

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

IN RE:

**BUILDING MATERIALS HOLDING
CORPORATION, *et al.*,¹**

Debtors.

)
) **Chapter 11**

)
) **Case No. 09-12074 (KJC)**

)
) **Jointly Administered**

)
) **Ref. Docket No. 817**

**DEBTORS' OBJECTION TO WEIS BUILDERS, INC.'S MOTION
FOR ENTRY OF AN ORDER ENLARGING THE CLAIMS BAR DATE**

Building Materials Holding Corporation and its affiliates, as debtors and debtors in possession (collectively, the "**Debtors**"), respectfully submit this Objection to the *Motion of Weis Builders, Inc. for Entry of An Order Enlarging the Claims Bar Date* [Docket No. 817] that was filed on October 30, 2009 (the "**Motion**"). In opposition to the Motion, the Debtors respectfully state as follows:

INTRODUCTION

1. Armed with actual notice of these bankruptcy proceedings and the Bar Date, Weis failed to protect its interests by filing a proof of claim in these cases. Unable to justify this abject failure, Weis lodges specious attacks on the form and manner of the Debtors' Bar Date notice in an effort to convince this Court to paper over Weis's entirely avoidable error under the guise of equity. Each of Weis's arguments must be rejected because they are contrary to established law.

¹ 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.

BACKGROUND

2. On February 6, 2007, RainbowVision Santa Fe, LLC, an owner and developer of property in Santa Fe, New Mexico, filed suit against Weis Builders, Inc., its general contractor, in New Mexico state court (the "*RainbowVision Action*"). See Mot. ¶ 6. Over the next couple of years, Weis joined various subcontractors in that suit by filing a third-party complaint and amending that complaint three times. *Id.* ¶¶ 10-18. Debtor BMC West Corporation is one of these third-party defendants.²

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 scheduled a contingent, unliquidated, and disputed unsecured claim in the Chapter 11 Cases relating to Weis's RainbowVision Action against the Debtors. See Decl. of Craig E. Johnson ¶ 2 (attached hereto as *Exhibit A*). On June 23, 2009, the Debtors' New Mexico counsel filed a *Notice of Bankruptcy Filing* in the RainbowVision Action, notifying Weis that the Debtors "on June 16, 2009 . . . filed for Chapter 11 protection in the United States Bankruptcy Court for the District of Delaware" Decl. of Martin Diamond ¶ 5 (attached hereto as *Exhibit B*). On July 10, 2009, The Garden City Group, Inc., the claims and noticing agent, mailed to Weis's counsel the Debtors' *Notice of Commencement of Chapter 11 Bankruptcy Cases and Meeting of Creditors* (the "*Notice of Commencement*"), referencing "Case# D0101 CV 2007-00010," the case number for the RainbowVision Action. Decl. of Craig E. Johnson ¶ 3. On that same date, July 10, 2009, the claims and noticing agent mailed to Weis's counsel the

2 Weis filed its second and third amended complaints against BMCW Southcentral, L.P., along with many other third-party defendants. See Mot., Exhs. E, J. BMCW Southcentral, L.P. was merged into BMC West Corporation, a Debtor in these bankruptcy proceedings.

Debtors' *Notice of Hearing to Consider Approval of the Disclosure Statement for Joint Plan of Reorganization for the Debtors* (the "**Disclosure Statement Hearing Notice**"), also referencing the RainbowVision Action case number. *Id.* ¶ 4.

4. On July 16, 2009, the Court entered an *Order Pursuant to Sections 501, 502, and 1111(a) of the Bankruptcy Code, Bankruptcy Rules 2002 and 3003(c)(3), and Local Rule 2002-1(e) Establishing Bar Dates for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof* [Docket No. 248] (the "**Bar Date Order**") establishing August 31, 2009 as the bar date (the "**Bar Date**") in these Chapter 11 Cases. On July 23, 2009 the claims and noticing agent mailed to Weis's counsel the *Notice of Entry of Bar Date Order Establishing Deadlines for Filing Proofs of Claim Against the Debtors (Including Claims Pursuant to Bankruptcy Code § 503(b)(9))* (the "**Bar Date Notice**"), again referencing the RainbowVision Action case number. *Id.* ¶ 5. Weis acknowledges that its counsel received the Bar Date Notice. *See* Mot. ¶ 35; Decl. of William C. Salmon ¶ 11. The Debtors also published the Notice of Commencement and Bar Date Notice in nine different publications. *See* Docket Nos. 146, 147, 148, 149, 153, 154, 167, 250, 312, 366, 367, 368, 411, 498, 499, 500, 501, and 524.

5. Weis's counsel "received letters [and] direct voice mails, personally left voice mails and engaged in direct discussions with the Debtors' bankruptcy counsel around the Petition Date." Decl. of Tonya K. Macbeth ¶ 28. One of these letters was sent by Debtors' counsel on July 10, 2009—more than 50 days before the Bar Date—discussing at length this bankruptcy and the effect of the automatic stay on the RainbowVision Action. *See Motion of Weis Builders, Inc. for Order Granting Modification of the Automatic Stay* [Docket No. 597] (the "**Lift Stay Motion**") ¶ 42; *id.*, Exh. 9. Thereafter, Weis's counsel "engaged in repeated discussions with [Debtors' New Mexico counsel] regarding the Debtors' position in the bankruptcy, [the Debtors']

filing of the Notice of Bankruptcy, and the Debtors' position that the automatic stay applied to the entire State Court Action." Mot. ¶ 28; *see also* Decl. of Tonya K. Macbeth ¶¶ 27-28. Put simply, Weis was repeatedly notified, well in advance of the Bar Date, of these Chapter 11 Cases and the pending Bar Date. Even so, Weis filed no proof of claim in these cases before the Bar Date. *See* Decl. of Craig E. Johnson ¶ 8.

6. Instead, after the Bar Date, Weis filed its September 11, 2009 Lift Stay Motion asking the Court to lift the automatic stay in the RainbowVision Action. Even then, Weis failed to file a proof of claim or a motion to expand the Bar Date. Indeed, it was not until seven weeks later that Weis saw fit to seek this Court's stamp of approval on its negligence, to the detriment of the Debtors' vigilant creditors.

ARGUMENT

A. The Time for Filing Weis's Proof of Claim Should Not Be Enlarged Because Weis Received Notice of the Bar Date and Weis's Counsel Actually Knew About the Bar Date

7. Weis "acknowledges" that its counsel in the RainbowVision Action "received notice of the Claims Bar Date." Mot. ¶ 35; *see also* Decl. of William C. Salmon ¶¶ 11-13. The notice that Weis received was the Bar Date Notice that was specifically approved by this Court in the Bar Date Order. *See* Decl. of Craig E. Johnson ¶ 5; *see also* Decl. of William C. Salmon ¶ 11. Weis's counsel reviewed the Bar Date Notice and had actual knowledge of the Bar Date. *See* Decl. of William C. Salmon ¶¶ 11-13; Mot. ¶¶ 35, 49. Notice to Weis's counsel was notice to Weis itself. *See, e.g., In re Grand Union Corp.*, 204 B.R. 864, 875 (Bankr. D. Del. 1997) ("[N]otice to the attorney [of the bar date] can be imputed to the client if the attorney is representing the client regarding a claim against the debtor.") (quoting *Linder v. Trump's Castle Assocs.*, 155 B.R. 102, 105 (D.N.J. 1993)); *see also Marcangelo v. Boardwalk Regency*, 47 F.3d

88, 90 (3d Cir. 1995) ("A 'party is deemed bound by the acts of his lawyer-agent and is considered to have notice of all facts, notice of which can be charged upon the attorney.'") (quoting *Pioneer Investment Servs. Co. v. Brunswick Assocs.*, 507 U.S. 380, 397 (1993); *In re Marino*, 195 B.R. 886, 895 (Bankr. N.D. Ill. 1996) ("It is well recognized that an attorney's actual notice of the pendency of a bankruptcy may be imputed to his client if it occurs within the scope of the attorney-client relationship."). As the Third Circuit has explained, "the negligence of [a creditor's] counsel in failing to review the Notice sent to him by [the debtor] . . . must [be] impute[d]" to the creditor itself. *In re Am. Classic Voyages Co.*, 405 F.3d 127, 134 (3d Cir. 2005) (emphasis added); see also *In re Nw. Airlines Corp.*, 2007 WL 2815917, at *4 (Bankr. S.D.N.Y. Sept. 26, 2007) (stating the notice of the bar date sent to creditors' counsel "was, *prima facie*, reasonable"); *In re Walker*, 149 B.R. 511, 516 (Bankr. N.D. Ill. 1992) (explaining that where "the creditors' attorneys—presumed experts in law—received the information . . . those creditors through their counsel were armed with presumed awareness of their rights and risks in bankruptcy").

8. Weis urges this Court to ignore its actual knowledge of the Bar Date and to expand the Bar Date on the grounds that the notice provided to Weis was allegedly inadequate. This argument must be rejected as a matter of law. Where a creditor's counsel has actual knowledge of the Bar Date in the context of other claims against a debtor (here, purportedly his own), the creditor cannot challenge the sufficiency or form of the bar date notice. See *In re Kmart, Corp.*, 381 F.3d 709 (7th Cir. 2004) (refusing to allow a claim filed just one day late primarily because the reason for the late filing was within the movant's control). In *Kmart*, the Seventh Circuit assumed *arguendo* that the creditor received no physical notice of the bar date. *Id.* at 717. Nonetheless, the court held that because her attorney had obtained actual knowledge

of the bar date in connection with representing other clients and because this knowledge should be imputed to the creditor, "there was no...due process concern with respect to [the creditor.]"

Id.

9. Weis makes much of the fact that the preprinted proof of claim form that was included in the packet which contained the Bar Date Notice listed its attorney in the box where the name of the creditor belongs. According to Weis, this renders the Bar Date Notice itself "inaccurate and misleading." Mot. ¶ 35. The Bar Date Notice, which was specifically approved by this Court after notice and a hearing, is not inaccurate or misleading. Its terms are plain and unequivocal: "[E]ach person or entity holding or asserting a claim...against one or more of the Debtors that arose prior to the Petition Date must file a proof of claim so that it is actually received...on or before **August 31, 2009 at 5:00 p.m.** (prevailing Eastern Time) (the '*General Bar Date*')." (emphasis in original). The Bar Date Notice continues, in bold typeface:

Pursuant to Rule 3003(c)(2) of the Federal Rules of Bankruptcy Procedure, any person or entity (including, without limitation, any individual, partnership, joint venture, corporation, limited liability company, estate, trust or governmental unit) that is required to file a timely proof of claim in the form and manner specified by the Bar Date Order and this Notice and that fails to do so on or before the bar date applicable to such claim shall not be treated as a creditor of the Debtors for the purposes of voting upon, or receiving distributions under, any plan of reorganization in the Chapter 11 Cases in respect of that claim.

