

**Chris and Michelle Bender's Motion for Relief from the Automatic Stay (the "Bender Motion").**

By the Bender Motion, Chris and Michelle Bender (together, the "Benders") seek entry of an order granting relief from the automatic stay to permit them to continue their lawsuit, currently pending in the Superior Court of the State of Arizona, County of Maricopa (the "State Court Action"), against CENTEX Corporation and CENTEX HOMES, each a predecessor in interest to the Debtors.

Prior to the commencement of the Debtors' chapter 11 cases, Chris Bender was involved in an automobile accident in Serenity Villas in Anthem, Arizona. The Benders allege claims against the Debtors for (i) negligently constructing, creating and maintaining obstructions to visibility in the development and (ii) injuries and damages as a result of the Debtors' noncompliance with local zoning ordinances.

The Benders allege that they did not receive notice of the Debtors' chapter 11 cases and on May 7, 2008, initiated the State Court Action. The Benders assert that the Debtors are insured by a Home Builders Protective Policy (the "Policy") issued by Steadfast Insurance Corporation. According to the Benders, the Policy provides for a self insured retention amount of \$1,000,000 (the "SIR"), meaning that the Debtors will have liability for claims below the amount of the SIR. The Benders believe they will be awarded damages in excess of \$1 million in the State Court Action and any amounts under \$1 million will constitute prepetition unsecured claims.<sup>1</sup> Through the Bender Motion, the Benders now seek relief from the automatic stay to pursue claims against the Policy.

***No hearing on the Bender Motion has been scheduled, but the next omnibus hearing is scheduled for May 14, 2009.***

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<sup>1</sup> The Benders have also filed a motion for leave to file a late-filed claim in the TOUSA, Inc.'s ("TOUSA") chapter 11 case in the amount of \$1,000,000 (the "Late Filed Claim Motion").