

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

<b>In re:</b>	)	<b>Chapter 11</b>
	)	
<b>BUILDING MATERIALS HOLDING CORPORATION, et al.,<sup>1</sup></b>	)	<b>Case No. 09-12074 (KJC)</b>
	)	
<b>Reorganized Debtors.</b>	)	<b>Jointly Administered</b>
	)	
	)	<b>Objection Deadline: September 23, 2010 at 4:00 p.m. (ET)</b>
	)	<b>Hearing Date: September 30, 2010 at 3:00 p.m. (ET)</b>

**REORGANIZED DEBTORS' MOTION FOR ENTRY OF AN ORDER  
FURTHER EXTENDING THE DEADLINE FOR THE REORGANIZED DEBTORS  
TO FILE NOTICES OF REMOVAL OF RELATED CLAIMS AND  
CAUSES OF ACTION PURSUANT TO 28 U.S.C. § 1452**

Building Materials Holding Corporation and its affiliates, as reorganized debtors (collectively, the "Reorganized Debtors"), hereby submit this motion (the "Motion") for entry of an order, substantially in the form annexed hereto as Exhibit A, pursuant to Rule 9006(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), extending by 120 days the deadline for the Reorganized Debtors to file notices of removal, pursuant to 28 U.S.C. § 1452 and Bankruptcy Rule 9027, of claims and causes of action that are related to the Chapter 11 Cases (as defined below). In support thereof, the Reorganized Debtors respectfully represent as follows:

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<sup>1</sup> The Reorganized Debtors, along with the last four digits of each Reorganized Debtor's tax identification number, are as follows: Building Materials Holding Corporation (4269), BMC West Corporation (0454), SelectBuild Construction, Inc. (1340), SelectBuild Northern California, Inc. (7579), Illinois Framing, Inc. (4451), C Construction, Inc. (8206), TWF Construction, Inc. (3334), H.N.R. Framing Systems, Inc. (4329), SelectBuild Southern California, Inc. (9378), SelectBuild Nevada, Inc. (8912), SelectBuild Arizona, LLC (0036), and SelectBuild Illinois, LLC (0792). The mailing address for the Reorganized Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

## JURISDICTION AND VENUE

1. The Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicate for the relief requested herein is section 105(a) of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the “Bankruptcy Code”), along with Bankruptcy Rule 9006(b).

## BACKGROUND

2. On June 16, 2009 (the “Petition Date”), each of the now Reorganized Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code (the “Chapter 11 Cases”). The Reorganized Debtors continue to operate their businesses and manage their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in the Chapter 11 Cases. On July 26, 2009, the Office of the United States Trustee (the “U.S. Trustee”) appointed an official committee of unsecured creditors.

3. The Reorganized Debtors are one of the largest providers of residential building products and construction services in the United States. The Reorganized Debtors distribute building materials, manufacture building components (e.g., millwork, floor and roof trusses, and wall panels), and provide construction services to professional builders and contractors through a network of 31 distribution facilities, 43 manufacturing facilities, and five regional construction services facilities.

4. The Reorganized Debtors operate under two brand names: BMC West® and SelectBuild®.

- ***BMC West.*** Under the BMC West brand, the Reorganized Debtors market and sell building products, manufacture building components, and provide

construction services to professional builders and contractors. Products include structural lumber and building materials purchased from manufacturers, as well as manufactured building components such as millwork, trusses, and wall panels. Construction services include installation of various building products and framing. The Reorganized Debtors currently offer these products and services in major metropolitan markets in Texas, Washington, Colorado, Idaho, Utah, Montana, North Carolina, California, and Oregon.

- **SelectBuild.** Under the SelectBuild brand, the Reorganized Debtors offer integrated construction services to production homebuilders, as well as commercial and multi-family builders. Services include wood framing, concrete services, managing labor and construction schedules, and sourcing materials. The Reorganized Debtors currently offer these services in major metropolitan markets in California, Arizona, Nevada and Illinois.

5. On the Petition Date, the now Reorganized Debtors filed their proposed chapter 11 plan (as amended and/or supplemented, the “Plan”) and accompanying disclosure statement (as amended and/or supplemented, the “Disclosure Statement”). The Reorganized Debtors filed amended versions of the Plan and Disclosure Statement since that time. The Court approved the Disclosure Statement by order entered on October 22, 2009.

6. On December 17, 2009, the Court entered the Order Confirming Joint Plan of Reorganization for the Debtors Under Chapter 11 of the Bankruptcy Code Amended December 14, 2009 (With Technical Modifications) [Docket No. 1182] (the “Confirmation Order”) confirming the Plan. The Effective Date (as defined in the Plan) of the Plan occurred on January 4, 2010.

