

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

In re:)	
)	Chapter 11
Met-Coil Systems Corporation,)	
)	Case No. 03-12676 (MFW)
Debtor.)	

**DEBTOR'S APPLICATION FOR ENTRY OF ORDER
AUTHORIZING RETENTION AND EMPLOYMENT OF MORRIS,
NICHOLS, ARSHT & TUNNELL, AS LOCAL COUNSEL FOR
DEBTOR, NUNC PRO TUNC TO AUGUST 26, 2003**

Met-Coil Systems Corporation, debtor and debtor in possession (the "**Debtor**" or "**Met-Coil**") in the above-captioned Chapter 11 case (the "**Case**") hereby presents this application (the "**Application**") for entry of an Order authorizing the Debtor to retain and employ Morris, Nichols, Arsht & Tunnell ("**Morris Nichols**"), as local counsel for the Debtor, *nunc pro tunc* to August 26, 2003. In support of the Application, the Debtor refers to and relies upon the Affidavit of Charles F. Kuoni, III in Support of First Day Motions (the "**Kuoni Affidavit**") and the declaration of Eric D. Schwartz (attached hereto as **Exhibit A**, the "**Schwartz Declaration**"), which are incorporated herein by reference, and respectfully represents as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. Consideration of the Application is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O).
2. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory predicates for the relief requested herein are § 327(a) of title 11 of the United States Code (the "**Bankruptcy Code**") and Rule 2014(a) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**").

INTRODUCTION

4. On August 26, 2003 (the "**Petition Date**"), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

5. The Debtor is operating its business and managing its properties as a debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. To date, no trustee or examiner has been appointed. On September 11, 2003, the Office of the United States Trustee appointed an Official Committee of Unsecured Creditors in this Case (the "**Committee**").

RELIEF REQUESTED

6. By this Application, the Debtor respectfully requests that the Court enter an Order, pursuant to Bankruptcy Code Section 327(a), authorizing the Debtor to employ and retain Morris Nichols as its local counsel in this Case.

SERVICES RENDERED

7. The Debtor anticipates that Morris Nichols may render the following services in the Case:

- (a) perform all necessary services as the Debtor's counsel in connection with this Case, including providing legal advice with respect to the Debtor's powers and duties as debtor in possession in the continued operation of its business and management of its properties;
- (b) assisting with the preparation, on behalf of the Debtor, of all necessary applications, motions, answers, orders, reports and other legal papers as required by applicable bankruptcy or non-bankruptcy law, as dictated by the demands of the Case, or as required by the Court, and representing the Debtor in any hearings or proceedings related thereto;
- (c) taking all necessary actions to protect and preserve the Debtor's estate during the pendency of the Case, including prosecuting actions by the Debtor, defending actions against the Debtor,

negotiations concerning litigations in which the Debtor is involved, and objecting to claims filed against the Debtor's estate.

- (d) performing all other legal services for the Debtor which may be necessary and proper in the Case.

8. The Debtor has filed an application to retain Goldberg, Kohn, Bell, Black, Rosenbloom & Moritz, Ltd. ("**Goldberg Kohn**") as its counsel. The services to be provided by Morris Nichols will not be duplicative of those performed by Goldberg Kohn, and Goldberg Kohn will coordinate any services performed at the Debtor's request with the services of local counsel, as appropriate, to avoid duplication of effort.

9. The Debtor also has filed a Motion to retain certain ordinary course professionals that have represented Met-Coil in several pending environmental litigation matters and assisted Met-Coil with its environmental remediation efforts. The services to be provided by Morris Nichols will not be duplicative of those provided by the ordinary course professionals, and Goldberg Kohn will coordinate any services performed by Morris Nichols at the Debtor's request with the services of the ordinary course professionals, as appropriate, to avoid duplication of effort.

10. Subject to this Court's approval of the Application, Morris Nichols is willing to serve as the Debtor's counsel and to perform the services described above.

QUALIFICATIONS OF PROFESSIONALS

11. The Debtor seeks to retain Morris Nichols as its local counsel because:

- (a) Morris Nichols has extensive experience and knowledge in the fields of debtor's and creditors' rights and business reorganizations under Chapter 11 of the Bankruptcy Code;
- (b) Morris Nichols has extensive experience and knowledge practicing before this Court; and,
- (c) Morris Nichols' appearance before this Court for the applications, motions and other matters in the Case will be efficient and cost-effective for the Debtor's estate. The Debtor believes that

Morris Nichols is both well-qualified and uniquely able to represent them in the Case in an efficient and timely manner.

12. The Debtor believes that Morris Nichols's employment is in the best interests of the Debtor, its estate and its creditors.

DISINTERESTEDNESS OF PROFESSIONAL

13. To the best of the Debtor's knowledge, information and belief, none of Morris Nichols' partners, counsel or associates hold or represent any interest adverse to the Debtor's estate or its creditors, and Morris Nichols is a "disinterested person," as defined in section 101(14) of the Bankruptcy Code. The Debtor's knowledge, information and belief regarding the matters set forth herein are based upon the Schwartz Declaration.