10. Significantly, the Court-approved Bar Date Notice that was sent to Weis does not reference any particular claimants or claims, and for good reason—the Bar Date Notice is intended to be a generic notice to all potential claimants that they must file a proof of claim in order to protect their interests, whatever those interests may be. The fact that Weis's counsel was supposedly so myopically focused on protecting his own interests that he discarded the Bar Date Notice after determining that he did not personally have a claim against the Debtors does not

change the fact that Weis, through its counsel, had unequivocal notice of the Bar Date as a matter of law. *See, e.g., Pioneer Inv. Servs. Co. v. Brunswick Assocs.*, 507 U.S. 380, 397 (1993) ("Petitioner voluntarily chose this attorney as his representative in the action, and he cannot now avoid the consequences of the acts or omissions of this freely selected agent. Any other notion would be wholly inconsistent with our system of representative litigation, in which each party is deemed bound by the acts of his lawyer-agent and is considered to have notice of all facts, notice of which can be charged upon the attorney.") (internal quotations marks and citations omitted).

11. Weis also relies on the argument that the Bar Date Notice was inadequate because it was mailed to Weis's "local" counsel, Rhodes and Salmon, P.C. ("**R&S**"), and not its "lead" counsel, Burch & Cracchiolo, P.A. ("**B&C**"). This specious notion has been roundly repudiated. According to the Third Circuit, "the argument that relief should be granted when the party's "principal" counsel did not receive notice [has been] rejected." *Marcangelo v. Boardwalk Regency*, 47 F.3d 88, 90 (3d Cir. 1995) (citing *Gooch v. Skelly Oil Co.*, 493 F.2d 366, 370 (10th Cir. 1976)) (denying a motion to extend the time to appeal where notice of the entry of the relevant judgment was provided to local counsel but not to "principal" counsel). "[R]eceipt of notice by one of two counsel of record, as here, sufficiently informs the party...." *Id.* (quoting *Alaska Limestone Corp. v. Hodel*, 799 F.2d 1409, 1412 (9th Cir. 1986); *see also Cooper v. Productive Transp. Servs. (In re Bulldog Trucking)*, 1996 U.S. App. LEXIS 15959, at *2 (4th Cir. July 2, 1996) (ruling in the context of a motion to extend the time to appeal that "[r]eceipt...by at least one of the counsel of record is sufficient to constitute notice"); *Borowski v. DePuy, Inc., Div. of Boehringer Mannheim Co.*, 876 F.2d 1339, 1341 (7th Cir. 1989) (holding that local counsel's failure to forward a magistrate's report to lead counsel was a "'run-of-the-mill oversight' between counsel of record rather than excusable neglect"); *Synalloy Corp. v. Gray*,

831 F. Supp. 351 (D. Del. 1993) (denying defendant's motion to extend time to file an appeal for excusable neglect where notice of entry of the order that started the appeal period was provided to local counsel but not "lead" counsel).

12. Without acknowledging this broad and consistent body of contrary authority, Weis posits that its theory is supported by the *Grand Union* case. However, *Grand Union* did not hold or even suggest that in order for a bar date notice to be adequate, the Debtors must send such notice to each and every lawyer representing a creditor or else bear the risk of wrongly guessing which of these lawyers is the "lead" lawyer. Rather, *Grand Union* stands for the unremarkable proposition that where a creditor is represented by counsel in connection with a claim against a debtor, the bar date notice should be directed to the creditor's attorney instead of being delivered directly to the creditor. 204 B.R. 870-81. As Weis acknowledges, that is precisely what the Debtors have done here.

B. The Time for Filing Weis's Proof of Claim Should Not Be Enlarged Because Weis's Neglect in Failing to Timely File a Proof of Claim Is Not "Excusable"

13. The Supreme Court has held that a bar date may be expanded for a particular claimant in certain limited circumstances where the claimant's failure to file a timely proof of claim is the result of "excusable neglect." See *Pioneer*, 507 U.S. 380. According to the Court, the following factors are relevant in determining whether a claimant's failure is the result of "excusable neglect": "[T]he danger of prejudice to the debtor, the length of the delay and its potential impact on judicial proceedings, the reason for the delay, including whether it was within the reasonable control of the movant, and whether the movant acted in good faith." *Id.* at 395. Fault in the delay is the preeminent factor in the *Pioneer* analysis. See e.g., *Am. Classic Voyages Co.*, 405 F.3d at 134 (3d Cir. 2005) (relying "primarily" on the fact that the delay was avoidable and was within the movant's control and refusing to extend the bar date for a late-filed

claim); *United States v. Torres*, 372 F.3d 1159, 1163 (10th Cir. 2004) ("fault in the delay remains a very important factor—perhaps the most important single factor—in determining whether neglect is excusable") (internal quotations and citations omitted); *Graphic Comms. Int'l Union v. Quebecor Printing Providence, Inc.*, 270 F.3d 1, 5 (1st Cir. 2001) ("We have observed that the four *Pioneer* factors do not carry equal weight; the excuse given for the late filing must have the greatest import.") (internal quotation marks and bracket omitted); *Lowry v. McDonnell Douglas Corp.*, 211 F.3d 457, 463 (8th Cir. 2000) (same).³ "The burden of proving excusable neglect lies with the late-claimant." *Jones v. Chemetron Corp.*, 212 F.3d 199, 205 (3d Cir. 2000).

14. Weis's neglect in failing to file a timely proof of claim is inexcusable. The resultant delay was entirely avoidable and totally within Weis's control. At the outset of these cases, Weis received a Notice of Bankruptcy Filing, the Notice of Commencement, and the Disclosure Statement Hearing Notice—each referencing the RainbowVision Action case number. See Decl. of Martin Diamond ¶ 5; Decl. of Craig E. Johnson ¶¶ 3-4. The Notice of Commencement apprised Weis of the fact that a bar date would be set and that "[c]reditors whose claims are not scheduled or whose claims are listed as disputed, contingent, or unliquidated as to amount and who desire to participate in these cases or share in any distribution must file a proof of claim." (emphasis added). The Notice of Commencement further apprised Weis that all documents filed in these cases are available to the public free of charge on the Debtors' restructuring website, www.bmhcrestructuring.com. These notices were mailed to

³ Certain of these cases and others cited herein discuss the excusable neglect standard in the context of a motion under Federal Rule of Civil Procedure 60(b) or a failure to timely file a notice of appeal. Because the excusable neglect standard articulated in *Pioneer* applies with equal force to procedural rules outside of the bankruptcy context, these cases are pertinent to the issue *sub judice*. See *George Harms Constr. Co., Inc. v. Chao*, 371 F.3d 156, 163 (3d Cir. 2004).

Weis's "local" counsel, R&S. *See* Decl. of Craig E. Johnson ¶¶ 3-4. The evidence submitted by Weis in connection with its Lift Stay Motion demonstrates that these notices were forwarded by R&S to Weis's "lead" counsel, B&C, within three days of the date they were mailed to R&S. *See* Lift Stay Motion, Exh. 9; Decl. of Craig E. Johnson ¶¶ 3-4. R&S also received a letter dated July 10, 2009 from the Debtors' bankruptcy counsel which discussed at length this bankruptcy and the effect of the automatic stay on the RainbowVision Action. This too was promptly forwarded to B&C within three days of the day it was mailed to R&S. *See id.* This letter prompted discussions between the Debtors' bankruptcy counsel and B&C. *See* Decl. of Tonya K. Macbeth ¶ 28. B&C attorneys "received letters [and] direct voice mails, personally left voice mails and engaged in direct discussions with the Debtors' bankruptcy counsel around the Petition Date." Decl. of Tonya K. Macbeth ¶ 28. Thereafter, B&C "engaged in repeated discussions with [Debtors' New Mexico counsel] regarding the Debtors' position in the bankruptcy, [the Debtors'] filing of the Notice of Bankruptcy, and the Debtors' position that the automatic stay applied to the entire State Court Action." Mot. ¶ 28; *see also* Decl. of Tonya K. Macbeth ¶¶ 27-28.

15. This evidence establishes the existence of four salient facts prior to the Court's entry of the Bar Date Order: (1) Weis was well aware of these bankruptcy proceedings and the fact that a bar date order would be entered; (2) Weis was aware that notices relating to the bankruptcy proceedings would be mailed to its local counsel, R&S; (3) there was an open line of communication between R&S and B&C; and (4) to the best of the Debtors' knowledge, notices sent to R&S were advanced to B&C.

16. Against this backdrop, Weis's failure to file a proof of claim is not justified. It strains reason to comprehend how Weis's counsel—a "presumed expert[] in law," *Walker*, 149

B.R. at 516—could (1) have notice of these bankruptcy proceedings (referencing the RainbowVision Action case number), notice of the disclosure statement hearing, notice of the fact that a generally applicable bar date would be established, notice that the Debtors and Weis were engaged in discussions surrounding counsel's very ability to proceed with its claim against the Debtors as a result of the bankruptcy, notice that all creditors seeking to participate in the distributions of the Debtors' estates must file a proof of claim, and knowledge of the fact that his client was asserting a claim against the Debtors; and (2) receive the generally applicable Bar Date Notice (again referencing the RainbowVision Action Case Number in the same manner as the Notice of Commencement) which plainly indicates that "each person or entity holding or asserting a claim...against one or more of the Debtors that arose prior to the Petition Date must file a proof of claim so that it is actually received...on or before **August 31, 2009 at 5:00 p.m.**" (first emphasis added) and that failure to file a proof of claim would prevent such persons from participating in the distribution of the Debtors' estates; and yet somehow (3) "not think that the Notice related to claims that Weis may have against the Debtors." Decl. of William C. Salmon ¶

13. Counsel's failure to comprehend the plain terms of the Bar Date Notice cannot constitute excusable neglect as a matter of law. *See Torres*, 372 F.3d at 1163 (10th Cir. 2004) ("the excusable neglect standard can never be met by a showing of inability or refusal to read and comprehend the plain language of the federal rules") (quoting *Weinstock v. Cleary, Gottlieb, Steen & Hamilton*, 16 F.3d 501, 503 (2d Cir. 1994)) (emphasis added, other citations and quotations omitted) (applying *Pioneer*); *Lowry v. McDonnell Douglas Corp.*, 211 F.3d 457, 464 (8th Cir. 2000) ([E]xperienced counsel's misapplication of clear and unambiguous procedural rules cannot excuse his failure to file a timely notice of appeal.") (applying *Pioneer*); *Advanced Estimating Sys. v. Riney*, 130 F.3d 996, 998 (11th Cir. 1997) ("[A]n attorney's misunderstanding

of the plain language of a rule cannot constitute excusable neglect such that a party is relieved of the consequences of failing to comply with a statutory deadline.") (applying *Pioneer*).

17. In addition, and as noted previously, the Bar Date Notice provided to R&S was notice to Weis itself. See, e.g., *Marcangelo*, 47 F.3d at 90 (3d Cir. 1995) ("A party is deemed bound by the acts of his lawyer-agent and is considered to have notice of all facts, notice of which can be charged upon the attorney. ... [R]eceipt of notice by one of two counsel of record, as here, sufficiently informs the party....") (internal citations and quotations omitted). The fact that B&C did not receive the Bar Date Notice is simply irrelevant. See *Borowski*, 876 F.2d at 1341 (7th Cir. 1989) (holding that local counsel's failure to forward a magistrate's report to lead counsel was a "'run-of-the-mill oversight' between counsel of record rather than excusable neglect"). Nonetheless, on the facts of this case, even B&C had sufficient notice of the Bar Date to protect its client's interests. B&C was very aware of these bankruptcy proceedings and the fact that a bar date would be established. Moreover, B&C was aware that notices relating to the bankruptcy proceedings were being mailed to R&S. B&C could have easily ensured that it too received the bar date notice by filing a notice of appearance in the bankruptcy case, instructing R&S to forward any bar date notices to it, or by periodically checking the Debtors' restructuring website.