### **RELIEF REQUESTED**

7. By this Motion, the Reorganized Debtors seek entry of an order, pursuant to Bankruptcy Rule 9006(b), extending by 120 days, through and including January 7, 2011, the deadline for the Reorganized Debtors to file notices of removal of related claims and causes of action pursuant to 28 U.S.C. § 1452 and Bankruptcy Rule 9027. The Reorganized Debtors

request that the January 7, 2011 deadline to file removal actions apply to all matters specified in Bankruptcy Rule 9027(a)(2) and (a)(3). The Reorganized Debtors further request that the relief requested herein be granted without prejudice to the Reorganized Debtors' right to seek further extensions of the deadline for the Reorganized Debtors to remove related claims and causes of action pursuant to 28 U.S.C. § 1452 and Bankruptcy Rule 9027.

### **BASIS FOR RELIEF REQUESTED**

8. Section 1452 of title 28 of the United States Code and Bankruptcy Rule 9027 govern the removal of claims and causes of action related to a bankruptcy case and pending as of the petition date. Specifically, § 1452 provides, in pertinent part:

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 government unit to enforce such government 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.

28 U.S.C. § 1452. Section 1334(b) of title 28 provides, in pertinent part:

Except as provided in subsection (e)(2), and notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.

9. Bankruptcy Rule 9027 sets forth the procedures for the removal of related claims and causes of action, including the deadlines for filing the notices of removal. Specifically, Bankruptcy Rule 9027(a)(2) provides, in pertinent part:

If the claim or cause of action in a civil action is pending when a case under the [Bankruptcy 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 [Bankruptcy 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 [Bankruptcy 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).

10. Bankruptcy Rule 9006 permits the Court to extend the deadline for the Reorganized Debtors to file notices of removal pursuant to 28 U.S.C. § 1452 and Bankruptcy Rule 9027. Specifically, Bankruptcy Rule 9006 provides, in pertinent part:

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 the 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...

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

11. It is well-established that this Court has the authority to extend the removal period under 28 U.S.C. §1452 and Bankruptcy Rule 9027 pursuant to Bankruptcy Rule 9006. *See, e.g., Caperton v. A.T. Massey Coal Co., Inc.*, 251 B.R. 322, 325 (S.D. W. Va. 2000) (Bankruptcy Rule 9006 authorizes the enlargement of time periods for removing actions under Bankruptcy Rule 9027); *In re Jandous Elec. Constr. Corp.*, 106 B.R. 48 (Bankr. S.D.N.Y. 1989) (a court may extend the time in which to file notices to remove civil actions pursuant to Bankruptcy Rule 9006); *In re World Fin. Servs. Ctr., Inc.*, 81 B.R. 33, 39 (Bankr. S.D. Cal. 1987) (Bankruptcy Rule 9006 was designed to give bankruptcy judges the authority to enlarge the removal periods under Bankruptcy Rule 9027(a)); *Raff v. Gordon*, 58 B.R. 988, 990 (E.D. Pa. 1986) (Bankruptcy Rule 9006 authorizes the expansion of time to file notice of removal).

12. On June 22, 2010, the Court entered an order extending the deadline for filing notices of removal to September 9, 2010 (the "Current Deadline"). Given the Current Deadline to remove related claims and causes of action, the Reorganized Debtors intend that the

operation of Rule 9006-2 of the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court for the District of Delaware (the “Local Rules”) shall automatically extend the Current Deadline until such time as the Court has had an opportunity to consider this Motion.

**CAUSE EXISTS TO EXTEND THE EXISTING DEADLINE**

13. The Reorganized Debtors submit that ample cause exists to extend the Current Deadline to remove related claims and causes of actions pursuant to 28 U.S.C. § 1452 and Bankruptcy Rule 9027. Since the Petition Date, the Reorganized Debtors have devoted substantially all of their resources to, among other things: (i) stabilizing their business operations; (ii) addressing critical case management issues; (iii) administering the claims reconciliation process; (iv) filing the Plan and accompanying Disclosure Statement; and (v) obtaining the entry of the Confirmation Order.

14. Since confirmation of the Plan, the Reorganized Debtors have continued their investigation and reconciliation of each of the claims filed in the Chapter 11 Cases and have made significant strides with respect to the claims reconciliation process. However, given the size of the Reorganized Debtors’ business operations and the number of Reorganized Debtors involved in the Chapter 11 Cases, the Reorganized Debtors are still in the process of fully investigating all related claims and prepetition causes of action.

15. Given these tasks and their attendant demands on the Reorganized Debtors’ personnel and professional advisors, the Reorganized Debtors have a legitimate need for additional time to review their outstanding litigation matters and evaluate whether those matters should properly be removed pursuant to 28 U.S.C. § 1452 and Bankruptcy Rule 9027. In the absence of such relief, the Reorganized Debtors could lose a significant element of their

overall ability to manage pending litigation matters during the Chapter 11 Cases before they even have the opportunity to evaluate the merits of such litigation, to the detriment of their estates and creditors.

