

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.)	
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**MOTION FOR ORDER PURSUANT TO BANKRUPTCY RULES
9006(b) AND 9027 ENLARGING THE TIME WITHIN
WHICH TO FILE NOTICES OF REMOVAL OF RELATED PROCEEDINGS**

Met-Coil Systems Corporation, debtor and debtor-in-possession in the above-captioned chapter 11 case (the “Debtor”), hereby moves this Court (the “Motion”) for entry of an order, pursuant to Federal Rules of Bankruptcy Procedure 9006(b) and 9027 (the “Bankruptcy Rules”) and section 1452 of title 28 of the United States Code enlarging the time within which the Debtor may file notices of removal of related proceedings. In support of this Motion, the Debtor respectfully represents as follows:

JURISDICTION

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
2. The statutory predicates for the relief requested herein are Bankruptcy Rules 9006(b) and 9027, and 28 U.S.C. § 1452.

BACKGROUND

3. On August 26, 2003, the Debtor commenced its bankruptcy case by filing a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).

4. The Debtor continues to manage its property and operate its business as a debtor in possession in accordance with sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Debtor’s chapter 11 case. On September 11, 2003, the United States Trustee appointed an official committee of unsecured creditors (the “Committee”) in this case.

5. The Debtor is a party to several civil actions and proceedings pending in various state and federal courts. The Debtor’s current deadline to remove civil actions and proceedings under Bankruptcy Rule 9027 is November 24, 2003.

RELIEF REQUESTED

6. As of the Petition Date, the Debtor was a party to various civil actions and proceedings in a variety of fora. By this Motion, the Debtor seeks the entry of an order pursuant to Bankruptcy Rule 9006(b) enlarging the Debtor’s time within which to file notices of removal of these civil actions and proceedings under Bankruptcy Rule 9027 through and including the later of (a) February 23, 2004, or (b) 30 days after the entry of an order terminating the automatic stay with respect to the particular civil action or proceeding sought to be removed.

BASIS FOR RELIEF

7. Section 1452 of title 28 of the United States Code provides for the removal of actions related to bankruptcy cases. Section 1452 provides, in pertinent part:

- (a) A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax

Court or a civil action by a governmental unit to enforce such governmental unit's police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.

(b) The court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground. An order entered under this subsection remanding a claim or cause of action, or a decision to not remand, is not reviewable by appeal or otherwise

28 U.S.C. § 1452.

8. Bankruptcy Rule 9027 sets forth the time period for the filing of notices to remove claims or causes of action. Bankruptcy Rule 9027 provides in pertinent part:

(a)(2) If the claim or cause of action in a civil action is pending when a case under the Code is commenced, a notice of removal may be filed only within the longest of (A) 90 days after the order for relief in the case under the Code, (B) 30 days after entry of an order terminating a stay, if the claim or cause of action in a civil action has been stayed under § 362 of the Code, or (C) 30 days after a trustee qualifies in a chapter 11 reorganization case but not later than 180 days after the order for relief.

Fed. R. Bankr. P. 9027(a)(2).

9. Bankruptcy Rule 9006 permits the Court to enlarge the period to remove actions provided for by Bankruptcy Rule 9027. Bankruptcy Rule 9006(b) provides, in pertinent part:

(1) Except as provided in paragraphs (2) and (3) of this subdivision, when an act is required or allowed to be done at or within a specified period by these rules or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if the request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) on motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect.

Fed. R. Bankr. P. 9006(b)(1).

10. It is well settled that this Court is authorized to extend the removal period provided under Bankruptcy Rule 9027. See Pacor, Inc. v. Higgins, 743 F.2d 984, 996 n.17 (3d Cir. 1984); Raff v. Gordon, 58 B.R. 988, 990 (E.D. Pa. 1986); see also In re World Financial Servs. Center, Inc., 81 B.R. 33, 39 (Bankr. S.D. Cal. 1987).

11. The Debtor is presently unable to determine whether it needs to, or should, remove certain of the claims, proceedings or civil causes of action to which it may be a party. Since the Petition Date, the Debtor has focused its efforts on preparing and filing a plan of reorganization and disclosure statement. Moreover, the Debtor has devoted a substantial amount of its time to contested matters and adversarial litigation currently pending in this Court. Thus, the Debtor will not be able to make an informed decision regarding the removal of claims, proceedings or civil causes of action prior to the current deadline.

12. Until the Debtor is able to make an informed decision respecting the advisability of removing any or all of the pending claims and/or civil actions, the Debtor believes that the most prudent and efficient course of action is to extend the removal period through and including the later of (a) February 23, 2004, or (b) 30 days after the entry of an order terminating the automatic stay with respect to the particular civil action or proceeding sought to be removed. Accordingly, the Debtor submits that cause exists for the relief requested in the Motion.

NOTICE AND PROCEDURE

13. The Debtor is serving the Motion on the Office of the United States Trustee, counsel to the Committee, those parties requesting service of papers filed in this case pursuant to Bankruptcy Rule 2002, and the parties to the Debtor's pending civil actions. The Debtor submits that no further notice of the Motion is required.

14. Because the Motion presents no novel issues of law, and the authorities relied upon by the Debtor are set forth herein, the Debtor hereby waives the filing of a

memorandum in support of this Motion pursuant to D. Del. L.R. 7.1.2, except that the Debtor reserves the right to file a brief in reply to any objection to the Motion.

NO PRIOR REQUEST

15. No prior request for the relief sought in the Motion has been made to this or any other court.

WHEREFORE, the Debtor respectfully requests that this Court enter an order, substantially in the form attached hereto, extending the time period within which the Debtor may file notices to remove related claims, proceedings or causes of action pursuant to Bankruptcy Rule 9027 through and including the later of (a) February 23, 2004, or (b) 30 days after the entry of an order terminating the automatic stay with respect to the particular civil action or proceeding sought to be removed, and granting such further relief as is just and equitable.

Dated: Wilmington, Delaware
November 21, 2003

MORRIS, NICHOLS, ARSHT & TUNNELL

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