18. Delay in filing a proof of claim that was "entirely avoidable and within [the movant's] control," as is the case here where Weis had clear and repeated notice, "strongly disfavors" the movant in seeking permission to file a late claim. *Am. Classic Voyages Co.*, 405 F.3d at 134 (3d Cir. 2005) (refusing to extend the bar date for a late-filed claim).

19. In addition, expanding the bar date to allow Weis's claim would be prejudicial to the Debtors, their estates, and the vigilant timely filers and would negatively impact these

bankruptcy proceedings. The Third Circuit's discussion in the *American Classic Voyages* case is instructive on this point:

Applying the first and second *Pioneer* factors, we conclude that Debtors will be prejudiced by exposure to a late claim and that the length of the delay would have a substantial impact on the bankruptcy proceedings. [The late claim was filed] two days after Debtors filed their Joint Plan of Liquidation with the Bankruptcy Court. A policy that would allow proof of claims at that late date would have disrupted Debtors' reorganization.

Thousands of individual claims are outstanding against Debtors; the sheer scale presents a formidable problem of management. The strict bar date provided by the Bankruptcy Court was intended, in part, to facilitate the equitable and orderly intake of those claims. Debtors argue, with some persuasive effect, that, in view of the large number of post-bar date claims filed, allowing appellant to file late might 'render the bar order meaningless.' Debtors allege, upon information and belief, that other prospective claimants have filed late claims for a total value of almost \$ 5 million, and that counsel for both Debtors and the Official Committee of Unsecured Creditors continue to receive numerous inquiries from prospective claimants. In the context of this massive bankruptcy proceeding, [movant's] late claim would be prejudicial. (citations omitted)

405 F.3d at 133-34.

20. Just like in *American Classic Voyages*, here thousands of individual claims are outstanding against the Debtors. See Decl. of Gregory Guarton ¶ 3 (attached hereto as *Exhibit C*). Just like in *American Classic Voyages*, the strict Bar Date here was intended, in part, to facilitate the equitable and orderly intake of those claims. Just like in *American Classic Voyages*, Weis's motion to expand the Bar Date was filed after the Debtors filed their plan of reorganization, and in this case after the Court approved the disclosure statement. And, just like in *American Classic Voyages*, a substantial number of post-bar date claims have been filed in this case—more than \$15.6 million in aggregate,⁴ more than three times the amount that had been filed in *American Classic Voyages*. *Id.* ¶ 5. Thus, the same concern exists in this case that

⁴ This amount excludes the \$700,000 claim asserted by Weis because Weis has yet to file a proof of claim.

allowing Weis to file late might "render the bar order meaningless." 405 F.3d at 133. This is particularly true here, where Weis was provided with notice of the Bar Date and its counsel actually knew about the Bar Date. If Weis is allowed to file late, every single other late filer will be able to make essentially the same argument that their late claims should also be allowed.⁵ Beyond effectively nullifying this Court's Bar Date Order and drowning the Debtors and their counsel in a sea of motions to expand the bar date, the allowance of these other late claims would dilute the projected distribution to the Debtors' unsecured creditors by approximately 25%.⁶ "In the Context of this massive bankruptcy proceeding, [allowing Weis's] late claim would be prejudicial." *Id.*

21. Indeed, numerous other courts have condemned attempts to extend the bar date for creditors who received actual notice, because of the prejudice to debtors and the orderly progress of their reorganization efforts, as well as the unfairness towards other creditors who timely filed and due process concerns. As one court in this Circuit has explained,

Tinkering with an established bar date may raise due process claims of parties who have timely filed claims by originally-established bar dates, since it gives late filers a second bite at an apple which is likely to be less than fully satisfying, and thus effect unfair diminution of the timely filer's share of a distribution.

⁵ Contrary to Weis's assertions, Mot. ¶ 47, this is not the first effort in this case to expand the Bar Date. *See Motion Authorizing Class Proof of Claim or, In the Alternative, to Extend Time for Individual Class Members to File Proofs of Claim* [Docket No. 543]. Nor is it likely to be the last. Other similarly situated creditors have filed motions to lift the stay in spite of the fact that they failed to file a timely proof of claim. *See, e.g., Eric Thomas' Motion for Relief from the Automatic Stay* [Docket No. 745].

⁶ In the projections attached to their disclosure statement, the Debtors assumed that there would be approximately \$45.3 million in general unsecured claims against the Debtors' estates. Because the Debtors' plan proposes to pay \$5.5 million to these unsecured creditors, the Debtors' projected that the recovery to unsecured creditors would be approximately 12.1%. If the amount of unsecured claims against the Debtors' estates were to increase by \$15.6 million to \$60.9 million, the recovery to each unsecured creditor would be reduced to approximately 9%--a reduction of more than 25%.

In re Sacred Heart Hosp. of Norristown, 177 B.R. 16, 23-24 (Bankr. E.D. Pa. 1995); *see also In re Musicland Holding Corp.*, 362 B.R. 644, 655 (Bankr. S.D.N.Y. 2007) (noting "the irony" of "extending the bar date for the benefit of those who sat on their rights . . . at the expense of the vigilant creditors who observed the bar date"; "unfair to permit 'a second bite at the apple for those creditors who received notice of the bankruptcy filing and of the Claims Bar Date, and who chose not to file'"); *In re Bally Fitness of Greater N.Y., Inc.*, 402 B.R. 616, 622 (Bankr. S.D.N.Y. 2009) ("[E]xpansion of the Bar Date for notified class members who failed to file individual claims in a timely manner will violate due process and prejudice the rights of timely filers."); *In re FirstPlus Fin., Inc.*, 248 B.R. 60, 73 (Bankr. N.D. Tex. 2000) ("[A] creditor who has received actual notice of the claims bar date, and who does not file a proof of claim, is barred and has no claim."); *In re Jamesway Corp.*, 1997 Bankr. LEXIS 825, at *34 (Bankr. S.D.N.Y. June 11, 1997) ("The bar date is akin to a statute of limitations, and must be strictly observed.").

C. Expanding the Bar Date Would Not Benefit Weis

22. Extending the Bar Date would be a fruitless enterprise because "Weis seeks to recover on any judgment it obtains against the Debtors solely from available insurance coverage, which case law clearly holds is not property of the bankruptcy estate." *Reply to Debtors' Objection to Weis Builders, Inc.'s Motion For Order Granting Modification of the Automatic Stay* [Docket No. 815] ¶ 3 (emphasis added). As Weis acknowledges, each of the Debtors' applicable insurance policies has a deductible or self insured retention of at least \$1 million. *Id.* ¶ 4; Mot. ¶ 23. Thus, there is no insurance coverage available to pay claims below \$1 million. According to Weis, "the maximum exposure of the Debtors in the [RainbowVision Action] is approximately \$700,000." Lift Stay Motion ¶ 31. Therefore, Weis seeks to extend the Bar Date

(and lift the stay) in order to cause the Debtors to expend substantial resources to litigate a claim from scratch which, as a matter of simple mathematics, would result in no recovery to Weis.

CONCLUSION

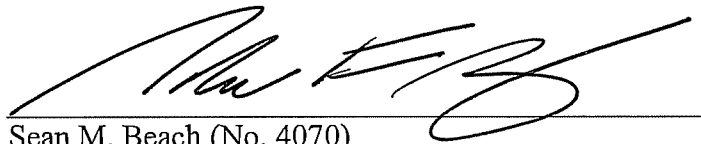
23. For the reasons set forth above, the Debtors respectfully request that the Court deny Weis's Motion in its entirety. Weis was provided with unequivocal and unambiguous notice of these Chapter 11 Cases and the Bar Date. Weis's arguments that the notice it received was inadequate must be rejected as being contrary to established law. Nor should the Bar Date be expanded on equitable grounds. Established Third Circuit precedent dictates that where, as here, the delay attendant with a movant's failure to file a proof of claim was entirely avoidable and within the movant's control, and allowing the late claim would be prejudicial to the Debtors, their estates, and their creditors and would negatively impact these Chapter 11 Cases, the Bar Date cannot be expanded.

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WHEREFORE, the Debtors therefore respectfully request that the Court enter an order denying the Motion in its entirety, and grant such other and further relief as the Court may deem just and proper.

Dated: Wilmington, Delaware
November 12, 2009

YOUNG CONAWAY STARGATT & TAYLOR, LLP



Sean M. Beach (No. 4070)
Donald J. Bowman, Jr. (No. 4383)
Robert F. Poppiti, Jr. (No. 5052)
The Brandywine Building
1000 West Street, 17th Floor
P.O. Box 391
Wilmington, Delaware 19899-0391
Telephone: (302) 571-6600
Facsimile: (302) 571-1253

----and----

GIBSON, DUNN & CRUTCHER LLP
Michael A. Rosenthal (admitted *pro hac vice*)
Matthew K. Kelsey (admitted *pro hac vice*)
Saeed M. Muzumdar (admitted *pro hac vice*)
200 Park Avenue, 47th Floor
New York, New York 10166-0193
Telephone: (212) 351-4000
Facsimile: (212) 351-4035

Aaron G. York (admitted *pro hac vice*)
Jeremy L. Graves (admitted *pro hac vice*)
2100 McKinney Avenue, Suite 1100
Dallas, Texas 75201-6911
Telephone: (214) 698-3100
Facsimile: (214) 571-2900

ATTORNEYS FOR THE DEBTORS
AND DEBTORS-IN-POSSESSION

EXHIBIT A
Declaration of Craig E. Johnson

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

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

DECLARATION OF CRAIG E. JOHNSON

I, Craig E. Johnson, declare and state as follows:

1. I am a Director, Business Reorganization of The Garden City Group, Inc., (“*GCG*”) the claims and noticing agent in the above-captioned chapter 11 cases (the “*Chapter 11 Cases*”).

2. In the Amended Schedule F of BMC West Corporation (“*BMC West*”), one of the debtors and debtors in possession in these Chapter 11 Cases (the “*Debtors*”), BMC West scheduled a contingent, unliquidated, disputed, unsecured litigation claim under the name and address of “William C. Salmon, Rhodes & Salmon, PC, 1801 Lomas Blvd., Northwest, Albuquerque, NM 87104.” That claim included the reference number “D0101 CV 2007-00010.” A true and correct copy of the relevant page of the Schedule F is attached hereto as *Attachment 1*.

¹ 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.

3. On July 10, 2009, I caused the Debtors' Notice of Commencement of Chapter 11 Bankruptcy Cases and Meeting of Creditors (the "*Notice of Commencement*") to be mailed by first class U.S. mail to the following address:

Rhodes & Salmon, PC
Attn: William C. Salmon
1801 Lomas Blvd. NW
Re: Case# D0101 CV 2007-00010
Albuquerque, NM 87104

A true and correct copy of the Notice of Commencement that was mailed to this address is attached hereto as *Attachment 2*.

