

**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.	)	
	)	Objection Deadline: May 17, 2004 - 4:00 p.m. (EDT)
	)	Hearing Date: May 24, 2004 – 10:30 a.m. (EDT)

**DEBTOR'S MOTION TO APPROVE SETTLEMENT AGREEMENT  
PURSUANT TO BANKRUPTCY CODE § 105 AND BANKRUPTCY RULE 9019**

Met-Coil Systems Corporation, as debtor and debtor in possession (the "**Debtor**"), hereby moves this Court (the "**Motion to Approve**") for entry of an order approving that certain Settlement Agreement (the "**Settlement Agreement**") by and among the Debtor, David and Sandra Beck (collectively, the "**Becks**"), Roper Whitney, Inc., Roper Properties, Inc., Roper Industries, Inc. c/o Prentice Hall Corporate Systems, Roper Whitney of Rockford, Inc., and Met-Coil-RWC, Inc. (collectively, the "**Releasees**" and together with the Debtor and the Becks, the "**Parties**") pursuant to Section 105 of the United States Bankruptcy Code (the "**Bankruptcy Code**") and Rule 9019 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"). In support of the Motion to Approve, the Debtor respectfully states as follows:

**JURISDICTION**

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. Consideration of this Motion to Approve is a core proceeding pursuant to 28 U.S.C. § 157(b).

2. The predicates for the relief requested herein are § 105 of the Bankruptcy Code and Bankruptcy Rule 9019.

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

4. The Debtor is operating its business as a debtor in possession pursuant to §§ 1107 and 1108 of the Bankruptcy Code. An official committee of unsecured creditors (the "**Committee**") has been appointed.

### INTRODUCTION

5. On April 23, 1999, the Becks filed a complaint in the Supreme Court of the State of New York, County of Erie (the "**Complaint**"),<sup>1</sup> against Roper Whitney, Inc., Roper Whitney of Rockford, Inc. a/k/a Roper Whitney Co., Met-Coil-RWC, Inc., Forest Industries, Inc. c/o Henry B. Lake, and Roper Industries, Inc. c/o Prentice Hall Corporate Systems (collectively, the "**Defendants**"), alleging that the Defendants or a predecessor manufactured a sheet metal brake which struck Mr. Beck in the head on or about April 24, 1996 during the course of his employment with the Buffalo Sewer Authority, causing injury to him due to a defect therein.

6. The Releasees filed Answers to the Complaint that contained general denials of liability, affirmative defenses, and cross-claims for contribution and/or indemnity against each other.

7. The Becks served an Amended Complaint upon the Releasees on or about October 29, 2001, and the Releasees filed Answers to the Amended Complaint that

---

<sup>1</sup> Thereafter, the case was transferred to the United States District Court for the Western District of New York (99 CV 0598).

contained general denials of liability, affirmative defenses, and cross-claims for contribution and/or indemnity against each other (the "**Amended Complaint**").<sup>2</sup>

8. In the Bankruptcy Case, the Becks filed a Proof of Claim against the Debtor in an unliquidated amount (the "**Becks' Claim**"), to which the Debtor objected in the Second Omnibus Objection (Substantive) and the Third Omnibus Objection (Non-Substantive).

9. The Bankruptcy Court entered Orders with respect to the Second Omnibus Objection and the Third Omnibus Objection, in which, among other things, the Becks' Claim against the Debtor was disallowed. The Becks dispute the entry of these orders.

10. The Becks and the Debtor desire to amicably resolve the Becks' Claim, and the Parties likewise seek to amicably resolve the issues underlying the Complaint and the Amended Complaint. As a result, to avoid the costs of litigating this matter, the Parties have agreed to settle the issues among them as set forth in the Settlement Agreement, a copy of which is attached hereto as Exhibit A.

11. The Settlement Agreement provides that the Debtor will seek the allowance of the Becks' Claim in an amount such that the Becks will receive Three Thousand Dollars (\$3,000.00) through the first distribution to claimants of the so-called "convenience class" under the Debtor's plan of reorganization, if confirmed. In exchange, the Debtor will receive a complete release, and the Becks agree to indemnify the Debtor against any claims relating to the subject matter of the Complaint, the Amended Complaint or the Becks' Claim.

---

<sup>2</sup> No appearance was made for, or on behalf of, Forest Industries, Inc. c/o Henry B. Lake.

## **RELIEF REQUESTED**

12. By this Motion, the Debtor seeks entry of an order pursuant to § 105 of the Bankruptcy Code and Bankruptcy Rule 9019 authorizing it to enter into the Settlement Agreement.

