

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

IN RE:) Chapter 11
)
BUILDING MATERIALS HOLDING CORPORATION, et al.,) Case No. 09-12074 (KJC)
)
Debtors.) Jointly Administered
)
) Objections Due: February 16, 2010 at 4:00 p.m.
) Hearing Date: February 22, 2010 at 1:00 p.m.

**MOTION OF JUAN M. NAVARRO AND LETICIA RAMIREZ
FOR RELIEF FROM THE AUTOMATIC STAY AND/OR
RELIEF FROM THE CONFIRMATION INJUNCTION**

Juan M. Navarro and Leticia Ramirez (“Movants” or “Plaintiffs”), by their undersigned attorneys, moves for relief from the automatic stay imposed by 11 U.S.C. § 362(a) and/or the confirmation injunction imposed by confirmation of the Debtors’ Plan as follows:

BACKGROUND

1. The Court has jurisdiction over the instant motion pursuant to 11 U.S.C. §362(d)(1), 28 U.S.C. §1334(a) and 28 U.S.C. § 157(a). This motion is a core proceeding within the meaning of 28 U.S.C. §157(b)(2)(G).

The Debtors

2. Building Materials Holding Corporation and other affiliated debtors (collectively, the “Debtors”), filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in this Court on June 16, 2009 (the “Petition Date”). The cases are being jointly administered.

3. Following the Petition Date, the Debtors continued to operate and manage their business and remained in possession of their respective properties pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

4. On December 17, 2009, the Debtors confirmed their Joint Plan of Reorganization

for the Debtors Under Chapter 11 of the Bankruptcy Code Amended December 14, 2009 (the "Plan"). The Plan went effective on January 4, 2010.

The Plaintiffs, Their Lawsuit, and Their Claims Against the Debtors

5. The Movants, husband and wife, are creditors and parties in interest in this Chapter 11 case, and beneficiaries under the Plan.

6. Movants are personal injury claimants. Their claims arise from an automobile accident where it is alleged that the Debtor Building Materials Holding Corporation, through its employee, Floyd Pearson, caused an automobile accident that resulted in severe and substantial injuries to Mr. Navarro. Ms. Ramirez has a claim arising from her status as Mr. Navarro's wife

7. On June 3, 2009, shortly before the Petition Date, Movants commenced an action against both the Debtors and Mr. Pearson in the Superior Court of the State of Arizona, in and for Maricopa County, seeking damages for their personal injuries.

8. The action is captioned Juan Martinez Navarro and Leticia Ramirez v. Floyd Thomas Pearson et al. (case no. CV2009-009158) (the "Personal Injury Action"). A copy of the First Amended Complaint is attached hereto as Exhibit A.

9. In these consolidated bankruptcy cases, the Debtors have agreed that Movants timely filed a proof of claim against the Debtors' estates.

The Insurance

10. On information and belief, the Debtors have insurance coverage for the claims asserted in the Personal Injury Action. Debtors have provided the Movants with a declaration page from ACE American Insurance Company, a copy of which is attached hereto as Exhibit B.

11. In the Plan, Insured Claims are to be paid in accordance with terms of the applicable insurance policies. See Plan at § 8.15.3.

Status of the Lawsuit

12. No discovery has yet been taken in connection with the Personal Injury Action.

13. After the Petition Date, the Personal Injury Action was stayed as against the Debtors. However, in paragraph 45 of the Order that Confirmed the Plan, the Debtors agreed:

Notwithstanding anything that may be construed to the contrary in the Plan or this Confirmation Order, no personal injury claim(s) of Juan M. Navarro and/or Leticia Ramirez shall be (i) liquidated or estimated by the Bankruptcy Court for purposes of distribution under the Plan, or (ii) tried in the Bankruptcy Court.

14. Accordingly, as the parties agree that the Bankruptcy Court will not try this action or estimate or attempt to liquidate the claims for purposes of distribution, the Movants should be granted stay relief to liquidate their claims in the Arizona State Court and collect any judgment, award or settlement as provided in the Plan and/or any applicable insurance proceeds.

15. The Movants have a reasonable prospect of prevailing on the merits of their personal injury claim.

REQUEST FOR RELIEF

16. Movants' claims against the Debtors must be ultimately and finally liquidated. However, pursuant to 28 U.S.C. §157(b)(2)(O), the Bankruptcy Court lacks jurisdiction to adjudicate personal injury claims of the type at issue in the Personal Injury Action.

17. Cause exists for granting the Movants relief from the automatic stay and/or the confirmation injunction so as to permit Movants to liquidate their claims against the Debtors in the context of the pending Personal Injury Action. Cause further exists to allow Movants' claims, as ultimately determined by the state court, to be satisfied from the Debtors' insurance to the extent of the available limits established in the Policy, and/or as otherwise provided in the Plan.

A. The Automatic Stay and Confirmation Injunction Do Not Apply to the Proceeds of the Debtors' Liability Insurance

18. This Court recently addressed the question whether Chapter 11 debtors “have a significant interest protected by the automatic stay in the *proceeds* of [their] liability insurance policies.” *Santa Fe Minerals, Inc. v. BEPCO, L.P. (In re 15375 Memorial Corporation)*, 382 B.R. 652, 687 (Bankr. D. Del. 2008). The Court concluded that the law in this area “suggests that they do not or, at least, that any interest [the debtors] have in these cases is *de minimis*.” *Id.*

19. The Court in *15375 Memorial Corp.* cited favorably the Fifth Circuit’s leading decision in *Houston v. Edgeworth (In re Edgeworth)*, 993 F.2d 51 (5th Cir.1993). 382 B.R. at 687. In *Edgeworth*, the court ruled that, while a debtor may own the insurance policies themselves, the proceeds of those policies is a different matter; where a creditor seeks recovery against a debtor's liability insurance proceeds, “those insurance proceeds are not property of the estate.” *Edgeworth*, 993 F.2d at 56; *see Romero v. Border Steel Rolling*, 2002 WL 31730255, 54 Fed. Appx. 591 (table) (5th Cir. 2002).

20. The *15375 Memorial Corp.* Court concluded that “there is virtually no support in the context of these bankruptcy cases for the notion advanced by the Debtors . . . that the automatic stay should be continued in effect to prevent BEPCO from accessing the proceeds of these liability insurance policies.” 382 B.R. at 689.

21. Similarly here, the Debtors do not have any rights to the proceeds from their liability insurance.

22. Movants should accordingly be allowed to proceed and to collect damages within the available coverage limits, and/or provided by the Plan.