4. On July 10, 2009, I caused the Debtors' Notice of Hearing to Consider Approval of the Disclosure Statement for Joint Plan of Reorganization for the Debtors (the "*Disclosure Statement Hearing Notice*") to be mailed by first class U.S. mail to the following address:

Rhodes & Salmon, PC
Attn: William C. Salmon
1801 Lomas Blvd. NW
Re: Case# D0101 CV 2007-00010
Albuquerque, NM 87104

A true and correct copy of the Disclosure Statement Hearing Notice that was mailed to this address is attached hereto as *Attachment 3*.

5. On July 23, 2009, I caused the Debtors' Notice of Entry of Bar Date Order Establishing Deadlines for Filing Proofs of Claim Against the Debtors (Including Claims Pursuant to Bankruptcy Code § 503(b)(9)) (the "*Bar Date Notice*") along with a customized proof of claim form (the "*Proof of Claim*") to be mailed by first class U.S. mail to the following address:

Rhodes & Salmon, PC
Attn: William C. Salmon
1801 Lomas Blvd. NW
Re: Case# D0101 CV 2007-00010
Albuquerque, NM 87104

A true and correct copy of the Bar Date Notice and customized Proof of Claim are attached hereto as *Attachment 4* and *Attachment 5*, respectively.

6. All customized proofs of claim generated and mailed by GCG, including the Proof of Claim mailed to William C. Salmon, contained the name, address and GCG's internal database reference number (both in numeric and barcode formats) of the individual receiving the claim form. In addition, to the extent that a proof of claim was mailed on account of a claim scheduled by one of the Debtors, that proof of claim set forth the name of the Debtor, the amount and classification of the claim, and whether such claim was scheduled as contingent, unliquidated or disputed.

7. As filed proofs of claim were received by GCG, GCG scanned each claim into a secure proprietary database maintained exclusively for these Chapter 11 cases (the "*Database*"). When GCG received a proof of claim containing a GCG barcode, GCG's scanning equipment read the barcode and programmatically linked the claim to the appropriate Database record. When GCG received a proof of claim that did not contain a GCG barcode, a trained claims processor created a new Database record for that claim by data entering the claimant's name, address and other contact information provided on the claim form. All proofs of claim (whether barcoded or not barcoded) were then fully reviewed and the details asserted thereon were entered into the Database.

8. I have reviewed the Database, and verified that, as of the date hereof, no proof of claim has been filed in the Chapter 11 Cases on behalf of Weis Builders, Inc.; Rhodes & Salmon, PC; or William C. Salmon.

9. Moreover, as part of our customary practice, GCG tracks any mail that is returned to GCG as undeliverable. I have reviewed the Database and verified that, as of date hereof, no mail that GCG sent to William C. Salmon at the address set forth in paragraph 2 including the Notice of Commencement, Notice of Disclosure Statement Hearing, Bar Date Notice, and/or Proof of Claim was returned to GCG as undeliverable.

10. Pursuant to 28 U.S.C. section 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on September 24, 2009.

/s/ Craig E. Johnson
Craig E. Johnson

ATTACHMENT 1

In re BMC West CorporationCase No. 09-12075

Debtor

AMENDED
SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
 (Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E D E B T O R	H W J C	Husband, Wife, Joint, or Community	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
			DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.				
Account No. D0101 CV 2007-00010			LITIGATION CLAIM				Unknown
WILLIAM C. SALMON RHODES & SALMON, PC 1801 LOMAS BLVD. NORTHWEST ALBUQUERQUE, NM 87104		-		X	X	X	
Account No.			TRADE DEBT				Unknown
WILLIAM FUCHS C/O REXBURG 1800		-		X	X	X	
Account No.			TRADE DEBT				Unknown
WILLIAM HEGGER C/O ISSAQUAH (7259)		-		X	X	X	
Account No.			TRADE DEBT				Unknown
WILLIAM KRING C/O CENTENNIAL 4000		-		X	X	X	
Account No.			TRADE DEBT				Unknown
WILLIAM NEWMAN C/O ABILENE 6800		-		X	X	X	
Sheet no. <u>1057</u> of <u>1080</u> sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims							Subtotal (Total of this page)
							0.00

ATTACHMENT 2

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

IN RE: BUILDING MATERIALS HOLDING CORPORATION, <i>et al.</i>, <p style="text-align: right;">Debtors.</p>))))))	Chapter 11 Case No. 09-12074 (KJC) Jointly Administered
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**NOTICE OF COMMENCEMENT OF CHAPTER 11 BANKRUPTCY
CASES AND MEETING OF CREDITORS**

On June 16, 2009, Building Materials Holding Corporation, and its wholly owned subsidiaries, the debtors and debtors in possession in the above-captioned cases (the "*Debtors*"), each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the "*Bankruptcy Code*"). The Debtors, their addresses, case numbers and last four digits of their federal tax identification numbers are as follows:

DEBTORS (Other names, if any, used by the Debtors in the last 6 years)	ADDRESS	CASE NO.	EID No.
Building Materials Holding Corporation	720 Park Blvd. Suite 200 Boise, ID 83712	09-12074	4269
BMC West Corporation	720 Park Blvd. Suite 200 Boise, ID 83712	09-12075	0454
SelectBuild Construction Inc. (f/k/a BMC Construction, Inc.)	720 Park Blvd. Suite 200 Boise, ID 83712	09-12076	1340
SelectBuild Northern California, Inc.	720 Park Blvd. Suite 200 Boise, ID 83712	09-12077	7579
Illinois Framing, Inc.	720 Park Blvd. Suite 200 Boise, ID 83712	09-12078	4451
C Construction, Inc.	720 Park Blvd. Suite 200 Boise, ID 83712	09-12079	8206
TWF Construction, Inc.	720 Park Blvd. Suite 200 Boise, ID 83712	09-12080	3334
H.N.R. Framing Systems, Inc.	720 Park Blvd. Suite 200 Boise, ID 83712	09-12081	4329
SelectBuild Southern California, Inc. (f/k/a KBI Stucco, Inc.; SelectBuild, L.P., KBI Windows, Inc., SelectBuild Florida LLC, SelectBuild Distribution, Inc., SelectBuild Mid-Atlantic, LLC, SelectBuild Trim, LLC, SelectBuild Mechanical, LLC, A-1 Building Components, LLC)	720 Park Blvd. Suite 200 Boise, ID 83712	09-12082	9378

DEBTORS (Other names, if any, used by the Debtors in the last 6 years)	ADDRESS	CASE NO.	EID No.
SelectBuild Nevada, Inc.	720 Park Blvd. Suite 200 Boise, ID 83712	09-12083	8912
SelectBuild Arizona, LLC	720 Park Blvd. Suite 200 Boise, ID 83712	09-12084	0036
SelectBuild Illinois, LLC (f/k/a RCI Construction, LLC)	720 Park Blvd. Suite 200 Boise, ID 83712	09-12085	0792

DATE, TIME AND LOCATION OF MEETING OF CREDITORS. JULY 17, 2009 AT 10:00 A.M. (PREVAILING EASTERN TIME), J. CALEB BOGGS FEDERAL BUILDING, 844 NORTH KING STREET, ROOM 5209, WILMINGTON, DELAWARE 19801.

MEETING OF CREDITORS. The Debtors' representative, as specified in Rule 9001(5) of the Federal Rules of Bankruptcy Procedure (the "*Bankruptcy Rules*"), is required to appear at the meeting of creditors on the date and at the place set forth above for the purpose of being examined under oath. Attendance by creditors at the meeting is welcomed, but not required. At the meeting, creditors may examine the Debtors and transact such other business as may properly come before the meeting. The meeting may be continued or adjourned from time-to-time by notice at the meeting, without further written notice to the creditors.

COMMENCEMENT OF CASES. A petition under chapter 11 of the Bankruptcy Code has been filed in the United States Bankruptcy Court for the District of Delaware (the "*Court*") by each of the Debtors, and orders for relief have been entered. Pursuant to that certain order entered by the Court, dated June 17, 2009 [Docket No. 52], the chapter 11 cases filed by each of the Debtors will be jointly administered under the following caption: In re Building Materials Holding Corporation *et al.*, Case No. 09-12074 (KJC). You will not receive notice of all documents filed in these cases. All documents filed with the Court, including lists of the Debtors' property and debts, are available for inspection at the Office of the Clerk of the Court (the "*Clerk's Office*"). In addition, such documents may be available at www.deb.uscourts.gov. A PACER password is needed to access these documents and can be obtained from the PACER Service Center at www.pacer.psc.uscourts.gov. In addition, such documents are available through the website of The Garden City Group, Inc., the claims agent in these cases, at www.bmhcrestructuring.com. Information regarding the cases is also available by phone at 1-866-364-4266.

DEADLINE TO FILE A PROOF OF CLAIM. Notice of this deadline will be sent by and through a separate notice.

NAME, ADDRESS AND TELEPHONE NUMBER OF TRUSTEE. None appointed to date.

COUNSEL FOR THE DEBTORS.

Michael A. Rosenthal, Esq.
Matthew K. Kelsey, Esq.
GIBSON, DUNN & CRUTCHER LLP
200 Park Avenue
New York, New York 10166-0193

Sean M. Beach, Esq.
Donald J. Bowman, Jr., Esq.
Robert F. Poppiti, Jr., Esq.
YOUNG CONAWAY STARGATT & TAYLOR, LLP
The Brandywine Building
1000 West Street, 17th Floor, P.O. Box 391
Wilmington, Delaware 19899-0391
Telephone: (302) 571-6731

PURPOSE OF CHAPTER 11 FILING. Chapter 11 of the Bankruptcy Code enables debtors to reorganize pursuant to a plan. A plan is not effective unless approved by the Court at a confirmation hearing. Creditors will be given notice concerning any

plan, or in the event these cases are dismissed or converted to another chapter of the Bankruptcy Code. The Debtors will remain in possession of their property and will continue to operate their businesses unless a trustee is appointed.

CREDITORS MAY NOT TAKE CERTAIN ACTIONS. A creditor is anyone to whom any of the Debtors owe money or property. Under the Bankruptcy Code, the Debtors are granted certain protections against creditors. Common examples of prohibited actions by creditors are contacting the Debtors to demand repayment, taking action against the Debtors to collect money owed to creditors or to take property of the Debtors, and starting or continuing foreclosure actions or repossessions. If unauthorized actions are taken by a creditor against the Debtors, the Court may penalize that creditor. A creditor who is considering taking action against the Debtors or the property of the Debtors should review section 362 of the Bankruptcy Code and may wish to seek legal advice. *The staff of the Clerk's Office is not permitted to give legal advice.*

CLAIMS. Schedules of creditors will be filed pursuant to Bankruptcy Rule 1007. Any creditor holding a scheduled claim, which is not listed as disputed, contingent, or unliquidated as to amount, may, but is not required to, file a proof of claim in these cases. Creditors whose claims are not scheduled or whose claims are listed as disputed, contingent, or unliquidated as to amount and who desire to participate in these cases or share in any distribution must file a proof of claim. A creditor who desires to rely on the schedules of creditors has the responsibility for determining that its claim is listed accurately. *Separate notice of the deadlines to file proofs of claim and proofs of claim forms will be provided to the Debtors' known creditors.* Proofs of claim forms also are available in the clerk's office of any United States Bankruptcy Court and from the Court's website at www.deb.uscourts.gov.