13. Section 105(a) of the Bankruptcy Code provides that "[t]he court may issue any order ... that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105. Providing the Debtor with the authority to enter into the Settlement Agreement is clearly beneficial to the Debtor's estate and its creditors, as it eliminates attorneys' fees and expenses that the Debtor would incur in litigating the underlying claims, and allows the Debtor to obtain a release and indemnification with respect to such claims, in exchange for \$3,000.00.

14. Bankruptcy Rule 9019 provides, in pertinent part, that, "on motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement." Fed. R. Bankr. P. 9019. Under this authority, the Third Circuit has emphasized that "to minimize litigation and expedite the administration of a bankruptcy estate, '[c]ompromises are favored in bankruptcy.'" Myers v. Martin (In re Martin), 91 F.3d 389, 393 (3d Cir. 1996) (quoting 9 Collier on Bankruptcy ¶ 9019.03[1] (15th ed. 1993)).

15. Generally, a bankruptcy court should defer to the debtor's judgment so long as there is a legitimate business justification for entering into the settlement. Martin, 91 F.3d at 395; see also Protective Committee for Independent Stockholders of TMT Trailer Ferry, Inc., 390 U.S. 414, 424-25 (1968) (basic to the process of evaluating proposed settlements is "the need to compare the terms of the compromise with the likely rewards of litigation"). Under TMT Trailer Ferry, the Court is not required to hold a full evidentiary

hearing before a compromise can be approved; rather, the Court's obligation is "to canvass the issues and see whether the settlement 'falls below the lowest point in a range of reasonableness.'" 10 Collier on Bankruptcy ¶ 9019.02, 9019-4 to 9019-5 (15th ed.) (quoting In re Drexel Burnham Lambert Group, Inc., 134 B.R. 493 (Bankr. S.D.N.Y. 1991); (quoting Cosoff v. Rodman (In re W.T. Grant Co.), 699 F.2d 599, 608 (2d Cir.), cert. denied, 464 U.S. 822 (1983))).

16. In this instance, it is self-evident that the proposed \$3,000 settlement satisfies the standard set forth in Martin and TMT Trailer Ferry, and this Court should approve the Settlement Agreement. First, as with all litigation, the outcome of the Complaint, Amended Complaint and litigation concerning the Becks' Claim is not certain, and success is not guaranteed. Second, such causes of action involve several complex issues that could take many years and hundreds of thousands of dollars to resolve. Third, the Debtor has determined in its sound and reasonable business judgment that its creditors will benefit from the Settlement Agreement because the settlement will bring finality to this litigation matter and eliminate the expenses that the Debtor would be required to incur to continue to litigate the matters at issue. Fourth, the Settlement Agreement represents a fair and equitable result to all parties in interest of the disputes at issue.

17. The Settlement Agreement is the result of good faith negotiations among the Parties, and the resultant settlement is in the best interests of the Debtor's creditors and estate. Accordingly, the Settlement Agreement should be approved.

#### **NOTICE**

18. Notice of this Motion to Approve has been given to (a) the Office of the United States Trustee for the District of Delaware; (b) counsel for the Debtor's secured

lender; (c) counsel for the Committee; (d) counsel to the Becks and the Releasees; (e) counsel for the future claimants' representative; and (f) all parties that have requested notice of pleadings pursuant to Bankruptcy Rule 2002.

**NO PRIOR REQUEST**

19. No previous request for the relief sought in this Motion to Approve has been made to this Court or any other court.

WHEREFORE, the Debtor respectfully requests that the Court enter an order:

(a) approving the Settlement Agreement pursuant to Bankruptcy Code § 105 and Bankruptcy Rule 9019; and (b) granting such other and further relief as is just and proper.

Dated: May 6, 2004

MORRIS, NICHOLS, ARSHT & TUNNELL



Eric D. Schwartz (No. 3134)  
Daniel B. Butz (No. 4227)  
Alicia B. Kelly (No. 4485)  
1201 North Market Street  
P.O. Box 1347  
Wilmington, Delaware 19899-1347  
Telephone: (302) 658-9020  
Facsimile: (302) 658-3989

GOLDBERG, KOHN, BELL, BLACK,  
ROSENBLOOM & MORITZ, LTD.  
Ronald Barliant (Illinois ARDC# 0112984)  
Kathryn A. Pamenter (Illinois ARDC# 6231191)  
55 East Monroe Street, Suite 3700  
Chicago, Illinois 60603  
Telephone: (312) 201-4000  
Facsimile: (312) 332-2196

Counsel to Met-Coil Systems Corporation,  
Debtor and Debtor in Possession