23. That such policy may have a self-insured retention is of no moment. It is well established that, where an insured debtor has paid the initial premium in full, and the policy

period has expired, the insurance policy is not an executory contract, despite continuing obligations on the part of the insured. *Admiral Ins. Co. v Grace Indus., Inc. (In re Grace Indus., Inc.)*, 341 B.R. 399, 402 (Bankr. E.D.N.Y. 2006); *Am. Safety Indem. Co. v. Vanderveer Estates Holding, LLC (In re Vanderveer Estates Holding, LLC)*, 328 B.R. 18, 26 (Bankr.E.D.N.Y.2005); *United Capitol Ins. Co. v. Bernkrant (In re Firearms Import and Export Corp.)*, 131 B.R. 1009, 1013-14 (Bankr.S.D.Fla.1991).

24. In that event, if the insured fails to perform any of those continuing obligations – such as funding a self-insured retention – that does not excuse the insurer from being required to perform. *Grace Indus.*, 341 B.R. at 402-03; *Firearms Imports*, 131 B.R. at 1014.

25. In the instant case, the Debtors appear to have insurance to cover the Movants' claims. Moreover, the Plan contemplates that the Debtor has insured claims and even provides a mechanism for how such claims will be managed and paid. The Movants should be allowed to proceed to liquidate their claims and collect from available insurance and/or as provided in the Plan.

26. Case law also supports the conclusion that “cause” exists to lift the automatic stay to permit the Movants to (a) liquidate their claims against the Debtors and (b) to obtain payment from the Debtors' insurer. *See, e.g., In re Rexene Products Co.*, 141 B.R. 574 (Bankr. D. Del. 1992).

27. In determining whether “cause” exists to modify an automatic stay, courts typically consider:

- a. The prejudice that the debtor or the debtor's estate would suffer if the automatic stay were lifted;
- b. The balance of hardships facing the parties; and
- c. Whether the movant has a reasonable chance of prevailing on the merits in the underlying action.

See Rexene, 141 B.R. at 576; *In re Cooke*, 2007 WL 2102687 at *1 (Bankr. D. Del. 2007). Courts may consider other factors as well, including the courts' and public interest in judicial economy and the expeditious and economic resolution of litigation. *Cooke*, 2007 WL 2102687 at *1.

28. Courts recognize that the policies underlying the stay "are not implicated" where the claimant is not attempting to obtain payment from the debtor to the detriment of other creditors. *In re Continental Airlines, Inc.*, 152 B.R. 420, 424 (D. Del. 1993) (reversing bankruptcy court's denial of stay relief).

29. Where, as here, Movants are seeking to liquidate a claim against a debtor's estate, and where no other avenue exists by which said claims may be resolved, relief from the stay is appropriate. *See In re Rexene Products*, 141 B.R. at 577-78. "[R]elief from the stay may be granted 'when necessary to permit litigation to be concluded in another forum, particularly if the nonbankruptcy suit involves multiple parties or is ready for trial.'" *In re SCO Group, Inc.*, 2007 WL 4224407 at *4 (Bankr. D.Del. 2007), *quoting* Lawrence P. King, *Collier on Bankruptcy* 362.07[3][a] (15th ed.2006).

30. The legislative history to Section 362 shows Congress recognized that, in appropriate circumstances, the automatic stay should be terminated to allow non-bankruptcy litigation to proceed in the non-bankruptcy forum:

[I]t will often be more appropriate to permit proceedings to continue in their place of origin, where no great prejudice to the bankruptcy estate would result, in order to leave the parties in their chosen forum and to relieve the bankruptcy court from any duties that may be handled elsewhere.

H.R. Rep. No. 595, 95th Cong., 1st Sess., 341 (1977).

31. Here, the Debtors will suffer no prejudice if relief from the stay is granted.

a. The Debtors have already confirmed their Plan, the Plan has gone effective, and the Debtors are currently in the process of evaluating claims and liquidating them with the intention of making distributions. Thus, liquidation of the Movants' claims will not impair Debtors' reorganization.

b. Allowing the Movants' claims in the Personal Injury Action to go forward in Arizona state court will conserve judicial resources, by allowing parties to litigate the claims where they have already been filed, where all actions relevant to the case occurred, and where parties and witnesses reside.

32. In contrast, Movants will suffer substantial prejudice and hardship if their case remains stayed.

a. While Movants could litigate their claims against Mr. Pearson and proceed to judgment, absent stay relief or relief from the confirmation injunction, Movants could be forced to separately litigate the same set of facts against the Debtors in a different venue and a different time frame; Movants would be in turn forced to incur duplicate costs of litigation; they could potentially lose the availability of some witnesses; the process would create the possibility of inconsistent verdicts arising out of the same facts, and generally would disserve the interests of judicial economy.

33. The Movants have a reasonable prospect of prevailing on the merits.

34. In sum, the balance of the hardships and a consideration of the relevant policies together support granting stay relief as requested herein.

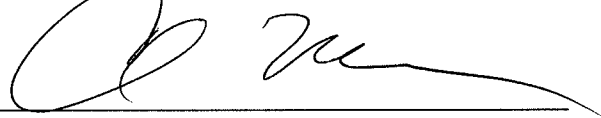
WHEREFORE, Movants respectfully request that this Court grant them relief from the automatic stay and/or the confirmation injunction and thereby (a) permit Movants to proceed to liquidate their claims in Arizona state court against Debtors; (b) permit any such determined

claims to be satisfied against Debtors to the extent of the limits of available insurance, and/or otherwise to be satisfied in accordance with the provisions in the Plan; and (c) grant such additional relief as the Court deems appropriate.

Respectfully submitted,

Dated: February 3, 2010

MORRIS JAMES LLP



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Attorneys for Juan M. Navarro and Leticia Ramirez

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

IN RE:) **Chapter 11**
)
BUILDING MATERIALS HOLDING) **Case No. 09-12074 (KJC)**
CORPORATION, et al.,)
) **Jointly Administered**
Debtors.)
) **Objections Due: February 16, 2010 at 4:00 p.m.**
) **Hearing Date: February 22, 2010 at 1:00 p.m.**

**NOTICE OF MOTION OF JUAN M. NAVARRO AND LETICIA RAMIREZ
FOR RELIEF FROM THE AUTOMATIC STAY AND/OR
RELIEF FROM THE CONFIRMATION INJUNCTION**

TO: Parties on the attached service list:

Juan M. Navarro and Leticia Ramirez ("Movants") have filed the Motion of Juan M. Navarro and Leticia Ramirez for Relief from Automatic Stay and/or Relief from the Confirmation Injunction (the "Motion") which seeks relief from the automatic stay of 11 U.S.C. § 362(a) and/or the confirmation injunction to pursue their personal injury action pending in state court in Arizona, for purposes of establishing liability of the defendants, which include debtor Building Materials Holding Corporation, and recovering any judgment, award or settlement in accordance with the Debtors' Plan and/or from available insurance proceeds.

