

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

<b>IN RE:</b>	)	
	)	<b>Chapter 11</b>
<b>BUILDING MATERIALS HOLDING</b>	)	
<b>CORPORATION, <i>et al.</i>,<sup>1</sup></b>	)	<b>Case No. 09-12074 (KJC)</b>
	)	
<b>Debtors.</b>	)	<b>Jointly Administered</b>
	)	
	)	<b>Objection Deadline: September 30, 2009 at 4:00 p.m. (ET)</b>
	)	<b>Hearing Date: October 7, 2009 at 11:00 a.m. (ET)</b>

**DEBTORS' MOTION FOR ENTRY OF AN ORDER EXTENDING THE DEADLINE  
FOR THE 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 debtors and debtors in possession (collectively, the "**Debtors**"), 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 Debtors to file notices of removal, pursuant to 28 U.S.C. section 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 Debtors respectfully represent:

**JURISDICTION AND VENUE**

1. The Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. sections 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. section 157(b). Venue is proper pursuant to 28 U.S.C. sections 1408 and 1409.

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<sup>1</sup> The Debtors, along with the last four digits of each 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 Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

## **RELIEF REQUESTED**

2. By this Motion, the Debtors seek entry of an order pursuant to Bankruptcy Rule 9006(b) extending by 120 days, through and including January 12, 2010, the deadline for the Debtors to file notices of removal of related claims and causes of action pursuant to 28 U.S.C. section 1452 and Bankruptcy Rule 9027. The Debtors request that the January 12, 2010 deadline to file removal actions apply to all matters specified in Bankruptcy Rule 9027(a)(2) and (a)(3). The Debtors further request that the relief requested herein be granted without prejudice to the Debtors' right to seek further extensions of the deadline for the Debtors to remove related claims and causes of action pursuant to 28 U.S.C. section 1452 and Bankruptcy Rule 9027.

## **BACKGROUND**

3. On June 16, 2009 (the "*Petition Date*"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code (the "*Chapter 11 Cases*"). The 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 the official committee of unsecured creditors (the "*Creditors' Committee*").

4. The Debtors are one of the largest providers of residential building products and construction services in the United States. The 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.

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

- ***BMC West.*** Under the BMC West brand, the 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 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 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 Debtors currently offer these services in major metropolitan markets in California, Arizona, Nevada and Illinois.

6. On the Petition Date, the Debtors filed their proposed chapter 11 plan (the "***Plan***") and accompanying disclosure statement (the "***Disclosure Statement***"). The Debtors filed amended versions of the Plan and Disclosure Statement on July 27, 2009. To implement this restructuring, the Debtors have obtained \$80 million in debtor-in-possession financing (the "***DIP Financing***"), which the Court approved on a final basis on July 1, 2009.

#### **BASIS FOR RELIEF REQUESTED**

7. 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, section 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.

8. 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). Accordingly, the current deadline for the Debtors to file notices of removal pursuant to 28 U.S.C. section 1452 and Bankruptcy Rule 9027 is September 14, 2009.

9. Bankruptcy Rule 9006 permits the Court to extend the deadline for the 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).

10. It is well-established that this Court has the authority to extend the removal period under 28 U.S.C. section 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).

11. Given the pending expiration on September 14, 2009 of the current deadline to remove related claims and causes of action, the 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 shall automatically extend the existing deadline until such time as the Court has had an opportunity to consider this Motion.

**CAUSE EXISTS TO EXTEND THE EXISTING DEADLINE**

12. The Debtors submit that ample cause exists to extend the existing deadline to remove related claims and causes of actions pursuant to 28 U.S.C. section 1452 and Bankruptcy Rule 9027. Since the Petition Date, the Debtors have devoted substantially all of their resources to stabilizing their business operations and addressing critical case management

issues. Given the size of the Debtors' business operations and the large number of Debtors involved in these procedurally consolidated cases, the Debtors' management and advisors have devoted an extraordinary amount of time and effort towards ensuring a smooth transition of the Debtors' operations into chapter 11 and meeting the initial requirements of the chapter 11 process, along with the substantial efforts that are required to manage the Debtors' business operations. Furthermore, the Debtors' management and advisors have devoted considerable time and effort to investigating various restructuring alternatives to maximize value for all constituencies.