DISCHARGE OF DEBTS. Confirmation of a chapter 11 case may result in a discharge of debts, which may include all or part of your debt. *See* 11 U.S.C. § 1141(d). A discharge means that you may never try to collect the debt from the Debtors, except as provided in the plan.

For the Court: /s/ David D. Bird
Clerk of the United States Bankruptcy
Court for the District of Delaware

Dated: June 22, 2009

ATTACHMENT 3

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

IN RE:)	
	)	Chapter 11
BUILDING MATERIALS HOLDING CORPORATION, et al.,¹)	
	)	Case No. 09-12074 (KJC)
Debtors.)	
	)	Jointly Administered
)	
	)	Ref. Docket No. 19

**NOTICE OF HEARING TO CONSIDER APPROVAL OF THE DISCLOSURE
STATEMENT FOR JOINT PLAN OF REORGANIZATION FOR THE DEBTORS**

PLEASE TAKE NOTICE THAT on June 16, 2009, the above-captioned debtors (collectively, the "*Debtors*") filed with the United States Bankruptcy Court for the District of Delaware (the "*Court*") (a) the *Joint Plan of Reorganization for the Debtors Under Chapter 11 of the Bankruptcy Code* (as it may be amended or modified, the "*Plan*") and (b) the *Disclosure Statement With Respect to Joint Plan of Reorganization for the Debtors Under Chapter 11 of the Bankruptcy Code* (as it may be amended or modified, the "*Disclosure Statement*") pursuant to section 1125 of title 11 of the United States Code (the "*Bankruptcy Code*").

PLEASE TAKE FURTHER NOTICE THAT a hearing (the "*Disclosure Statement Hearing*") will be held before the Honorable Kevin J. Carey, Chief United States Bankruptcy Judge, at the Court, 824 Market Street, 6th Floor, Wilmington, Delaware 19801 on **July 29, 2009 at 10:00 a.m. (prevailing Eastern Time)** to consider the entry of an order, among other things, finding that the Disclosure Statement contains "adequate information" within the meaning of section 1125 of the Bankruptcy Code, approving the Disclosure Statement and establishing procedures for the solicitation and tabulation of votes to accept or reject the Plan. The Disclosure Statement may be amended or modified at or prior to the Disclosure Statement Hearing, and the Disclosure Statement Hearing may be adjourned from time to time without further notice, except for the announcement of the adjourned date(s) at the Disclosure Statement Hearing or any continued hearing(s).

PLEASE TAKE FURTHER NOTICE THAT objections, if any, to the approval of the Disclosure Statement must be in writing and must: (a) state the name and address of the objector or entity proposing a modification to the Disclosure Statement and the amount of its claim or nature of its interest in the Debtors' chapter 11 cases; (b) specify the basis and nature of any objection and set forth the proposed modification to the Disclosure Statement, together with suggested language; (c) be filed with the Clerk's Office, 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801 together with proof of service, **on or before 4:00 p.m. (prevailing Eastern Time) on July 22, 2009** (the "*Objection Deadline*"); and (d) be served, so as to be actually received on or before the Objection Deadline, upon (i) Gibson, Dunn & Crutcher LLP, 200 Park Ave, New York, New York 10166 (Attn: Michael A. Rosenthal and Matthew K. Kelsey) and Young Conaway Stargatt & Taylor, LLP, 1000 West Street, 17th Floor, P.O. Box 391, Wilmington, Delaware 19899-0391 (Attn: Sean M. Beach and Robert F. Poppiti, Jr.), counsel for the Debtors; (ii) Arent Fox LLP, 1050 Connecticut Ave, Washington, DC 20036-5339 (Attn: Christopher J. Giaimo and Katie A. Lane), counsel to the official committee of

¹ 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.

unsecured creditors appointed in these chapter 11 cases; (iii) Paul, Hastings, Janofsky & Walker LLP, 55 Second Street, 24th Floor, San Francisco, CA 94105 (Attn: Kevin Fisher and Seth Mennillo) and Richards, Layton & Finger, One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 (Attn: Paul N. Heath), counsel for Wells Fargo Bank, N.A., as administrative agent under the Prepetition Credit Agreement and the DIP Facility (as defined in the Plan); and (iv) the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Lockbox #35, Wilmington, Delaware 19801 (Attn: Joseph J. McMahon).

PLEASE TAKE FURTHER NOTICE THAT if any objection to the Disclosure Statement is not filed and served as prescribed herein, the objecting party may be barred from objecting to the adequacy of the Disclosure Statement and may not be heard at the Disclosure Statement Hearing.

PLEASE TAKE FURTHER NOTICE THAT copies of the Plan and Disclosure Statement may be obtained by parties in interest free of charge on The Garden City Group, Inc.'s dedicated webpage related to these cases (www.bmhcrestructuring.com). Copies of the Plan and Disclosure Statement are also available for inspection during regular business hours at the Clerk's Office, 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801. In addition, copies of the Plan and Disclosure Statement may be viewed on the Internet at the Court's website (<http://www.deb.uscourts.gov>) by following the directions for accessing the ECF system on such website.

PLEASE TAKE FURTHER NOTICE THAT this notice is not a solicitation of votes to accept or reject the Plan. Votes on the Plan may not be solicited unless and until the proposed Disclosure Statement is approved by an order of the Court. Following approval of the Disclosure Statement by the Court, holders of claims against, or interests in, the Debtors will receive a copy of the Disclosure Statement, the Plan and various documents related thereto, unless otherwise ordered by the Court.

Para obtener una versión en español de esta notificación, por favor contactar a The Garden City Group en el telefono (866) 364-4266.

Dated: Wilmington, Delaware
June 30, 2009

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Sean M. Beach

Sean M. Beach (No. 4070)
Donald J. Bowman, Jr. (No. 4383)
Robert F. Poppiti, Jr. (No. 5052)
The Brandywine Building
1000 West Street, 17th Floor
Wilmington, DE 19801
Telephone: 302.571.6731
Facsimile: 302.571.1253

—-and—-

GIBSON, DUNN & CRUTCHER LLP
Michael A. Rosenthal (admitted *pro hac vice*)
Matthew K. Kelsey (admitted *pro hac vice*)
200 Park Avenue, 47th Floor
New York, NY 10166-0193
Telephone: 212.351.4000
Facsimile: 212.351.4035

PROPOSED ATTORNEYS FOR DEBTORS AND
DEBTORS IN POSSESSION

ATTACHMENT 4

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

IN RE:

BUILDING MATERIALS HOLDING
CORPORATION, *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 09-12074 (KJC)
)
) Jointly Administered
)
) Ref. Docket No. 248
)

Para obtener una versión en español de esta notificación, por favor contactar a The Garden City Group en el telefono (866) 364-4266.

**NOTICE OF ENTRY OF BAR DATE ORDER ESTABLISHING
DEADLINES FOR FILING PROOFS OF CLAIM AGAINST THE DEBTORS
(INCLUDING CLAIMS PURSUANT TO BANKRUPTCY CODE § 503(b)(9))**

PLEASE TAKE NOTICE THAT:

The United States Bankruptcy Court for the District of Delaware (the "*Bankruptcy Court*") has entered an order [Docket No. 248] (the "*Bar Date Order*") establishing deadlines to file proofs of claim for all claims (as defined below), including claims pursuant to section 503(b)(9) (a "*503(b)(9) Claim*") of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the "*Bankruptcy Code*") against the above-captioned debtors and debtors-in-possession (collectively, the "*Debtors*") that arose prior to June 16, 2009 (the "*Petition Date*").

You should not file a proof of claim if you do not have a claim against the Debtors. The fact that you received this notice (the "*Notice*") does not necessarily mean that you have a claim or that either the Debtors or the Bankruptcy Court believe that you have a claim.

Pursuant to the terms of the Bar Date Order, and except as otherwise provided herein, each person or entity² (including, without limitation, each individual, partnership, joint venture, corporation, limited liability company, estate, trust, or governmental unit³) that holds or asserts a claim against any of the Debtors must file a proof of claim with original signature, substantially conforming to the proof of claim form enclosed herewith, so that it is actually received by The Garden City Group, Inc. ("*GCG*"), the approved Bankruptcy Court claims and noticing agent in these chapter 11 cases (the "*Chapter 11 Cases*"), on or before the applicable bar date set forth below. Proofs of claim sent by *first-class mail* must be sent to the following address:

The Garden City Group, Inc.
Attn: Building Materials Holding Corporation
P.O. Box 9393
Dublin, OH 43017-4293

¹ The Debtors, along with the last four digits of each Debtor's tax identification number, and chapter 11 case number, are as follows: Building Materials Holding Corporation (4269) Case No. 09-12074, BMC West Corporation (0454) Case No. 09-12075, SelectBuild Construction, Inc. (1340) Case No. 09-12076, SelectBuild Northern California, Inc. (7579) Case No. 09-12077, Illinois Framing, Inc. (4451) Case No. 09-12078, C Construction, Inc. (8206) Case No. 09-12079, TWF Construction, Inc. (3334) Case No. 09-12080, H.N.R. Framing Systems, Inc. (4329) Case No. 09-12081, SelectBuild Southern California, Inc. (9378) Case No. 09-12082, SelectBuild Nevada, Inc. (8912) Case No. 09-12083, SelectBuild Arizona, LLC (0036) Case No. 09-12084, and SelectBuild Illinois, LLC (0792) Case No. 09-12085. The mailing address for the Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

² "Entity" has the meaning given to it in section 101(15) of the Bankruptcy Code.

³ "Governmental Unit" has the meaning given to it in section 101(27) of the Bankruptcy Code.

Proofs of claim sent by *messenger* or *overnight courier* must be sent to the following address:

The Garden City Group, Inc.
Attn: Building Materials Holding Corporation
5151 Blazer Parkway, Suite A
Dublin, OH 43017

To be properly filed, a proof of claim must be filed in the bankruptcy case of the specific Debtor against which the claimant holds or asserts a claim. For example, if a claimant holds or asserts a claim against SelectBuild Arizona, LLC, the proof of claim must be filed against SelectBuild Arizona, LLC in case number 09-12084. If a claimant wishes to assert a claim against more than one Debtor, separate proof of claim forms must be filed against each applicable Debtor. A complete list of Debtors with corresponding case numbers is set forth in footnote 1 of this Notice.

Proofs of claim will be deemed timely filed only if *actually received* by GCG on or before the bar date applicable to such claim. Further, GCG will not accept proofs of claim sent by facsimile, telecopy, e-mail, or other electronic submission, and such claims will not be deemed to be properly filed claims.

General Bar Date. Except as otherwise provided herein, each person or entity holding or asserting a claim (including a 503(b)(9) Claim) against one or more of the Debtors that arose prior to the Petition Date must file a proof of claim so that it is actually received by GCG on or before **August 31, 2009 at 5:00 p.m.** (prevailing Eastern Time) (the "**General Bar Date**").

Governmental Unit Bar Date. Each governmental unit holding or asserting a claim against one or more of the Debtors that arose prior to the Petition Date must file a proof of claim so that it is actually received by GCG on or before **December 16, 2009 at 5:00 p.m.** (prevailing Eastern Time) (the "**Governmental Bar Date**").

