UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

NOT FOR PUBLICATION

In re Crane Rental Company, Inc., Debtor.	)))))	Chapter 11 Case No. 05-43338-JBR

ORDER

The Debtor's Motion for Authority to Compromise the Controversy (Doc. 285) is hereby DENIED WITHOUT PREJUDICE because a timely appeal of the bankruptcy court's order (Doc. 218) is presently pending before the United States District Court and the bankruptcy court does not have jurisdiction to act on the motion.

"The filing of a notice of appeal is an event of jurisdictional significance--it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal." *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58, 103 S.Ct. 400, 402, 74 L.Ed.2d 225 (1982) (per curiam). "The rule is well established that the taking of an appeal transfers jurisdiction from the Bankruptcy Court to the Appellate Court with regard to matters involved in the appeal and divest the Bankruptcy Court of jurisdiction to proceed further with such matters." *In re Kendrick Equipment Corporation*, 60 B.R. 356, 358 (Bankr. W.D.Va. 1986) (citations ommitted). "This is so because a bankruptcy judge does not have concurrent jurisdiction with the district court [or BAP] over the subject matter of an appeal... Once a notice of appeal is filed 'no lower court should be able to vacate or even modify an order under appeal, not even a bankruptcy court attempting to eliminate the need for a

particular appeal.'... The rationale for this rule is the avoidance of confusion and waste of time that might result from putting the same issues before two courts at the same time." *In re Emergency Beacon Corporation*, 58 B.R. 399, 402 (S.D.N.Y. 1986).

The Debtor's Motion is DENIED WITHOUT PREJUDICE.

Date: March 27, 2006

Joel B. Rosenthal
United States Bankruptcy Court