13. Given these tasks and their attendant demands on the Debtors' personnel and professional advisors, the 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. section 1452 and Bankruptcy Rule 9027. In the absence of such relief, the Debtors could lose a significant element of their overall ability to manage pending litigation matters during the Chapter 11 Cases before the Debtors even had the opportunity to evaluate the merits of such litigation, to the detriment of the Debtors, their estates, and their creditors.

14. 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 Debtors are stayed by operation of the automatic stay under section 362(a) of the Bankruptcy Code. Accordingly, preserving the 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. For these reasons, the Debtors request that the Court grant the relief requested herein and extend by 120

days, through and including January 12, 2010, the deadline for the Debtors to remove related claims and causes of action pursuant to 28 U.S.C. section 1452 and Bankruptcy Rule 9027.

**NOTICE**

15. No trustee or examiner has been appointed in the Chapter 11 Cases. The Debtors have provided notice of filing of the Motion to: (a) the Office of the United States Trustee for the District of Delaware; (b) counsel to the Official Committee of Unsecured Creditors; (c) counsel to Wells Fargo Bank, as agent under the Debtors' Prepetition Credit Agreement and DIP Facility (as defined in the Plan); and (d) any persons who have filed a request for notice in the Chapter 11 Cases pursuant to Bankruptcy Rule 2002. Due to the nature of the relief requested, the Debtors respectfully submit that no further notice of this Motion is required.

**NO PRIOR REQUEST**

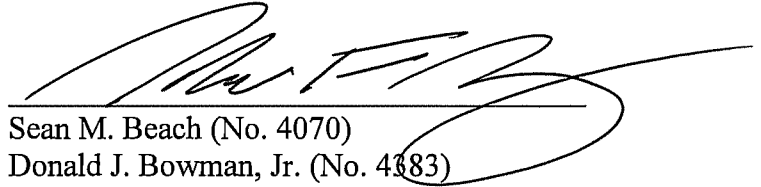
16. No prior request for the relief sought in this Motion has been made to this or any other court.

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

Dated: Wilmington, Delaware  
September 14, 2009

YOUNG CONAWAY STARGATT &  
TAYLOR, LLP



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ATTORNEYS FOR DEBTORS  
AND DEBTORS IN POSSESSION



In re:	)	<b>Chapter 11</b>
	)	
<b>BUILDING MATERIALS HOLDING</b>	)	<b>Case No. 09-12074 (KJC)</b>
<b>CORPORATION, <i>et al.</i>,<sup>1</sup></b>	)	
	)	<b>Jointly Administered</b>
<b>Debtors.</b>	)	
	)	<b>Objection Deadline: September 30, 2009 at 4:00 p.m. (ET)</b>
	)	<b>Hearing Date: October 7, 2009 at 11:00 a.m. (ET)</b>

TO: (A) The Office of the United States Trustee for the District of Delaware; (B) Counsel to Wells Fargo Bank, as Agent Under the Prepetition Credit Facility and the DIP Facility (as Defined in the Plan); (C) Counsel to the Official Committee of Unsecured Creditors; and (D) All Parties That Have Requested Notice Pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure.

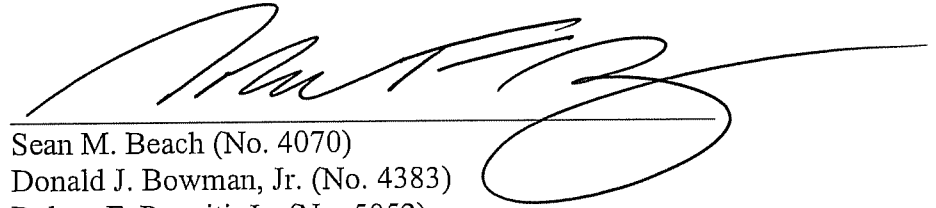
**PLEASE TAKE FURTHER NOTICE** that any objections to the Motion must be filed on or before **September 30, 2009 at 4:00 p.m. (ET)** (the “Objection Deadline”) with the United States Bankruptcy Court for the District of Delaware, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801. At the same time, you must serve a copy of the objection upon the undersigned counsel to the Debtors so as to be received on or before the Objection Deadline.