If you wish to respond to the Motion, you must file such a response by **February 16, 2010 at 4:00 p.m.** prevailing Eastern Time (the "Objection Deadline").

At the same time, you must serve such response upon the following counsel to Movant so as to actually be received by the Objection Deadline:

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Wilmington, Delaware 19899-2306
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E-mail: ckunz@morrisjames.com

Gunn McKay, Esq.
1019 S. Stapley
Mesa, AZ 85204
Telephone: (480) 275-6660
E-mail: gunnmckay@yahoo.com

HEARING ON THE MOTION WILL BE HELD ON **FEBRUARY 22, 2010 AT 1:00 P.M.** (PREVAILING EASTERN TIME) BEFORE THE HONORABLE KEVIN J. CAREY AT THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 MARKET STREET, 6th FLOOR, COURTROOM #1, WILMINGTON, DELAWARE 19801.

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF DEMANDED BY THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: February 3, 2010

MORRIS JAMES LLP



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*Attorneys for Juan M. Navarro and
Leticia Ramirez*

EXHIBIT A

COPY

JUN 03 2009



**MONAL K. JAMES, CLERK
K. S. EISENMAN
DEPUTY CLERK**

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Phoenix, AZ 85016
(602)297-9300

Tod L. Stewart, No. 018163
Bethany Torgersen, No. 024634
Attorneys for Plaintiffs

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

JUAN MARTINEZ NAVARRO and
LETICIA RAMIREZ, husband and wife,

Plaintiffs.

v

FLOYD THOMAS PEARSON and JANE
DOE PEARSON, husband and wife;
BUILDING MATERIALS HOLDING
CORPORATION, a Delaware Corporation,
licensed to do business in the state of Arizona;
ABC PARTNERSHIPS I-X; XYZ
CORPORATIONS I-X; JOHN DOES I-X;
JANE DOES I-X,

Defendants.

Case No CV2009-009158

FIRST AMENDED COMPLAINT

(Tort-Motor-Vehicle)

Plaintiffs allege.

1. Plaintiffs currently reside in Maricopa County, Arizona and at all times mentioned herein were residents of Maricopa County, Arizona.

2. Defendants caused events to occur in Maricopa County, Arizona, out of which this claim for relief arises

3. Defendants are and were at all times mentioned herein residents of Maricopa County, Arizona.

4. All defendants identified as husband and wife were at all times mentioned herein married to each other and were acting in furtherance of their marital community. At the present

1 time the true name of any spouse identified, as John Doe or Jane Doe is unknown to plaintiffs,
2 who therefore sue this defendant by such fictitious name and will seek to amend this complaint
3 when the true name of such spouse is ascertained.

4 5 All defendants identified as Arizona corporations were at all times mentioned
5 herein created, organized, and existing under the laws of the State of Arizona

6 6. All defendants identified as foreign corporations were at all times mentioned
6 herein qualified and authorized to do and were doing business in the State of Arizona.

7 7. All defendants identified as governmental entities, corporations, or other such
8 entities were at all times mentioned herein acting by and through officers, employees, agents,
9 and contractors, who were acting within the course and scope of their employment and
10 authority, such that these governmental entities, corporations, or other such entities are
11 vicariously liable for the tortious conduct of their officers, agents, employees, and contractors.
12 Such governmental entities, corporations, or other such entities also are directly liable for their
13 own negligence, recklessness, and other tortious conduct in the hiring and supervision of the
14 officers, employees, agents, and contractors whose conduct gives rise to this action.

15 8 Defendants John Does I-X, Jane Does I-X, ABC Partnerships I-X; and XYZ
16 Corporations are those persons and entities whose relationships to the named defendants or
17 whose acts or omissions give rise to legal responsibility for the damages incurred by plaintiffs,
18 but whose true identities are at the present time unknown to plaintiffs. These persons and
19 entities hereby are notified of plaintiff's intention to join them as defendants if and when
20 additional investigation or discovery reveals the appropriateness of their joinder.

21 9. On or about July 28, 2007, in the vicinity of 35th Avenue and Northern Avenue,
22 in Phoenix, Arizona, Juan Martinez Navarro was injured as a result of the negligent and
23 reckless driving of defendant, Floyd Thomas Pearson.

24 10. Defendant Floyd Thomas Pearson was/is an employee of defendant Building
Materials Holding Corporation, and was acting within the course and scope of his employment
at the time of the negligent act. Therefore, Building Materials Holding Corporation is liable for

1 Defendant Pearson's actions pursuant to the doctrine of *Respondeat Superior*. Arizona law, by
2 virtue of A.R.S § 12-2506 (D)(1), preserves joint liability for "persons acting as an agent or
3 servant of the party." Thus the statute preserves the common law doctrine of vicarious liability

4 11. As a direct and proximate result of defendants conduct, Mr. Martinez-Navarro
5 suffered permanent, severe, and disabling injuries.

6 12 As a direct and proximate result of these injuries, plaintiffs have incurred and
7 expended medical and related expenses and will, in the future, be required to incur and expend
8 medical and related expenses for the care and treatment of these injuries.

9 WHEREFORE, plaintiffs respectfully request judgment against defendants:

10 A. For medical and related expenses in an amount to be ascertained at the time of trial;

11 B For just and reasonable compensation for pain and suffering in an amount to be
12 ascertained at the time of trial;

13 C For costs incurred by plaintiffs; and

14 D. For such other and further relief as the Court deems appropriate

15 RESPECTFULLY SUBMITTED this 3rd day of June, 2009

16 STEWART & TORGENSEN, P A.

17 By 

18 Bethany Torgersen, Esq.
19 1702 E. Highland Avenue, Ste. 409
20 Phoenix, AZ 85016
21 Attorney for Plaintiffs
22
23
24

EXHIBIT B



ACE USA
ACE American Insurance Company
436 Walnut Street
P. O. Box 1000
Philadelphia, PA 19106-3703

Business Auto Declarations

POLICY NUMBER: ISA H08012970

EXPIRING POLICY NUMBER: ISA H08012799

Renewal

ITEM ONE

Named Insured: Building Materials Holding Corporation

Address: 4 Embarcadero Ctr. #3200
San Francisco, CA 94111

Producer Number: 261413

Producer Name: Marsh Risk & Insurance

Producer Address: 3 Embarcadero Center
San Francisco, CA 94111

Form of Business: ☒ Corporation ☐ Limited Liability Company ☐ Other _____

Named Insured's business:

Policy Period: Policy covers from 11/11/2006 to 11/11/2007 12:01 am standard time at the named insured's address stated above.