Amended Schedules Bar Date. If, on or after the date on which the Debtors serve this Notice, the Debtors amend or supplement their schedules of assets and liabilities, list of equity holders, and statements of financial affairs (collectively, the "**Schedules**") (i) to reduce the undisputed, noncontingent, and liquidated amount of a claim, (ii) to change the nature or characterization of a claim or the Debtor against whom the claim is scheduled, or (iii) to add a new claim to the Schedules, the affected claimant is required to file a proof of claim or amend any previously filed proof of claim in respect of the amended scheduled claim so that the proof of claim is actually received by GCG on or before the later of (x) the General Bar Date or (y) 30 days after the claimant is served with notice of the applicable amendment or supplement to the Schedules.

Rejection Bar Date. A proof of claim relating to a Debtor's rejection of an executory contract or unexpired lease pursuant to a Bankruptcy Court order entered prior to the applicable Debtor's plan of reorganization must be filed so that it is actually received by GCG on or before the later of (i) the General Bar Date or (ii) 30 days after the effective date of such Bankruptcy Court order.

For purposes of the Bar Date Order and this Notice, the term "claim" means (i) any right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or (ii) any right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured as of the Petition Date.

For purposes of the Bar Date Order and this Notice, a "503(b)(9) Claim" is a claim for the value of any goods received by the Debtors within 20 days prior to the Petition Date in which the goods have been sold to the Debtors in the ordinary course of the Debtors' business.

The following persons and entities need **NOT** file a proof of claim:

- a. any person or entity that has already properly filed a proof of claim against the applicable Debtor(s) with either GCG or the Clerk of the Court for the Bankruptcy Court;
- b. any person or entity (i) whose claim is listed in the Debtors' Schedules or any amendments thereto, *and* (ii) whose claim is not described therein as "disputed," "contingent," or "unliquidated," *and* (iii) who does not dispute the amount or characterization of its claim (including that the claim is an

obligation of the specific Debtor against which the claim is listed in the Schedules) as set forth in the Schedules;⁴

- c. professionals retained by the Debtors or the Official Committee of Unsecured Creditors pursuant to orders of the Bankruptcy Court who assert administrative claims for fees and expenses subject to the Bankruptcy Court's approval pursuant to sections 330, 331, and 503(b) of the Bankruptcy Code;
- d. any person or entity that asserts an administrative expense claim against the Debtors pursuant to section 503(b) of the Bankruptcy Code; *provided, however*, that, any person or entity that has a 503(b)(9) Claim must file a proof of claim on or before the General Bar Date;
- e. any Debtor asserting a claim against another Debtor; and
- f. any person or entity whose claim against the Debtors has been allowed by an order of the Bankruptcy Court entered on or before the General Bar Date.

Any person or entity (including, without limitation, any individual, partnership, joint venture, corporation, limited liability company, estate, trust or governmental unit) holding an interest in the Debtors (an "Interest Holder"), which interest is based exclusively upon the ownership of common or preferred stock in the corporation or warrants or rights to purchase, sell or subscribe to such a security (any such security being referred to in this Notice as an "Interest"), need not file a proof of interest on or before the General Bar Date; provided, however, that Interest Holders who wish to assert claims against the Debtors that arise out of or relate to the ownership or purchase of an Interest, including claims arising out of or relating to the sale, issuance or distribution of such Interest, must file proofs of claim on or before the General Bar Date (or, in the case of a governmental unit, the Governmental Bar Date), unless another exception identified in the Bar Date Order applies.

Pursuant to Rule 3003(c)(2) of the Federal Rules of Bankruptcy Procedure, any person or entity (including, without limitation, any individual, partnership, joint venture, corporation, limited liability company, estate, trust or governmental unit) that is required to file a timely proof of claim in the form and manner specified by the Bar Date Order and this Notice and that fails to do so on or before the bar date applicable to such claim shall not be treated as a creditor of the Debtors for the purposes of voting upon, or receiving distributions under, any plan of reorganization in the Chapter 11 Cases in respect of that claim.

The Debtors reserve the right to (a) dispute, or to assert offsets or defenses against, any claim filed or any claim listed or reflected in the Schedules as to nature, amount, liability, classification, or otherwise; and (b) subsequently designate any claim as disputed, contingent, or unliquidated. Nothing contained in this Notice shall preclude the Debtors from objecting to any filed claim on any grounds.

Acts or omissions of the Debtors, if any, that occurred prior to the Petition Date, including acts or omissions related to any indemnity agreements, guarantees, or services provided to or rendered by the Debtors, may give rise to claims against the Debtors notwithstanding the fact that such claims (or any injuries on which they are based) may be contingent or may not have matured or become fixed or liquidated prior to the Petition Date. Therefore, any person or entity that holds or asserts a claim or a potential claim against the Debtors, no matter how remote or contingent, must file a proof of claim on or before the General Bar Date.

You may be listed as the holder of a claim against the Debtors in the Schedules. If you hold or assert a claim that is not listed in the Schedules or if you disagree with the amount or priority of your claim as listed in the Schedules, or your claim is listed in the Schedules as "contingent," "unliquidated," or "disputed," you must file a proof of claim. Copies of the Schedules and the Bar Date Order are available for inspection during regular business hours at the office of the Clerk of the Court for the United States Bankruptcy Court for the District of Delaware, 3rd Floor, 824 Market Street, Wilmington, Delaware 19801. In addition, copies of the Debtors' Schedules and Bar Date Order may be obtained for a charge through Delaware Document Retrieval, 2 East 7th Street, 2nd Floor, Wilmington, Delaware 19801; or viewed and downloaded free of

⁴ If the administrative agent under the Debtors' Second Amended and Restated Credit Agreement, dated as of November 10, 2006 (the "*Prepetition Credit Agreement*") disputes the scheduled amount of claims thereunder, the administrative agent may file a proof of claim on behalf of all such lenders.

charge on GCG's dedicated website for the Chapter 11 Cases (www.bmhcrestructuring.com); or viewed and downloaded for a fee at the Bankruptcy Court's website (<http://www.deb.uscourts.gov/>) by following the directions for accessing the ECF system on such website. Information relating to the Debtors' restructuring, including all documents referenced in this Notice, can be viewed at www.bmhcrestructuring.com.

Questions concerning the contents of this Notice and requests for proofs of claim should be directed to GCG at 1-866-364-4266. Please note that GCG's staff is not permitted to give legal advice. You should consult your own attorney for assistance regarding any other inquiries, such as questions concerning the completion or filing of a proof of claim.

Dated: Wilmington, Delaware
July 23, 2009

BY ORDER OF THE HONORABLE KEVIN J. CAREY
CHIEF UNITED STATES BANKRUPTCY JUDGE

GIBSON, DUNN & CRUTCHER LLP
Michael A. Rosenthal (admitted *pro hac vice*)
Matthew K. Kelsey (admitted *pro hac vice*)
200 Park Ave, 47th Floor
New York, NY 10166-0193
Telephone: 212.351.4000
Facsimile: 212.351.4035

---- and ----

YOUNG CONAWAY STARGATT & TAYLOR, LLP
Sean M. Beach (No. 4070)
Donald J. Bowman, Jr. (No. 4383)
Robert F. Poppiti, Jr. (No. 5052)
The Brandywine Building
1000 West St., 17th Floor
Wilmington, DE 19801
Telephone: 302.571.6731
Facsimile: 302.571.1253

ATTORNEYS FOR DEBTORS AND DEBTORS IN POSSESSION

ATTACHMENT 5

01101108

BMC0271478945



UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE				PROOF OF CLAIM
Name of Debtor (Check Only One): <input type="checkbox"/> Building Materials Holding Corporation <input type="checkbox"/> BMC West Corporation <input type="checkbox"/> SelectBuild Construction, Inc. <input type="checkbox"/> SelectBuild Northern California, Inc. <input type="checkbox"/> Illinois Framing, Inc. <input type="checkbox"/> C Construction, Inc.	Case No. 09-12074 09-12075 09-12076 09-12077 09-12078 09-12079	Name of Debtor <input type="checkbox"/> TWF Construction, Inc. <input type="checkbox"/> H.N.R. Framing Systems, Inc. <input type="checkbox"/> SelectBuild Southern California, Inc. <input type="checkbox"/> SelectBuild Nevada, Inc. <input type="checkbox"/> SelectBuild Arizona, LLC <input type="checkbox"/> SelectBuild Illinois, LLC	Case No. 09-12080 09-12081 09-12082 09-12083 09-12084 09-12085	Your Claim is Scheduled As Follows: BMC WEST CORPORATION Unsecured; Unknown Contingent / Unliquidated / Disputed
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case, except for purposes of asserting an administrative expense under 11 U.S.C. § 503(b)(9) (see Item 6 below). All other requests for payment of an administrative expense should be filed pursuant to 11 U.S.C. § 503.				
Name of Creditor (the person or other entity to whom the Debtor owes money or property): WILLIAM C. SALMON	<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim. Court Claim Number: _____ <i>(If known)</i> Filed on: _____			
Name and address where notices should be sent: WILLIAM C. SALMON RHODES & SALMON, PC 1801 LOMAS BLVD. NORTHWEST ALBUQUERQUE NM 87104 Telephone number: Email Address:	<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check this box if you are the Debtor or trustee in this case.			
Name and address where payment should be sent (if different from above): Telephone number:	If an amount is identified above, you have a claim scheduled by one of the Debtors as shown. Please review the Bar Date Notice to determine whether you must file a proof of claim to preserve your rights. The Bar Date Notice is available online at www.bmherstructuring.com or upon request at the address on the back of this form. THIS SPACE IS FOR COURT USE ONLY			
1. Amount of Claim as of Date Case Filed: \$ _____ If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4. If all or part of your claim is entitled to priority, complete item 5. If your claim is asserted pursuant to 11 U.S.C. § 503(b)(9), complete item 6. <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.				5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount. Specify the priority of the claim.
2. Basis for Claim: _____ <i>(See instruction #2 on reverse side.)</i>				<input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950) earned within 180 days before filing of the bankruptcy petition or cessation of the Debtor's business, whichever is earlier – 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. § 507(a)(5). <input type="checkbox"/> Up to \$2,425 of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. § 507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. § 507(a)(8). <input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. § 507(a)(). [Note: Do not include Section 503(b)(9) Claims here.] Amount entitled to priority: \$ _____
3. Last four digits of any number by which creditor identifies Debtor: _____ 3a. Debtor may have scheduled account as: _____ <i>(See instruction #3a on reverse side.)</i>				
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Equipment <input type="checkbox"/> Other Describe: _____ Value of Property: \$ _____ Annual Interest Rate % Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____				
6. Claim Pursuant to 11 U.S.C. § 503(b)(9): Indicate the amount of your claim arising from your provision of goods sold to a Debtor in the ordinary course of the Debtor's business in the 20 days before June 16, 2009: Attach documentation supporting such claim. \$ _____				FOR COURT USE ONLY
7. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.				
8. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. <i>(See instruction #8 and definition of "redacted" on reverse side.)</i> DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain in an attachment.				
Date: _____	Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.			FOR COURT USE ONLY

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.
 Modified B10 (GCG) (12/08)

INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, there may be exceptions to these general rules. The attorneys for the Debtors and their court-appointed claims agent are not authorized and are not providing you with any legal advice.