<sup>1</sup> The Debtors, along with the last four digits of each 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 Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

**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 hearing.

Dated: Wilmington, Delaware  
September 14, 2009

YOUNG CONAWAY STARGATT & TAYLOR, LLP



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ATTORNEYS FOR THE DEBTORS  
AND DEBTORS-IN-POSSESSION

# **EXHIBIT A**

## **Proposed Order**

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

<b>IN RE:</b>	)	
	)	<b>Chapter 11</b>
<b>BUILDING MATERIALS HOLDING</b>	)	
<b>CORPORATION, <i>et al.</i>,<sup>1</sup></b>	)	<b>Case No. 09-12074 (KJC)</b>
	)	
<b>Debtors.</b>	)	<b>Jointly Administered</b>
	)	
	)	<b>Ref. Docket No. _____</b>

**ORDER EXTENDING THE DEADLINE FOR THE DEBTORS TO FILE NOTICES OF  
REMOVAL OF RELATED CLAIMS AND CAUSES OF ACTION**

Upon consideration of the motion (the "*Motion*") of Building Materials Holding Corporation and its affiliates, as debtors and debtors in possession (collectively, the "*Debtors*"), for entry of an order pursuant to Bankruptcy Rule<sup>2</sup> 9006(b) extending by 120 days the deadline for the Debtors to file notices of removal, pursuant to 28 U.S.C. section 1452 and Bankruptcy Rule 9027, of claims and causes of action that are related to these chapter 11 cases, all as set forth in the Motion; and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. sections 1408 and 1409; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and notice of the Motion and the opportunity for a hearing on the Motion was appropriate under the particular circumstances; and the Court having

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<sup>1</sup> The Debtors, along with the last four digits of each 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 Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

<sup>2</sup> Capitalized terms used herein but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

reviewed the Motion and having considered the statements in support of the relief requested therein at a hearing before the Court (the "**Hearing**"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing 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 as set forth below.
2. The deadline for the Debtors to file notices of removal of claims and causes of action pursuant to 28 U.S.C. section 1452 and Bankruptcy Rule 9027 is hereby extended by 120 days, through and including January 12, 2010.
3. The January 12, 2010 deadline to file notices of removal shall apply to all matters specified in Bankruptcy Rules 9027(a)(2) and (a)(3).
4. This Order shall be without prejudice to the Debtors' right to seek further extensions of the time within which to remove related proceedings.
5. The Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: Wilmington, Delaware  
October \_\_\_\_, 2009

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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>

Debtors.

Chapter 11

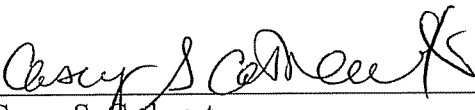
Case No. 09-12074 (KJC)

Jointly Administered

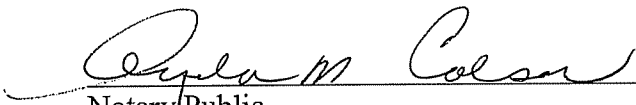
**AFFIDAVIT OF SERVICE**

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 above-captioned debtors, being duly sworn according to law, deposes and says that on September 14, 2009, she caused a copy of the **Debtors' Motion for Entry of an Order Extending the Deadline for the 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 14th day of September, 2009.

  
\_\_\_\_\_  
Notary/Public  
My Commission Expires:

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

<sup>1</sup> The Debtors, along with the last four digits of each 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 Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

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**9/14/2009**

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**9/14/2009**

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