Audit Period: Annual, unless otherwise stated: ☐ Semi-Annual ☐ Quarterly ☐ _____

Estimated Total Premium: (Including taxes and surcharge amounts) \$904,464 * **Deposit/Minimum Premium**
Texas Automobile Theft Prevention Authority Fee 543.

* Minimum Premium: \$903,921

In return for the payment of premium and subject to all the terms of this policy we agree with you to provide the insurance as stated in this policy.



ACE USA
ACE American Insurance Company
436 Walnut Street
P. O. Box 1000
Philadelphia, PA 19106-3703

Business Auto Declarations

POLICY NUMBER: ISA H08012970

ITEM TWO - SCHEDULE OF COVERAGES AND COVERED AUTOS

This policy provides only those coverages where a charge is shown in the premium column below. Each of these coverages will apply only to those "autos" shown as covered "autos". "Autos" are shown as covered "autos" for a particular coverage by the entry of one or more of the symbols from the Covered Autos Section of the Business Auto Coverage Form next to the name of the coverage.

COVERAGES	COVERED AUTOS (Entry of one or more of the symbols from the COVERED AUTO Section of the Business Auto Coverage Form shows which autos are covered autos)	LIMIT THE MOST WE WILL PAY FOR ANY ONE ACCIDENT OR LOSS	PREMIUM
LIABILITY	1	\$3,000,000	\$903,921
PERSONAL INJURY PROTECTION (or equivalent No fault Coverage)	5	SEPARATELY STATED IN EACH P.I.P. ENDORSEMENT \$Stat. DED.	\$Included
ADDED PERSONAL INJURY PROTECTION (or equivalent Added No fault Coverage)		SEPARATELY STATED IN EACH ADDED P.I.P. ENDORSEMENT.	\$
OPTIONAL BASIC ECONOMIC LOSS COVERAGE (New York Only)		\$	\$
AGGREGATE PERSONAL INJURY PROTECTION (New York Only)		\$	
		Maximum Monthly Work Loss	
		Death Benefit	
		Other Necessary Expense (per day)	
PROPERTY PROTECTION INSURANCE (Michigan only)		SEPARATELY STATED IN THE P.P.I. ENDORSEMENT. MINUS \$ DED FOR EACH ACCIDENT.	\$
MEDICAL PAYMENTS	2	\$5,000	\$Included
UNINSURED MOTORISTS	6	\$Statutory	\$Included
UNDERINSURED MOTORISTS (When not included in Uninsured Motorists) (Not Applicable in New York)	6	\$Statutory	\$Included
SUPPLEMENTARY UNINSURED MOTORIST (New York only)		\$ The maximum amount payable under SUM coverage shall be the policy's SUM limits, reduced and thus offset by the motor vehicle Bodily Injury liability insurance and policy or bond payments received from, or on behalf of, any negligent party involved in the accident as specified in the SUM endorsement.	\$



ACE USA
ACE American Insurance Company
436 Walnut Street
P. O. Box 1000
Philadelphia, PA 19106-3703

Business Auto Declarations

POLICY NUMBER: ISA H08012970

ITEM TWO - SCHEDULE OF COVERAGES AND COVERED AUTOS (Continued)

COVERAGES	COVERED AUTOS (Entry of one or more of the symbols from the COVERED AUTO Section of the Truckers Coverage Form shows which autos are covered autos)	LIMIT THE MOST WE WILL PAY FOR ANY ONE ACCIDENT OR LOSS	PREMIUM
PHYSICAL DAMAGE COMPREHENSIVE COVERAGE		ACTUAL CASH VALUE OR COST OF REPAIR, WHICHEVER IS LESS, MINUS \$ DED. FOR EACH COVERED AUTO, BUT NO DEDUCTIBLE APPLIES TO LOSS CAUSED BY FIRE OR LIGHTNING. (N/A Private Passenger type vehicles in NY) See Schedule On File With Company For Vehicle Deductibles. See ITEM FOUR For Hired Or Borrowed "Autos".	\$
PHYSICAL DAMAGE SPECIFIED CAUSES OF LOSS COVERAGE		ACTUAL CASH VALUE OR COST OF REPAIR, WHICHEVER IS LESS MINUS \$ DED. FOR EACH COVERED AUTO FOR LOSS CAUSED BY MISCHIEF OR VANDALISM. See Schedule On File With Company For Vehicle Deductibles. See ITEM FOUR For Hired Or Borrowed "Autos."	\$
PHYSICAL DAMAGE COLLISION COVERAGE		ACTUAL CASH VALUE OR COST OF REPAIR, WHICHEVER IS LESS MINUS \$ DED. FOR EACH COVERED AUTO. See Schedule On File With Company For Vehicle Deductibles. See ITEM FOUR For Hired Or Borrowed "Autos."	\$
PHYSICAL DAMAGE TOWING AND LABOR		\$ for each disablement of a private passenger auto.	\$
PREMIUM FOR ENDORSEMENTS			\$Included
ESTIMATED TOTAL PREMIUM			\$903,921

ITEM THREE - SCHEDULE OF COVERED AUTOS YOU OWN

DESCRIPTION			
Covered Auto No	Year, Model, Trade Name, Serial Number or Vehicle Identification Number (VIN)	Original Cost New	Terr Code
	AS PER SCHEDULE ON FILE WITH COMPANY		



ACE USA
ACE American Insurance Company
436 Walnut Street
P. O. Box 1000
Philadelphia, PA 19106-3703

Business Auto Declarations

POLICY NUMBER ISA H08012970

ITEM FOUR - SCHEDULE OF HIRED OR BORROWED AUTO COVERAGE AND PREMIUMS

LIABILITY COVERAGE - RATING BASIS, COST OF HIRE

STATE	ESTIMATED COST OF HIRE FOR EACH STATE	RATE PER EACH \$100 COST OF HIRE	FACTOR (if liab. cov. is primary)	PREMIUM
All	\$If Any	\$		\$Included
			TOTAL PREMIUM	\$Included

Cost of hire means the total amount you incur for the hire of "autos" you don't own (not including 'autos" you borrow or rent from your partners or employees or their family members). Cost of hire does not include charges for services performed by motor carriers of property or passengers.