14. Morris Nichols does not currently represent any entity in matters related to this chapter 11 Case. Morris Nichols may represent or may have represented certain parties with interests in the Debtor's Case, on matters unrelated to its Case. As set forth in the Schwartz Declaration, Morris Nichols has conducted, and continues to conduct, research into its relations with the Debtor, its creditors and equity security holders and other parties interested in this Case. As part of this inquiry, Morris Nichols obtained the names of individuals or entities that may be parties in interest in this chapter 11 Case (the "**Potential Parties in Interest**"). Morris Nichols then entered the names of Potential Parties in Interest into a computer database containing the names of all clients and conflict information concerning the clients of Morris Nichols. This inquiry revealed that certain of the Potential Parties in Interest were current or former Morris Nichols clients (the list of such clients is referred to herein as the "**Client Match List**"). Through the information generated from the above-mentioned computer inquiry, and through follow-up inquiries with Morris Nichols attorneys responsible for certain clients listed on the

Client Match List, Morris Nichols determined that the representation of the clients on the Client Match List concerned matters unrelated to this chapter 11 Case.

15. While Morris Nichols has undertaken, and continues to undertake, efforts to identify connections with the Debtor and other parties in interest, it is possible that connections with some parties in interest have not yet been identified. Should Morris Nichols, through its continuing efforts or as these cases progress, learn of any new material connections of the nature described above, Morris Nichols will so advise the Court.

COMPENSATION

16. Morris Nichols' requested compensation for professional services rendered to the Debtor will be based upon the hours actually expended by each assigned professional at each professional's hourly billing rate. Subject to Court approval in accordance with Bankruptcy Code sections 330 and 331, the Bankruptcy Rules, and the Orders and Local Rules of this Court, the Debtor proposes to compensate Morris Nichols for professional services rendered at its normal and customary hourly rates and reimburse Morris Nichols for actual, necessary expenses incurred by Morris Nichols on the Debtor's behalf.

17. These hourly rates are subject to periodic adjustments to reflect economic and other conditions.

18. The current hourly rates of the attorneys and paraprofessionals expected to be chiefly responsible for the representation of the Debtor are as follows:

<u>Attorney</u>	<u>Hourly Rate</u>
Eric D. Schwartz, Partner	\$400 per hour
Jason W. Harbour, Associate	\$240 per hour
James C. Carignan, Associate	\$220 per hour

Paralegal

Angela Conway \$155 per hour

Other attorneys and paralegals may render services to the Debtor as needed. Morris Nichols' hourly rates fall within the following ranges:

<u>Title</u>	<u>Rate per Hour</u>
Partners	\$360 to \$525 per hour
Associates	\$220 to \$330 per hour
Paraprofessionals	\$155 per hour

19. Morris Nichols will also seek reimbursement for necessary expenses incurred, which shall include travel, photocopying, delivery service, postage, vendor charges and other out-of-pocket expenses incurred in providing professional services.

20. Morris Nichols intends to apply to the Court for the allowance of compensation for professional services rendered and reimbursement of expenses incurred in accordance with the applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Rules for the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**").

21. Morris Nichols has received an advance payment retainer of \$125,000 from the Debtor. Any amounts from this retainer in excess of fees and expenses incurred before the Petition Date will be held by Morris Nichols and applied against postpetition fees and expenses, to the extent allowed by the Court. Morris Nichols is not a prepetition creditor of the Debtor's estate.

NOTICE AND PRIOR APPLICATION

22. Notice of this Application has been given to (a) the Office of the United States Trustee for the District of Delaware; (b) counsel for the Debtor's prepetition and

postpetition secured lenders; (c) the Debtor's twenty (20) largest unsecured creditors; (d) the United States Environmental Protection Agency; (e) the Attorney General of the State of Illinois; (f) the DuPage County State's Attorney; (g) counsel to the plaintiffs in the environmental litigation matters pending before the United States District Court for the Northern District of Illinois and the Circuit Court for the Eighteenth Judicial District, DuPage County; and (h) the parties contained on the general service list being maintained in this chapter 11 case (collectively, the "Core Group"). The Debtor submits that under the circumstances no other or further notice need be given.

23. No previous motion or application for the relief sought herein has been made to this or any other court.

CONCLUSION

WHEREFORE, the Debtor respectfully requests that the Court enter an Order in substantially the form annexed hereto (i) granting this Application; (ii) authorizing the Debtor to retain and employ Morris Nichols as its counsel, *nunc pro tunc* to the Petition Date; and (iii) granting such other and further relief as this Court may deem just and proper under the circumstances.

Dated: September 24, 2003

Met-Coil Systems Corporation,
a Delaware Corporation, Debtor and
Debtor-in-Possession



Name: Charles F. Kuoni, III
Title: President and Chief Executive Officer

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