16. The counterparties to any claims or causes of action that are related to the Chapter 11 Cases will suffer no discernible prejudice from the relief requested herein. Prepetition claims and causes of action against the Reorganized Debtors are stayed by operation of the automatic stay under section 362(a) of the Bankruptcy Code and pursuant to section 9.1.2 of the Plan. Accordingly, preserving the Reorganized Debtors' ability to remove related claims and causes of action will impose no significant delay or unnecessary burdens on any counterparties to such related claims and causes of action.

17. For these reasons, the Reorganized Debtors request the Court to grant the relief requested herein and extend by 120 days, through and including January 7, 2011, the deadline for the Reorganized Debtors to remove related claims and causes of action pursuant to 28 U.S.C. § 1452 and Bankruptcy Rule 9027.

#### **NOTICE**

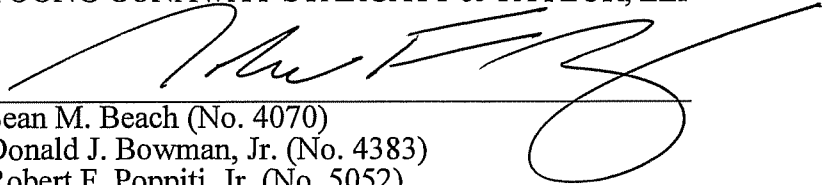
18. The Reorganized Debtors have provided notice of the filing of this Motion to: (i) the U.S. Trustee; (ii) counsel to Wells Fargo Bank, as agent under the now Reorganized Debtors' Prepetition Credit Agreement and DIP Facility (as defined in the Plan); (iii) DK Acquisition Partners, L.P.; (iv) Wells Fargo Foothill, LLC; and (v) all parties entitled to notice under Local Rule 2002-1(b). In light of the nature of the relief requested herein, the Reorganized Debtors submit that no other or further notice is necessary.

**CONCLUSION**

WHEREFORE, the Reorganized Debtors respectfully request the Court to grant the relief requested herein and such other and further relief as the Court may deem just and proper.

Dated: Wilmington, Delaware  
September 8, 2010

YOUNG CONAWAY STARGATT & TAYLOR, LLP



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Donald J. Bowman, Jr. (No. 4383)  
Robert F. Poppiti, Jr. (No. 5052)  
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Telephone: (302) 571-6600  
Facsimile: (302) 571-1253

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SACKS TIERNEY P.A.  
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Telephone: 480.425.2676  
Facsimile: 480.425.4976

ATTORNEYS FOR REORGANIZED DEBTORS



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

<b>In re:</b>	)	<b>Chapter 11</b>
	)	
<b>BUILDING MATERIALS HOLDING CORPORATION, et al.,<sup>1</sup></b>	)	<b>Case No. 09-12074 (KJC)</b>
	)	
<b>Reorganized Debtors.</b>	)	<b>Jointly Administered</b>
	)	
	)	<b>Objection Deadline: September 23, 2010 at 4:00 p.m. (ET)</b>
	)	<b>Hearing Date: September 30, 2010 at 3:00 p.m. (ET)</b>

**NOTICE OF MOTION**

TO: (A) The Office of the United States Trustee for the District of Delaware; (B) Counsel to Wells Fargo Bank, as agent under the Reorganized Debtors' Prepetition Credit Agreement and DIP Facility (as defined in the Plan); (C) DK Acquisition Partners, L.P.; (D) Wells Fargo Foothill, LLC; and (E) All Parties That Have Requested Notice Pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure.

**PLEASE TAKE NOTICE** that the above-captioned reorganized debtors (collectively, the "Reorganized Debtors") have filed the attached **Reorganized Debtors' Motion for Entry of an Order Further Extending the Deadline for the Reorganized Debtors to File Notices of Removal of Related Claims and Causes of Action Pursuant to 28 U.S.C. § 1452** (the "Motion").

**PLEASE TAKE FURTHER NOTICE** that any objections to the Motion must be filed on or before **September 23, 2010 at 4:00 p.m. (ET)** (the "Objection Deadline") with the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801. At the same time, you must serve a copy of the objection upon the undersigned counsel to the Reorganized Debtors so as to be received on or before the Objection Deadline.