PHYSICAL DAMAGE COVERAGE

COVERAGES	LIMIT OF INSURANCE THE MOST WE WILL PAY DEDUCTIBLE	ESTIMATED ANNUAL COST OF HIRE	RATE PER EACH \$100 ANNUAL COST OF HIRE	PREMIUM
COMPREHENSIVE	ACTUAL CASH VALUE OR COST OF REPAIR, WHICHEVER IS LESS, MINUS \$ DED. FOR EACH COVERED AUTO, BUT NO DEDUCTIBLE APPLIES TO LOSS CAUSED BY FIRE OR LIGHTENING.	\$	\$	\$
SPECIFIED CAUSES OF LOSS	ACTUAL CASH VALUE OR COST OF REPAIR, WHICHEVER IS LESS, MINUS \$ DED. FOR EACH COVERED AUTO FOR LOSS CAUSED BY MISCHIEF OR VANDALISM.	\$	\$	\$
COLLISION	ACTUAL CASH VALUE OR COST OF REPAIR, WHICHEVER IS LESS, MINUS \$ DED. FOR EACH COVERED AUTO.	\$	\$	\$

ITEM FIVE - SCHEDULE FOR NON-OWNERSHIP LIABILITY

NAMED INSURED'S BUSINESS	RATING BASIS	NUMBER	PREMIUM
Other Than A Social Service Agency	Number of Employees	0-25	\$Included
	Number of Partners		\$
Social Service Agency	Number of Employees		\$
	Number of Volunteers		\$
Garage Service Operations	Number of Employees		\$
	Number of Partners		\$
TOTAL PREMIUM			\$Included



ACE USA

ACE American Insurance Company

Business Auto Declarations**POLICY NUMBER: ISA H08012970****FORMS AND ENDORSEMENTS ATTACHED TO POLICY AT INCEPTION****SCHEDULE OF COVERAGE FORMS**

ILP0010104	U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") Advisory Notice to Policyholders
IL00171198	Common Policy Conditions
CA00011001	Business Auto Coverage Form
ALL20887	ACE Producer Compensation Practices & Policies
DA15749	Auto Body Repair Consumer Bill Of Rights
ALL5X45	Questions About Your Insurance? - FL, IL, MO, TN
ALL8W17a	Notice To Our Florida Property and Casualty Policyholders
	Guidelines for Loss Control Plans
ALL18653a	Questions About Your Insurance? (IL)
ALL1Z36a	Disclaimer Notice Commercial Lines Deregulation
ALL11559c	Risk Control Services For Texas Policyholders
ALL4Y30b	Information and Complaints (TX)
DA8S71	Notice To Our Texas Policyholders - Automobile Theft
	Prevention Authority Pass Through Fee
DCE19368f	Notification To Texas Policyholders
ALL7X47a	Important Information to Virginia Policyholders Regarding Your Insurance

SCHEDULE OF ENDORSEMENTS

Endt. No.	Form No.	Description
1.	DA13118	Named Insureds
2.	DA5X69b	Composite Rate Endorsement
3.	DA6U70a	Deductible Endorsement (ALAE WITHIN THE DEDUCTIBLE)
4.	DA9U74	Additional Insured - Designated Persons Or Organizations
5.	DA13117b	Cancellation By Us
6.	ALL18057-0	Notification of Premium Adjustment
7.	CA20011001	Lessor - Additional Insured and Loss Payee
8.	CA99030797	Auto Medical Payments Coverage

THIS DECLARATION AND THE BUSINESS AUTO POLICY AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY.

COUNTERSIGNED BY

AUTHORIZED AGENT

THIS DECLARATION AND THE BUSINESS AUTO POLICY AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY.

COUNTERSIGNED BY _____

AUTHORIZED AGENT



ACE USA

ACE American Insurance Company

Business Auto Declarations

POLICY NUMBER: ISA H08012970

FORMS AND ENDORSEMENTS ATTACHED TO POLICY AT INCEPTION

Endt. No.	Form No.	Description
9.	CA20480299	Designated Insured
10.	CA99330299	Employees As Insureds
11.	CA20551001	Fellow Employee Coverage
12.	CA99161293	Hired Autos Specified As Covered Autos You Own
13.	CA99101001	Drive Other Car Coverage - Broadened Coverage for Named Individuals
14.	CA20701001	Coverage For Certain Operations in Connection With Railroads
15.	MCS901202	Endorsement For Motor Carrier Policies of Ins. For Public Liab. Under Section 29 & 30 of the Motor Carrier Act of 1980
16.	CA00381202	War Exclusion
17.	CA00511204	Changes in Coverage Forms - Mobile Equipment Subject to Motor Vehicle Insurance Laws
18.	IL00210702	Nuclear Energy Liability Exclusion Endorsement (Broad Form)
19.	CA01750704	Arizona Changes
20.	CA01430505	California Changes
21.	IL02701104	California Changes - Cancellation and Nonrenewal
22.	CA01131104	Colorado Changes
23.	IL01690702	Colorado Changes - Concealment, Misrepresentation or Fraud
24.	IL02280702	Colorado Changes - Cancellation and Nonrenewal
25.	CA01280203	Florida Changes
26.	CA02671094	Florida Changes - Cancellation And Nonrenewal
27.	CA22100704	Florida Personal Injury Protection
28.	CA01181100	Idaho Changes
29.	IL02041106	Idaho Changes - Cancellation and Nonrenewal
30.	CA01200603	Illinois Changes
31.	CA02700894	Illinois Changes - Cancellation And Nonrenewal
32.	CA02201003	Montana Changes - Cancellation and Nonrenewal
33.	IL01670702	Montana Changes - Conformity With Statutes
34.	IL01800702	Montana Changes - Concealment, Misrepresentation or Fraud
35.	CA01361001	Nevada Changes
36.	IL01100701	Nevada Changes - Concealment, Misrepresentation or Fraud
37.	IL02510204	Nevada Changes - Cancellation and Nonrenewal
38.	CA01490104	Oregon Changes
39.	CA22360404	Oregon Personal Injury Protection

THIS DECLARATION AND THE BUSINESS AUTO POLICY AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY.

COUNTERSIGNED BY

AUTHORIZED AGENT

THIS DECLARATION AND THE BUSINESS AUTO POLICY AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY.

COUNTERSIGNED BY _____ AUTHORIZED AGENT



ACE USA

ACE American Insurance Company

Business Auto Declarations**POLICY NUMBER: ISA H08012970****FORMS AND ENDORSEMENTS ATTACHED TO POLICY AT INCEPTION**

Endt. No.	Form No.	Description
40.	IL02790702	Oregon Changes - Cancellation and Nonrenewal
41.	CA01960904	Texas Changes
42.	CA02430301	Texas Changes - Cancellation and Nonrenewal
43.	CA01590605	Utah Changes
44.	CA22440399	Utah Personal Injury Protection
45.	IL02660702	Utah Changes - Cancellation and Nonrenewal
46.	CA01160304	Virginia Changes - Business Auto Coverage Form
47.	CA02681102	Virginia Changes in Policy - Cancellation and Nonrenewal
48.	CA22461102	Medical Expense and Income Loss Benefits Endorsement - Virginia
49.	CA01350803	Washington Changes
50.	CA22571004	Washington Personal Injury Protection - Named Individuals
51.	IL01460903	Washington Common Policy Conditions

THIS DECLARATION AND THE BUSINESS AUTO POLICY AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY.

