stay was not to be lifted, these Creditors would be prejudiced by the delay in prosecuting this action, due to these bankruptcy proceedings.

**WHEREFORE,** it is respectfully requested that the Court issue an Order pursuant to section 362(a) lifting the stay as against Creditors STACY ROMEO, individually and as mother and natural guardian of PAIGE ROMEO; CARI DeVAUL CASTILLO, individually and as mother and natural guardian of DEREK DeVAUL and permitting their lawsuit to proceed in US District Court and providing that damages in this action be limited to the motor vehicle insurance coverage of the Debtor only.

Dated: New York, New York  
October 22, 2009



Jonathan M. Goidel, Esq. (JG 7385)  
**GOIDEL & SIEGEL, LLP**  
Attorneys for Creditors  
Stacy Romeo m/n/g of Paige Romeo  
Cari DeVaul Castillo m/n/g of Derek  
DeVault  
Office and Post Office Address  
122 East 42<sup>nd</sup> Street  
Suite 4500  
New York, NY 10168  
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485 Madison Ave.  
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560 Federal Plaza  
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UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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SUFFOLK READY MIX, LLC,

Case # 8-09-75473-reg

**AFFIDAVIT OF SERVICE**

Debtor.

-----X  
STATE OF NEW YORK  
COUNTY OF NEW YORK SS.:

**Daniel Flores**, being duly sworn, deposes and says, that deponent is not a party to this action, and is over 18 years of age; that on the **22nd day of October, 2009** deponent served the within **NOTICE OF MOTION** by regular mail upon:

**Lance Ehrenberg, Esq.**  
Attorney for Creditor Steven Pepper  
122 East 42<sup>nd</sup> Street  
Suite 4500  
New York, NY 10168  
(212) 730-0200

**Michael G. McCaullife, Esq.**  
Attorney for Debtor  
48 South Service Rd. Suite 102  
Melville, NY 11747  
(631) 465-0044

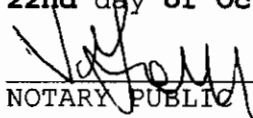
**Francis G. Conrad, Esq.**  
Jagr Smith, PC  
Counsel for Creditor's Committee  
485 Madison Ave.  
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**Hon. Stan Yang**  
Office of the US Trustee  
560 Federal Plaza  
Central Islip, NY 11722  
(631) 715-7800

by depositing a true copy of same enclosed in a post-paid, properly addressed wrapper, in a post-office/official depository under the exclusive care and custody of the United States Postal Services within the State of New York.

  
\_\_\_\_\_  
Daniel Flores

Sworn to before me this  
**22nd day of October, 2009**

  
\_\_\_\_\_  
NOTARY PUBLIC

**VICTOR GOMELSKY**  
Notary Public, State of New York  
No. 01GO4974294  
Qualified in Nassau County  
Term Expires 11/26/2010