PLEASE SEND YOUR ORIGINAL, COMPLETED PROOF OF CLAIM AS FOLLOWS: IF BY MAIL: THE GARDEN CITY GROUP, INC., ATTN: BUILDING MATERIALS HOLDING CORPORATION, P.O. BOX 9393, DUBLIN, OH 43017-4293. IF BY HAND OR OVERNIGHT COURIER: THE GARDEN CITY GROUP, INC., ATTN: BUILDING MATERIALS HOLDING CORPORATION, 5151 BLAZER PARKWAY, SUITE A, DUBLIN, OH 43017. ANY PROOF OF CLAIM SUBMITTED BY FACSIMILE OR E-MAIL WILL NOT BE ACCEPTED.

THE GENERAL BAR DATE IN THESE CHAPTER 11 CASES IS AUGUST 31, 2009 AT 5:00 P.M. (PREVAILING EASTERN TIME).
THE GOVERNMENTAL BAR DATE IN THESE CHAPTER 11 CASES IS DECEMBER 16, 2009 AT 5:00 P.M. (PREVAILING EASTERN TIME).

Court, Name of Debtor, and Case Number:

These chapter 11 cases were commenced in the United States Bankruptcy Court for the District of Delaware on June 16, 2009. You should select the Debtor against which you are asserting your claim.

A SEPARATE PROOF OF CLAIM FORM MUST BE FILED AGAINST EACH DEBTOR AGAINST WHICH THE CREDITOR HOLDS OR ASSERTS A CLAIM.

Creditor's Name and Address:

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. Please provide us with a valid email address. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

1. Amount of Claim as of Date Case Filed:

State the total amount owed to the creditor as of June 16, 2009. Follow the instructions concerning whether to complete items 4, 5 and/or 6. Check the box if interest or other charges are included in the claim.

2. Basis for Claim:

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on the delivery of health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if the trustee or another party in interest files an objection to your claim.

3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:

State only the last four digits of the Debtor's account or other number used by the creditor to identify the Debtor.

3a. Debtor May Have Scheduled Account As:

Use this space to report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the Debtor.

4. Secured Claim:

Check the appropriate box and provide the requested information if the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See DEFINITIONS, below.) State the type and the value of property that secures the claim, attach copies of lien documentation, and state annual interest rate and the amount past due on the claim as of the date of the bankruptcy filing.

5. Amount of Claim Entitled to Priority Under 11 U.S.C. § 507(a):

If any portion of your claim falls in one or more of the listed categories, check the appropriate box(es) and state the amount entitled to priority. (See DEFINITIONS, below.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

6. Claim Pursuant to 11 U.S.C. § 503(b)(9):

Indicate the amount of your claim arising from your provision of goods to a Debtor in the ordinary course of the Debtor's business in the 20 days before June 16, 2009. Attach documentation supporting such claim.

7. Credits:

An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the Debtor credit for any payments received toward the debt.

8. Documents:

Attach to this proof of claim form redacted copies documenting the existence of the debt and of any lien securing the debt. You may also attach a summary. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary. FRBP 3001(c) and (d). If the claim is based on the delivery of health care goods or services, see instruction #2. Do not send original documents, as attachments may be destroyed after scanning.

Date and Signature:

The person filing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2), authorizes courts to establish local rules specifying what constitutes a signature. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. Attach a complete copy of any power of attorney. Criminal penalties apply for making a false statement on a proof of claim.

DEFINITIONS

Debtor

A Debtor is the person, corporation, or other entity that has filed a bankruptcy case.

Creditor

A creditor is the person, corporation, or other entity owed a debt by the Debtor on the date of the bankruptcy filing.

Claim

A claim is the creditor's right to receive payment on a debt that was owed by the Debtor on the date of the bankruptcy filing. See 11 U.S.C. § 101(5). A claim may be secured or unsecured.

Proof of Claim

A proof of claim is a form used by the creditor to indicate the amount of the debt owed by the Debtor on the date of the bankruptcy filing. The creditor must file the form with The Garden City Group, Inc. as described in the instructions above and in the Bar Date Notice.

Secured Claim Under 11 U.S.C. § 506(a)

A secured claim is one backed by a lien on property of the Debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car. A lien may be voluntarily granted by a Debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien. A claim also may be secured if the creditor owes the Debtor money (has a right to setoff).

Section 503(b)(9) Claim

A Section 503(b)(9) claim is a claim for the value of any goods received by the Debtor within 20 days before the date of commencement of a bankruptcy case in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business.

Unsecured Claim

An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

Claim Entitled to Priority Under 11 U.S.C. § 507(a)

Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

Redacted

A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information. A creditor should redact and use only the last four digits of any social-security, individual's tax-identification, or financial-account number, all but the initials of a minor's name and only the year of any person's date of birth.

Evidence of Perfection

Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

INFORMATION

Acknowledgment of Filing of Claim

To receive acknowledgment of your filing from The Garden City Group, Inc., please provide a stamped self-addressed envelope and a copy of this proof of claim when you submit the original claim to The Garden City Group, Inc.

Offers to Purchase a Claim

Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the Debtor. These entities do not represent the bankruptcy court or the Debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(e), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 et seq.), and any applicable orders of the bankruptcy court.

EXHIBIT B
Declaration of Martin Diamond

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

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

DECLARATION OF MARTIN DIAMOND

I, Martin Diamond, declare and state as follows:

1. I am an attorney with the law firm of Butt Thorton & Baehr PC. I am counsel of record for BMC West Corporation² in the Santa Fe, New Mexico state court action titled Rainbow Vision Santa Fe, LLC v. Weis Builders, Inc. (No. D-0101-CV-2007-00010) (the "*RainbowVision Action*"). See Docket Sheet (attached hereto as *Attachment I*).
2. According to the RainbowVision Action docket sheet entry dated November 14, 2008, the summons issued on September 9, 2008 to BMCW Southcentral L.P. and BBD Construction L.P. were served on "Tammy Cheshire."
3. According to the RainbowVision Action docket sheet entry dated March 19, 2009, "Len Baumann" was served with a summons on March 4, 2009.

¹ 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.

² Weis Builders, Inc. misidentified BMC West Corporation as BMCW Southcentral L.P., d/b/a/ BMC Construction and BBD Construction L.P. in its filings in the RainbowVision Action.

4. I first entered a notice of appearance in the RainbowVision Action on April 10, 2009. I filed an answer in the RainbowVision Action on behalf of BMC West Corporation on April 24, 2009 (attached hereto as *Attachment 2*)

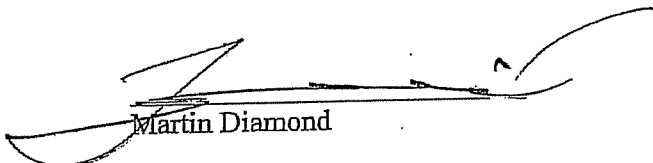
5. On June 23, 2009, I filed a Notice of Bankruptcy Filing on behalf of the Debtors in the RainbowVision Action (attached hereto as *Attachment 3*).

6. Other ~~than the actions~~ recounted above, I have engaged in no other litigation activity of substance on behalf of BMC West Corporation in the RainbowVision Action. No discovery requests have been exchanged by BMC West Corporation with any other party in the RainbowVision Action. No depositions have been taken or defended by BMC West Corporation. No experts have been hired or witnesses interviewed.

7. Litigating the RainbowVision Action on behalf of BMC West Corporation would be an extensive and time-consuming undertaking. Cross-claims would likely be filed against BMC West Corporation by other subcontractor third-party defendants, and BMC West Corporation would likely be required to file cross-claims of its own. Multiple consulting and testifying experts would need to be hired, prepared, and deposed, and the many experts hired by other parties would need to be deposed. Many witnesses—including suppliers, managers, and employees of both BMC West Corporation and other parties to the case—would need to be interviewed and deposed. Extensive written discovery would be exchanged with Weis Builders, Inc. and other parties. Summary judgment motions would likely be filed by both BMC West Corporation and other parties. Finally, a trial in the RainbowVision Action would be exceedingly complicated, given the number of parties and issues involved.

8. Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on September 23, 2009.


Martin Diamond

Attachment 1

RAINBOWVISION SANTA FE V PCI C

CASE DETAIL

CASE #	CURRENT JUDGE	FILING DATE	COURT
D-101-CV-200700010	JAMES A HALL	01/03/2007	SANTA FE District

PARTIES TO THIS CASE

PARTY TYPE	PARTY DESCRIPTION	PARTY #	PARTY NAME
D	DEFENDANT	10	LLOYD & ASSOCIATES ARCHITECTS PA
D	DEFENDANT	11	MOREY WALKER & ASSOCIATES
			ENGINEERING INC
P	PLAINTIFF	2	WES BUILDERS INC
TD	3RD PARTY DEF	1	EMCO INC
TD	3RD PARTY DEF	2	RODGERS PLUMBING AND HEATING CO
			INC
TD	3RD PARTY DEF	3	DOMINGUEZ CARPET AND TILE INC
TD	3RD PARTY DEF	4	EKER BROTHERS INC
TD	3RD PARTY DEF	5	T L C COMPANY INC
TD	3RD PARTY DEF	6	SUPERIOR CONTRACTING CORPORATION
TD	3RD PARTY DEF	7	INSULATION AND SEALANTS
TD	3RD PARTY DEF	9	BBD CONSTRUCTION LP
	ATTORNEY: MARTIN DIAMOND		
TD	3RD PARTY DEF	10	BMC CONSTRUCTION
TD	3RD PARTY DEF	11	MAVERICK FRAMING INC
D	DEFENDANT	3	JOHN DEER LANDSCAPING INC
D	DEFENDANT	1	PCI CONTRACTORS INC
	ATTORNEY: EVA K RAPPAPORT		
TD	3RD PARTY DEF	8	BMCW SOUTHCENTRAL LP
	ATTORNEY: MARTIN DIAMOND		
D	DEFENDANT	2	RLA INC
P	PLAINTIFF	1	RAINBOWVISION SANTA FE LLC
	ATTORNEY: JACK N. HARDWICK		
D	DEFENDANT	5	LES FILE DRYWALL INC
D	DEFENDANT	6	HSH NORDBANK AB
D	DEFENDANT	7	SIMS RAINBOWVISION LLC
D	DEFENDANT	8	LOS ALAMOS NATIONAL BANK
D	DEFENDANT	9	VALLEY NATIONAL BANK
D	DEFENDANT	4	WEIS BUILDERS INC
	ATTORNEY: CARL A CALVERT		
IT	INTERESTED PRTY	1	NEW MEXICO STATE TREASURER
D3	DEFENDANT	1	HSH NORDBANK AG
P3	PLAINTIFF	1	WEIS BUILDERS INC
	ATTORNEY: CARL A CALVERT		
D3	DEFENDANT	2	SIMS RAINBOWVISION LLC
D3	DEFENDANT	3	LOS ALAMOS NATIONAL BANK
D3	DEFENDANT	4	VALLEY NATIONAL BANK
D3	DEFENDANT	5	LES FILE DRYWALL INC.
TD	3RD PARTY DEF	12	WESTERN TECHNOLOGIES INC
TD	3RD PARTY DEF	13	VALLEY FIRE PROTECTION INC
TD	3RD PARTY DEF	14	STORM WATER CONTROL INC
TD	3RD PARTY DEF	15	PINON WINDOW AND DOOR INC
TD	3RD PARTY DEF	16	MICHAEL HUNTER PAINTING INC
TD	3RD PARTY DEF	17	MESA ERECTORS INC
TD	3RD PARTY DEF	18	LOPEZ ROOFING SERVICE INC
TD	3RD PARTY DEF	19	KOCH MECHANICAL
TD	3RD PARTY DEF	20	KLEIN ENTERPRISES LLC
TD	3RD PARTY DEF	21	HUGHES AND ASSOCIATES INC
TD	3RD PARTY DEF	22	GEO TEST INC
TD	3RD PARTY DEF	23	F & J HOMEBUILDERS INC
TD	3RD PARTY DEF	24	DAWSON SURVEYS INC
TD	3RD PARTY DEF	25	BOHANNAH HUSTON INC