COUNTERSIGNED BY

AUTHORIZED AGENT

NAMED INSURED

Named Insured Building Materials Holding Corporation			Endorsement Number 1
Policy Symbol ISA	Policy Number H08012970	Policy Period 11/11/2006 to 11/11/2007	Effective Date of Endorsement 11/11/2006
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

**BUSINESS AUTO COVERAGE FORM
TRUCKERS COVERAGE FORM
MOTOR CARRIERS COVERAGE FORM**

The Named Insured shown in the Declarations is amended to read as follows:

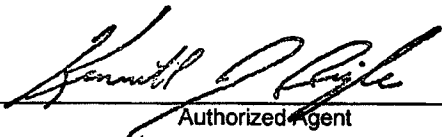
Building Materials Holding Corporation

Named Insured includes First Named Insured: other entities to be covered as of inception and any organization other than a partnership or joint venture, and over which you currently maintain ownership or majority interest provided there is no other similar insurance available to that organization; and any other organization you newly acquire or form, other than a partnership or joint venture, and over which you maintain ownership or majority interest, provided:

- a) there is no other similar insurance available to that organization; and
- b) you notify us of such acquisition not later than 60 days after the end of the policy period.

As respects newly acquired or formed organizations, coverage does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past joint venture that is not shown as a Named Insured on this schedule.


Authorized Agent

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Named Insured Building Materials Holding Corporation			Endorsement Number 2
Policy Symbol ISA	Policy Number H08012970	Policy Period 11/11/2006 to 11/11/2007	Effective Date of Endorsement 11/11/2006
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

This endorsement modifies insurance provided under the following:

**Business Auto Coverage Form
Truckers Coverage Form**

COMPOSITE RATE ENDORSEMENT

Paragraph a. of Condition B.6. **PREMIUM AUDIT**, is replaced by the following:

- a. 1. The estimated premium for this Coverage Form is based on the exposures you told us you would have when this policy began. You shall maintain a record of the number of "autos" you own (including "autos" you lease or borrow for a period of 6 months or longer). You shall send us copies of such reports at the end of the policy period, and at such times during the policy period as we may direct.
2. We will compute the final premium by application of the composite rates shown below to the average number of "autos." We will determine the average number of "autos" by adding the number of "autos" as of the beginning date of the policy term to the number as of the expiration of the policy, and dividing the total sum by two (2). The estimated total premium will be credited against the final premium due and the first Named Insured will be billed for the balance, if any. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.
3. We will compute the final premium for all entities that are either acquired or divested by you during the policy term, provided that the entity has its own books and records and a separate federal identification number, by application of the composite rates below to the average number of "autos."

We will determine the average number of "autos" for divested entities by adding the number of "autos" as of the beginning date of the policy term for such divested entities to the total number of "autos" as of the date of divestiture for such divested entities, dividing by two, and then multiplying the result by the pro-rata factor based on the number of days the entities are insured.

We will determine the average number of "autos" for acquired entities by adding the number of "autos" as of the date of acquisition for such acquired entities to the number of "autos" as of the expiration date of the policy for such acquired entities, dividing by two, and then multiplying the result by the pro-rata factor based on the number of days the entities are insured.

SCHEDULE

	Type of "Auto"	Estimated Number	Rate per "Auto"	Deposit Premium
Liability	Private Passenger			
	Other Power Unit	3,119	289.81	\$903,921
	Trailers	476	Included	Included
Uninsured/Underinsured Motorists	Private Passenger			
	Other Power Unit			
	Trailers			
Personal Injury Protection/ Medical Payments	Private Passenger			
	Other Power Unit			
	Trailers			
Physical Damage	Private Passenger			
	Other Power Unit			
	Trailers			
Estimated Total Premium →				\$903,921



 Authorized Agent

**DEDUCTIBLE ENDORSEMENT
(ALAE WITHIN THE DEDUCTIBLE)**

Named Insured Building Materials Holding Corporation			Endorsement Number 3
Policy Symbol ISA	Policy Number H08012970	Policy Period 11/11/2006 to 11/11/2007	Effective Date of Endorsement 11/11/2006
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies Insurance provided under the following:

COMMERCIAL AUTOMOBILE COVERAGE PART

SCHEDULE

Deductible Per Accident	\$ 1,000,000
Claims Service Organization	Gallagher Bassett

1. Our obligation to pay damages under this policy applies only to the amount of "losses" and "allocated loss adjustment expenses" in excess of the Deductible amount stated in the Schedule above. The Limits of Insurance will be reduced by the amount of "losses" included in the Deductible.

The Deductible Per Accident shall apply separately as follows:
 - a. To all "losses" and "allocated loss adjustment expenses" under the Liability coverage provided by this policy;
 - b. To all "losses" and "allocated loss adjustment expenses" under the Uninsured Motorists or Underinsured Motorists coverage provided by this policy; and
 - c. To all "losses" under the Personal Injury Protection and Added Personal Injury Protection (or equivalent No Fault and added No Fault) coverage or Medical Payments provided by this policy.
2. You and we mutually agree that the Claim Service Organization shown in the Schedule will provide investigation, administration, adjustment, and settlement services, and will provide for the defense of all claims or "suits" arising under this policy. Accordingly, you agree with us that we shall have no duty to defend any such "suit", nor to pay any "allocated loss adjustment expense" within the Deductible amounts.
3. You will pay all sums the "insured" becomes legally obligated to pay within the Deductible Per Accident.
4. We will have the right at our sole discretion:
 - a. To pay any damages under this policy within the Deductible Per Accident should you fail to pay any final judgment against or settlement entered into by an "insured".
 - b. To pay any amounts within the Deductible Per Accident to settle any claim or "suit".
 - c. To assume the defense and control of any claim or "suit" seeking payment of damages under this policy that we believe will exceed the Deductible Per Accident.
 - d. To pay any "allocated loss adjustment expense" incurred by us associated with a., b., or c, above.

You shall promptly reimburse us for any sums we may have paid under Item 5.
5. All terms, conditions, and limitations of this policy not inconsistent with this endorsement shall continue to apply.

