



09CV730
JUDGE NORGLE
MAGISTRATE JUDGE MASON
AO



George R. Hodges
George R. Hodges
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
(CHARLOTTE DIVISION)**

IN RE:)
)
HLM DESIGN, INC., et al.) Chapter 11
) Case No. 04-33049
Debtors.) Jointly Administered

**ORDER GRANTING THE UNIVERSITY OF CHICAGO MEDICAL CENTER'S
MOTION FOR RELIEF FROM THE AUTOMATIC STAY TO COMMENCE
LITIGATION TO RECOVER SOLELY AGAINST INSURANCE PROCEEDS**

This cause came on for hearing upon the Motion for Relief from the Automatic Stay filed by the University of Chicago Medical Center. The Court having considered the motion, reviewed the Court file and noted that no formal objections were filed and based upon the Consent of Zurich American Insurance Company ("Zurich") and the Debtor the Court finds that the Motion is well taken and should be granted.

IT IS ORDERED:

1. The University of Chicago Medical Center's ("Movant") Motion for Relief from the Automatic Stay to Commence Litigation to Recover Solely Against Insurance Proceeds



("Motion") is hereby granted as to the debtor HLM Design, Inc. and its affiliated debtors including HLM Design of Northamerica, Inc. ("Debtor") to the extent set forth herein.

2. Movant is granted relief from the automatic stay to permit Movant to proceed in a federal court case, against Defendant, HLM Design of Northamerica, Inc., to be filed in the U.S. District Court for the Northern District of Illinois, Eastern Division, to liquidate the claim against the Debtor raised by Movant in the Motion through judgment or settlement but not for the purposes of execution against the Debtor. Movant's recovery shall be against Debtor's insurance and the proceeds of Debtor's insurance to the extent that any such proceeds are available to satisfy any judgment or settlement and attorneys' fees and costs that may arise as a consequence of litigating or settling Movant's claims.

3. This Court's Order is not intended to and does not determine Movant's or Zurich's rights or obligations under any policy of insurance, if any, and Zurich reserves any and all defenses to any claim or coverage of any claim, it being expressly understood that any such rights and obligations are to be determined in the anticipated litigation.

4. The Movant is authorized to obtain any recovery it may be awarded or proceeds from any settlement it may obtain against Debtor's insurance and the proceeds of Debtor's insurance, without further Order of the Court; provided, however, that Zurich shall not be required to "drop down" to advance any amounts relative to the Debtor's self-insured retention or deductible provided for in any applicable policy issued by Zurich to the Debtors.

4. The relief obtained herein shall not limit any rights Movant may have to seek payment from non-debtor parties or from any sources of insurance other than the Debtors' insurance policies.

5. The relief granted herein is in rem and not in personam as to the debtor, now and in the future.

United States Bankruptcy Court

This Order has been signed electronically. The judge's signature and court's seal appear at the top of the Order.

We Consent:

GRIER, FURR & CRISP, PA

JOHNSTON, ALLISON & HORD, P.A.

By: /s/ A. Cotton Wright
A. Cotten Wright
101 N. Tryon St., Suite 1240
Charlotte, NC 28246
Telephone: (704) 332-0207
Facsimile: (704) 332-0215
Email: cwright@grierlaw.com
*Attorneys for Zurich American
Insurance Company*

By: /s/ Constance L. Young
Constance L. Young
1065 E. Morehead Street
Charlotte, NC 28204
Telephone: (704) 332-1181
Facsimile: (704) 376-1628
Email: cyoung@jahlaw.com
*Attorneys for University of Chicago
Medical Center*

**HAMILTON MOON STEPHENS
STEELE MARTIN, PLLC**

By: /s/ Travis W. Moon
Travis W. Moon
2020 Charlotte Plaza
201 S. College Street
Charlotte, NC 28244-2020
Telephone: (704) 227-1057
Facsimile: (704) 344-1483
Email: tmoon@lawhfm.com
Attorneys for HLM Design, Inc.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

WUNDERLICH-MALEC SYSTEMS, INC.,)	
)	
Plaintiff/Counter-Defendant,)	
)	CASE NO. 05-C-4343
v.)	
)	Assigned Judge: Gettleman
EISENMANN CORPORATION,)	
)	Assigned Magistrate: Ashman
Defendant/Counter-Plaintiff.)	

NOTICE OF DEPOSITION

TO: Dave Kovac
c/o Charles Dunlop
Campion, Curran, Dunlop & Lamb, PC
8600 U.S. Highway 14, Suite 201
Crystal Lake, IL 60012

PLEASE TAKE NOTICE that the Plaintiff, Wunderlich-Malec Systems, Inc., through its attorneys, Bradley, Arant, Rose & White, LLP, and Stein, Ray & Harris LLP, and pursuant to Federal Rule of Civil Procedure 30, before a notary public or other office authorized to administer oaths, shall take the deposition of Dave Kovac, on February 11, 2009, at 10:00 a.m., at the offices of Campion, Curran, Dunlop & Lamb, PC, 8600 U.S. Highway 14, Suite 201, Crystal Lake, IL 60012:

Dated: February 3, 2009

WUNDERLICH-MALEC SYSTEMS, INC.

By: _____
One of its Attorneys

Steven G.M. Stein, Esq.
Carrie L. Berger, Esq.
Jean M. Gallo, Esq.
STEIN, RAY & HARRIS LLP
222 West Adams Street, Suite 1800
Chicago, Illinois 60606
Telephone: (312) 641-3700
Facsimile: (312) 641-3701
Attorney No.: 21890

CERTIFICATE OF SERVICE

I, Doris Solis-Feliciano, a non-attorney, certify that I caused to be served a true and correct copy of **Notice of Deposition of Dave Kovac** upon the following individuals via U.S. Mail located at 222 West Adams Street, Chicago, Illinois, at or before 5:00 p.m. this 3rd day of February, 2009

TO: Charles A. Dunlop, Esq.
Campion, Curran, Dunlop & Lamb, P.C.
8600 Route 14, Suite 201
Crystal Lake, Illinois 60012

Mitchell S. Mudano, Esq.
Bradley Arant Rose & White LLP
One Federal Place
1819 Fifth Avenue North
Birmingham, Alabama 35203-2104

Tina Solis
Ungaretti & Harris, LLP
Three First National Plaza
70 West Madison Street
Suite 3500
Chicago, Illinois 60602

Doris Solis-Feliciano

Subscribed and sworn to before
me this 3rd day of February, 2009.

Notary Public