**PLEASE TAKE FURTHER NOTICE THAT A HEARING TO CONSIDER THE MOTION WILL BE HELD ON SEPTEMBER 30, 2010 AT 3:00 P.M. (ET) BEFORE THE HONORABLE KEVIN J. CAREY AT THE UNITED STATES BANKRUPTCY COURT**

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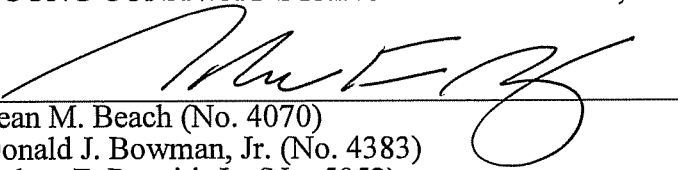
<sup>1</sup> The Reorganized Debtors, along with the last four digits of each Reorganized Debtor's tax identification number, are as follows: Building Materials Holding Corporation (4269), BMC West Corporation (0454), SelectBuild Construction, Inc. (1340), SelectBuild Northern California, Inc. (7579), Illinois Framing, Inc. (4451), C Construction, Inc. (8206), TWF Construction, Inc. (3334), H.N.R. Framing Systems, Inc. (4329), SelectBuild Southern California, Inc. (9378), SelectBuild Nevada, Inc. (8912), SelectBuild Arizona, LLC (0036), and SelectBuild Illinois, LLC (0792). The mailing address for the Reorganized Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

FOR THE DISTRICT OF DELAWARE, 824 NORTH MARKET STREET, 5TH FLOOR,  
COURTROOM NO. 5, WILMINGTON, DELAWARE 19801.

**PLEASE TAKE FURTHER NOTICE** that if you fail to respond in accordance with this notice, the Court may grant the relief requested in the Motion without further notice or a hearing.

Dated: Wilmington, Delaware  
September 8, 2010

YOUNG CONAWAY STARGATT & TAYLOR, LLP



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ATTORNEYS FOR REORGANIZED DEBTORS

**EXHIBIT A**

Proposed Order



the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor, **IT IS HEREBY ORDERED:**

1. The Motion is granted.
2. The deadline for the Reorganized Debtors to file notices of removal of claims and causes of action pursuant to 28 U.S.C. § 1452 and Bankruptcy Rule 9027 is hereby extended through and including January 7, 2011 (the "Removal Deadline").
3. The Removal Deadline shall apply to all matters specified in Bankruptcy Rules 9027(a)(2) and (a)(3).
4. This Order shall be without prejudice to the Reorganized Debtors' right to seek further extensions of the Removal Deadline.
5. The Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: Wilmington, Delaware  
September \_\_\_\_\_, 2010

---

Kevin J. Carey  
Chief United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

BUILDING MATERIALS HOLDING  
CORPORATION, *et al.*,<sup>1</sup>

Reorganized Debtors.

Chapter 11

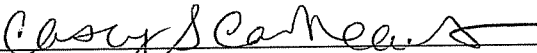
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Jointly Administered

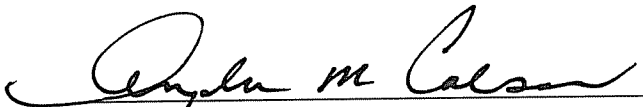
AFFIDAVIT OF SERVICE

STATE OF DELAWARE    )  
                                  ) SS  
NEW CASTLE COUNTY    )

Casey S. Cathcart, an employee of the law firm of Young Conaway Stargatt & Taylor, LLP, co-counsel to the Reorganized Debtors, being duly sworn according to law, deposes and says that on September 8, 2010, she caused a copy of the **Reorganized Debtors' Motion for Entry of an Order Further Extending the Deadline for the Reorganized Debtors to File Notices of Removal of Related Claims and Causes of Action Pursuant to 28 U.S.C. § 1452** to be served as indicated upon the parties identified on the attached service list.

  
Casey S. Cathcart

SWORN TO AND SUBSCRIBED before me this 8th day of September, 2010.

  
Notary Public  
My Commission Expires:

ANGELA M. COLSON  
NOTARY PUBLIC  
STATE OF DELAWARE  
My commission expires Aug. 31, 2011

<sup>1</sup> The Reorganized Debtors, along with the last four digits of each Reorganized Debtor's tax identification number, are as follows: Building Materials Holding Corporation (4269), BMC West Corporation (0454), SelectBuild Construction, Inc. (1340), SelectBuild Northern California, Inc. (7579), Illinois Framing, Inc. (4451), C Construction, Inc. (8206), TWF Construction, Inc. (3334), H.N.R. Framing Systems, Inc. (4329), SelectBuild Southern California, Inc. (9378), SelectBuild Nevada, Inc. (8912), SelectBuild Arizona, LLC (0036), and SelectBuild Illinois, LLC (0792). The mailing address for the Reorganized Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

**BUILDING MATERIALS HOLDING CORPORATION**

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# BUILDING MATERIALS HOLDING CORPORATION

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**BUILDING MATERIALS HOLDING CORPORATION**

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**BUILDING MATERIALS HOLDING CORPORATION**

**2002 SERVICE LIST**

**9/8/2010**

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