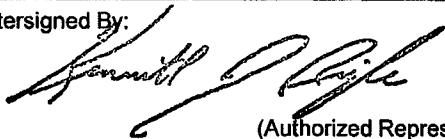
COMMERCIAL AUTO
CA 20 01 10 01**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****LESSOR – ADDITIONAL INSURED AND LOSS PAYEE**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective: 11/11/2006	Countersigned By:  (Authorized Representative)
Named Insured: Building Materials Holding Corporation	

SCHEDULE

Insurance Company ACE American Insurance Company
Policy Number ISA H08012970
Effective Date 11/11/2006
Expiration Date 11/11/2007
Named Insured Building Materials Holding Corporation
Address 4 Embarcadero Ctr. #3200, San Francisco, CA 94111
Additional Insured (Lessor) Any Lessor whom you have agreed to include as an
Address additional insured under a written contract, provided such contract
Designation or Description of "Leased Autos" was executed prior to the date of loss.

Coverages	Limit of Insurance
Liability	\$ 3,000,000 Each "Accident"
Personal Injury Protection (or equivalent no-fault coverage)	\$
Comprehensive	ACTUAL CASH VALUE OR COST OF REPAIR WHICHEVER IS LESS; MINUS: \$ For Each Covered "Leased Auto"
Collision	ACTUAL CASH VALUE OR COST OF REPAIR WHICHEVER IS LESS; MINUS: \$ For Each Covered "Leased Auto"
Specified Causes of Loss	ACTUAL CASH VALUE OR COST OF REPAIR WHICHEVER IS LESS; MINUS: \$ For Each Covered "Leased Auto"

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

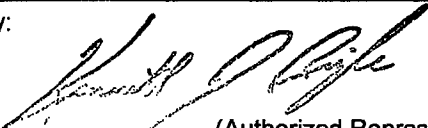
**DRIVE OTHER CAR COVERAGE – BROADENED
COVERAGE FOR NAMED INDIVIDUALS**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective: 11/11/2006	Countersigned By:  (Authorized Representative)
Named Insured: Building Materials Holding Corporation	

SCHEDULE

Name Of Individual	Liability		Auto Medical Payments	
	Limit	Premium	Limit	Premium
Any employee furnished a company auto for personal use who does not own an auto.	\$3,000,000	Included	\$5,000	Included

Name Of Individual	Uninsured Motorists		Underinsured Motorists		Physical Damage	
	Limit	Premium	Limit	Premium	Comp.	Coll.
Any employee furnished a company auto for personal use who does not own an auto.	Statutory	Incl.	Statutory	Incl.		

Note – When uninsured motorists is provided at limits higher than the basic limits required by a financial responsibility law, underinsured motorists is included, unless otherwise noted. If underinsured motorists coverage is provided as a separate coverage, make appropriate entry in the Schedule above.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)



U.S. Department
of Transportation
Federal Motor Carrier
Safety Administration

ENDORSEMENT FOR
MOTOR CARRIER POLICIES OF INSURANCE FOR PUBLIC LIABILITY
UNDER SECTION 29 AND 30 OF THE MOTOR CARRIER ACT OF 1980

Form Approved:
OMB No: 2125-0074

Issued to Building Materials Holding Corporation of 4 Embarcadero Ctr #3200, San Francisco, CA 94111
Dated at Wilmington, DE this 6th day of December, 20 06
Amending Policy No. ISA H08012970 Effective Date 11/11/2006
Name of Insurance Company ACE American Insurance Company
Countersigned by [Signature] Authorized Company Representative

The policy to which this endorsement is attached provides primary or excess insurance, as indicated by "[X]," for the limits shown:

- ☒ This insurance is primary and the company shall not be liable for amounts in excess of \$ 3,000,000 for each accident.
☐ This insurance is excess and the company shall not be liable for amounts in excess of \$ _____ for each accident
in excess of the underlying limit of \$ _____ for each accident.

Whenever required by the FMCSA the company agrees to furnish the FMCSA a duplicate of said policy and all its endorsements. The company agrees, upon telephone request by an authorized representative of the FMCSA, to verify that the policy is in force as of a particular date. The telephone number to call is: 415.547.4431. Cancellation of this endorsement may be effected by the company or the insured by giving (1) thirty-five (35) days notice in writing to the other party (said 35 days notice to commence from the date the notice is mailed, proof of mailing shall be sufficient proof of notice), and (2) if the insured is subject to the FMCSA's jurisdiction, by providing thirty (30) days notice to the FMCSA (said 30 days notice to commence from the date the notice is received by the FMCSA at its office in Washington, D.C.).

DEFINITIONS AS USED IN THIS ENDORSEMENT

Accident includes continuous or repeated exposure to conditions which results in bodily injury, property damage, or environmental damage which the insured neither expected nor intended.

Motor Vehicle means a land vehicle, machine, truck, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway for transporting property, or any combination thereof.

Bodily Injury means injury to the body, sickness, or disease to any person, including death resulting from any of these.

Environmental Restoration means restitution for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release or escape into or upon the land, atmosphere, watercourse, or body of water, of any commodity transported by a motor carrier. This shall include the cost of removal and the cost of necessary measures taken to minimize or mitigate damage to human health, the natural environment, fish, shellfish, and wildlife.

Property Damage means damage to or loss of use of tangible property.

Public Liability means liability for bodily injury, property damage, and environmental restoration.

The insurance policy to which this endorsement is attached provides automobile liability insurance and is amended to assure compliance by the insured, within the limits stated herein, as a motor carrier of property, with Sections 29 and 30 of the Motor Carrier Act of 1980 and the rules and regulations of the Federal Motor Carrier Safety Administration.

In consideration of the premium stated in the policy to which this endorsement is attached, the insurer (the company) agrees to pay, within the limits of liability described herein, any final judgment recovered against the insured for public liability resulting from negligence in the operation, maintenance or use of motor vehicles subject to the financial responsibility requirements of Sections 29 and 30 of the Motor Carrier Act of 1980 regardless of whether or not each motor vehicle is specifically described in the policy and whether or not such negligence occurs on any route or in any territory authorized to be served by the insured or elsewhere. Such insurance as is afforded, for public liability, does not apply to injury to or death of the insured's employees while engaged in the course of their employment, or property transported by the insured, designated as cargo. It is understood and agreed that no condition, provision, stipulation, or limitation contained in the policy, this endorsement, or any other endorsement thereon, or violation

thereof, shall relieve the company from liability or from the payment of any final judgment, within the limits of liability herein described, irrespective of the financial condition, insolvency or bankruptcy of the insured. However, all terms, conditions, and limitations in the policy to which the endorsement is attached shall remain in full force and effect as binding between the insured and the company. The insured agrees to reimburse the company for any payment made by the company on account of any accident, claim, or suit involving a breach of the terms of the policy, and for any payment that the company would not have been obligated to make under the provisions of the policy except for the agreement contained in the endorsement.

It is further understood and agreed that, upon failure of the company to pay any final judgment recovered against the insured as provided herein, the judgment creditor may maintain an action in any court of competent jurisdiction against the company to compel such payment.

The limits of the company's liability for the amounts prescribed in this endorsement apply separately to each accident and any payment under the policy because of any one accident shall not operate to reduce the liability of the company for the payment of final judgments resulting from any other accident.

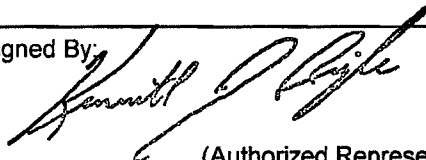
COMMERCIAL AUTO
CA 22 46 11 02**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****VIRGINIA MEDICAL EXPENSE AND
INCOME LOSS BENEFITS ENDORSEMENT**

For a covered "auto" licensed or principally garaged in Virginia, this endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective: 11/11/2006	Countersigned By:  (Authorized Representative)
Named Insured: Building Materials Holding Corporation	

SCHEDULE

The insurance afforded by this endorsement is only for the coverage(s) indicated by a specific premium charge in the Declarations or in the Schedule.

Coverages	Limit Of Insurance	Premium
Section I Medical Expense Benefits	\$ each person	\$
Section II Income Loss Benefits	\$100 per week each person	\$
	Total Premium	\$

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

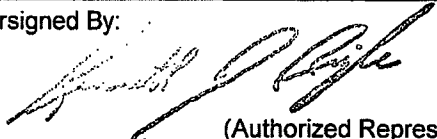
COMMERCIAL AUTO
CA 22 57 10 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WASHINGTON PERSONAL INJURY
PROTECTION – NAMED INDIVIDUALS**

If you are an individual and your covered "auto" is licensed or principally garaged in, or "garage operations" are conducted in, Washington, this endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM

Endorsement Effective: 11/11/2006	Countersigned By: 
Named Insured: Building Materials Holding Corporation	(Authorized Representative)

We agree with the "Named Insured", subject to all of the provisions of this endorsement and to all of the provisions of the Coverage Form, except as modified herein, as follows:

SCHEDULE

The following benefits apply unless otherwise indicated below or in the Declarations:	
Basic Personal Injury Protection Benefits	
Benefits	Limit Per Person
Medical And Hospital Expenses	\$ 10,000
Funeral Expenses	\$ 2,000
Income Continuation	\$ 10,000 subject to a maximum of \$200 per week
Loss Of Services Benefit	\$ 5,000 subject to a maximum of \$40 per day not to exceed \$200 per week
Increased Limits Personal Injury Protection Benefits	
If indicated as applicable above or in the Declarations, the following increased limits personal injury protection benefits apply, instead of the corresponding basic limits personal injury protection benefits.	
Benefits	Limit Per Person
Medical And Hospital Expenses	\$ 35,000
Funeral Expenses	\$ 2,000
Income Continuation	\$ 35,000 subject to a maximum of \$700 per week
Loss Of Services Benefit	\$ 14,600 subject to a maximum of \$40 per day
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

IN RE:) Chapter 11
)
BUILDING MATERIALS HOLDING CORPORATION, et al.,) Case No. 09-12074 (KJC)
)
Debtors.) Jointly Administered
)
) Objections Due: February 16, 2010 at 4:00 p.m.
) Hearing Date: February 22, 2010 at 1:00 p.m.

**ORDER GRANTING MOTION OF JUAN M. NAVARRO AND
LETICIA RAMIREZ FOR RELIEF FROM THE AUTOMATIC STAY
AND/OR RELIEF FROM THE CONFIRMATION INJUNCTION**

AND NOW, this ____ day of _____, 2010, upon consideration of the *Motion of Juan M. Navarro and Leticia Ramirez for Relief from the Automatic Stay and/or Relief from the Confirmation Injunction* (the “Motion”)¹, and any response thereto, and after notice and a hearing, it is hereby ORDERED:

1. The Motion is GRANTED;
2. The automatic stay of 11 U.S.C. § 362(a) and the confirmation injunction is hereby terminated to allow Movants to continue to litigate their action against Building Materials Holding Corporation (the “Debtor”) in the Superior Court of the State of Arizona, County of Maricopa, in the case captioned *Juan M. Navarro and Leticia Ramirez v. Floyd Thomas Pearson, et al.* (case no. CV2009-009158) (the “Personal Injury Action”). The automatic stay and/or confirmation injunction is hereby terminated to the fullest extent necessary to allow the parties to proceed with the Personal Injury Action to final judgment or settlement.
3. Any verdict and judgment award or settlement obtained in favor of Movants and against the Debtor may be executed upon insurance proceeds from the Debtor’s applicable

¹ Capitalized terms not otherwise defined in this Order shall have the meanings ascribed to such terms in the Motion.

insurance policies and other available insurance, if any, without further proceedings before this Court, and shall be otherwise treated as provided for in the Plan.

Dated: _____, 2010

The Honorable Kevin J. Carey
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

-----X
In re:) Chapter 11
)
BUILDING MATERIALS HOLDING) Case No. 09-12074 (KJC)
CORPORATION, *et al.*,)
) Jointly Administered
Debtors.)
-----X

AFFIDAVIT OF JAMIE DAWSON, PARALEGAL

STATE OF DELAWARE :
 : SS:
NEW CASTLE COUNTY :

I, Jamie Dawson, certify that I am, and at all times during the service, have been, an employee of Morris James LLP, not less than 18 years of age and not a party to the matter concerning which service was made. I certify further that on February 3, 2010, I caused service of the following:

**MOTION OF JUAN M. NAVARRO AND LETITIA RAMIREZ
FOR RELIEF FROM THE AUTOMATIC STAY AND/OR
RELIEF FROM THE CONFIRMATION INJUNCTION**

Service was completed upon the following parties on the attached service as indicated thereon.

Date: February 3, 2010



Jamie Dawson

SWORN TO AND SUBSCRIBED before me this 3rd day of February, 2010.



NOTARY

My commission expires: **RUTH F. SALOTTO**
Notary Public - State of Delaware
My Comm. Expires June 9, 2011

VIA HAND DELIVERY

Sean M. Beach, Esq.
Robert F. Poppiti, Esq.
Young Conaway Stargett & Taylor, LLP
1000 West Street, 17th Floor
Wilmington, DE 19801
[Counsel for the Debtor]

Bradford J. Sandler, Esq.
Benesch, Friedlander, Coplan & Aronoff LLP
222 Delaware Avenue, Suite 801
Wilmington, DE 19801
[Counsel for the Official Committee of
Unsecured Creditors]

Joseph McMahon, Esq.
Office of the United States Trustee
844 King Street, Suite 2207
Wilmington, DE 19801

VIA FIRST CLASS MAIL

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[Counsel for the Debtor]

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[Counsel for the Official Committee of
Unsecured Creditors]