CIVIL COMPLAINT DETAIL

COMPLAINT DATE	COMPLAINT SEQ#	COMPLAINT DESCRIPTION	DISP	DISP DATE
01/03/2007	1	OPN: PETITION	CVB: DEFAULT FOR PLAINTIFF	01/02/2008
COA SEQ#	COA DESCRIPTION			
1	MISCELLANEOUS			
PARTY NAME	PARTY TYPE	PARTY #		
PCI CONTRACTORS INC	D	1		
RLA INC	D	2		
JOHN DEER LANDSCAPING INC	D	3		
RAINBOWVISION SANTA FE LLC	P	1		

REGISTER OF ACTIONS ACTIVITY

EVENT DATE	EVENT DESCRIPTION	EVENT RESULT	PARTY TYPE	PARTY #	AMOUNT
08/30/2010	CAL: JURY SELECTION				
	JURY SELECTION SCHEDULED AT 8:30 A.M. ON AUGUST 30, 2010				
07/30/2010	CAL: AMENDED SETTING				
	PRE-TRIAL CONFERENCE RESCHEDULED AT 1:30 P.M. ON JULY 30, 2010				
09/16/2009	CERTIFICATE OF SERVICE				
09/01/2009	ORD: STIPULATED				
	STIPULATED ORDER OF DISMISSAL WITH PREJUDICE AS TO THIRD PARTY DEFENDANT LOPEZ ROOFING, INC.				
08/28/2009	ORD: OF DISMISSAL				
	STIPULATED ORDER OF DISMISSAL WITHOUT PREJUDICE OF THIRD AMENDED THIRD-PARTY COMPLAINT OF WEIS BUILDERS INC AGAINST MICHAEL HUNTER PAINTING				
08/18/2009	ORD: ORDER				
	ORDER ON AMERICAN NATNIONAL INSULATION AND SEALANT'S MOTION TO COMPEL WEIS BUILDERS, INC. TO RESPOND TO DISCOVERY				
08/17/2009	CAL: HEARING				
	MOTION FOR STATUS CONFERENCE AND EXTENSION OF DEADLINES SCHEDULED AT 10:15 A.M. ON AUGUST 17, 2009				
08/11/2009	NTC: NOTICE				
	NOTICE OF COMPLETION OF BRIEFING FILED BY DEFENDANT				
08/10/2009	REPLY				
	LLOYD & ASSOCIATES ARCHITECTS, P.A.'S REPLY IN SUPPORT OF MOTION TO DISMISS PLAINTIFF'S COMPLAINT FOR PROPORTIONAL INDEMNIFICATION AND DAMAGES				
08/10/2009	CAL: AMENDED SETTING				
	DOCKET CALL RESCHEDULED AT 8:30 A.M. ON AUGUST 10, 2009				
08/07/2009	CERTIFICATE OF SERVICE				
08/05/2009	CAL: MTN HEARING				
	THIRD-PARTY DEFENDANTS' MOTION TO COMPEL WEIS BUILDERS, INC. TO RESPOND TO AMERICAN NATIONAL'S FIRST SET OF DISCOVERY SCHEDULED AT 2:00 P.M. ON AUGUST 5, 2009				
08/04/2009	NTC: HEARING (CIVIL)				
	AUG 17, 2009 AT 10:15 AM				
	MOTION FOR STATUS CONFERENCE AND EXTENSION OF DEADLINES				
07/24/2009	MTN: MOTION				
	WEIS BUILDERS, INC.'S MOTION FOR STATUS CONFERENCE AND EXTENSION OF DEADLINES				
07/24/2009	REQUEST FOR				
	HEARING/SETTING				
	MATTER: MOTION FOR STATUS CONFERENCE AND EXTENSION OF DEADLINES				
07/24/2009	NTC: NOTICE				
	NOTICE OF UNAVAILABILITY				
	ATTORNEY: WILLIAM C. SALMON				
	COUNSEL FOR: WEIS BUILDERS, INC.				

DATES UNAVAILABLE:
JULY 23,24,27,28, 2009
JULY 31 THROUGH AUGUST 3, 2009
AUGUST 10, 13, 19, 2009
AUGUST 21 TO AUGUST 25, 2009
SEPTEMBER 10 TO SEPTEMBER 22, 2009
SEPTEMBER 18, 2009
SEPTEMBER 29, 2009 TO SEPTEMBER 30, 2009

07/23/2009 CERTIFICATE OF SERVICE
07/21/2009 ORD: OF DISMISSAL
ORDER OF DISMISSAL
VALLEY FIRE PROTECTION INC. IS HEREBY DISMISSED FROM THIS
ACTION WITHOUT PREJUDICE

07/21/2009 MTN: TO DISMISS
STIPULATED MOTION TO DISMISS

07/17/2009 CERTIFICATE OF SERVICE
07/17/2009 CERTIFICATE OF SERVICE
07/13/2009 NTC: OF NON-
AVAILABILITY
NOTICE OF UNAVAILABILITY
ATTORNEY: TONYA MACBETH
COUNSEL FOR: WEIS BUILDERS
DATES UNAVAILABLE: 8/11/09 9/14/09

07/10/2009 ORD: STIPULATED
STIPULATED ORDER OF DISMISSAL WITHOUT PREJUDICE OF
THIRD AMENDED THIRD PARTY COMPLAINT OF WEIS BUILDERS
INC AGAINST WESTERN TECHNOLOGIES INC

07/10/2009 NTC: HEARING (CIVIL)
AUGUST 5, 2009
2 PM
RE: THIRD PARTY DEFENDANTS' MOTION TO COMPEL WEIS
BUILDERS, INC. TO RESPOND TO AMERICAN NATIONAL'S
FIRST SET OF DISCOVERY

07/10/2009 CAL: AMENDED SETTING
PRE-TRIAL CONFERENCE RESCHEDULED AT 1:30 P.M. ON
JULY 10, 2009

07/09/2009 NTC: NOTICE
NOTICE OF COMPLETION OF BRIEFING

07/09/2009 REPLY
REPLY IN SUPPORT OF DEFENDANT MORE WALKER'S MOTION TO
DISMISS PLAINTIFF'S COMPLAINT FOR PROPORTIONAL INDEMNIFI-
CATION AND DAMAGES

07/09/2009 ORD: FOR CONSOLIDATION
Consolidated From D-0101-CV-0200901344
ORDER GRANTING WEIS BUILDERS, INC.'S MOTION FOR
CONSOLIDATION

07/09/2009 NTC: OF NON-
AVAILABILITY
NOTICE OF NON-AVAILABILITY
ATTORNEY: TONYA MACBETH
COUNSEL FOR: WEIS BUILDERS INC
DATES UNAVAILABLE: AUG 11, 2009 TO SEPT 14, 2009

07/09/2009 NTC: OF FILING
NOTICE OF FILING OF NON-AVAILABILITY

07/08/2009 NTC: OF FILING
NOTICE OF FILING OF STIPULATED ORDER OF DISMISSAL
WITHOUT PREJUDICE OF THE THIRD AMENDED THIRD PARTY
COMPLAINT OF WEIS BUILDERS, INC. AGAINST WESTERN
TECHNOLOGIES, INC.

07/06/2009 REQUEST FOR
HEARING/SETTING
REQUEST FOR HEARING
THIRD-PARTY DEFENDANT'S MOTION TO COMPEL WEIS BUILDERS, INC.

07/06/2009 TO RESPOND TO AMERICAN NATIONAL'S FIRST SET OF DISCOVERY
REPLY

06/29/2009 REPLY IN SUPPORT OF AMERICAN NATIONAL'S MOTION TO COMPEL
CAL: MTN HEARING
MOTION TO CONSOLIDATE SCHEDULED AT 1:00 P.M. ON
JUNE 29, 2009

06/25/2009 RESPONSE
RESPONSE TO AMERICAN NATIONAL'S MOTION TO COMPEL RESPONSE TO
ANIS FIRST SET OF DISCOVERY

06/25/2009 NTC: OF FILING
NOTICE OF FILING OF WEIS BUILDERS, INC.'S RESPONSE TO
AMERICAN NATIONAL'S MOTION TO COMPEL RESPONSE TO ANIS FIRST
SET OF DISCOVERY

06/25/2009 NTC: NOTICE
NOTICE OF UNAVAILABILITY
ATTORNEY: WILLIAM C. SALMON
COUNSEL FOR: WEIS BUILDERS, INC.
DATES UNAVAILABLE: JUNE 23, 29, 2009, JULY 1, 9-10, 20, 23,
2009, JULY 31 THROUGH AUGUST 3, 2009, SEPTEMBER 11-22, 2009,
SEPTEMBER 29-30, 2009 AND OCTOBER 9, 2009

06/25/2009 REPLY
REPLY OF WEIS BUILDERS, INC. TO RESPONSE TO DEFENDANT
LLOYD & ASSOCIATES ARCHITECTS, P.A. TO MOTION TO
CONSOLIDATE

06/23/2009 NOTICE OF BANKRUPTCY
NOTICE OF BANKRUPTCY FILING
(ON JUNE 16, 2009, THIRD PARTY DEFENDANTS FILED FOR
CHAPTER 11 PROTECTION IN THE UNITED STATES BANKRUPTCY
COURT FOR THE DISTRICT OF DELAWARE UNDER THE CAPTION OF:
BUILDING MATERIALS HOLDING CORPORATION, ET AL.
CASE NO. 09-12074

06/22/2009 NTC: NOTICE
NOTICE OF UNAVAILABILITY
ATTORNEY: TONYA K. MACBETH
COUNSEL FOR: WEIS BUILDERS
DATES UNAVAILABLE: JULY 20, 2009 THROUGH JULY 31, 2009

06/22/2009 RESPONSE
RESPONSE TO AMERICAN NATIONAL'S MOTION TO COMPEL RESPONSE
TO ANIS FIRST SET DISCOVERY

06/19/2009 REPLY
REPLY OF WEIS BUILDERS, INC. TO RESPONSE TO DEFENDANT MOREY
WALKER & ASSOCIATES ENGINEERING, INC. TO MOTION TO
CONSOLIDATE

06/11/2009 NTC: HEARING (CIVIL)
6-29-09 AT 1:00PM
MATTER: MOTION TO CONSOLIDATE

06/08/2009 RESPONSE
RESPONSE OF LLOYD & ASSOCIATED ARCHITECTS, P.A. IN
OPPOSITION TO MOTION TO CONSOLIDATE

06/08/2009 REQUEST FOR
HEARING/SETTING
REQUEST FOR HEARING
MOTION TO CONSOLIDATE

06/08/2009 MTN: TO CONSOLIDATE
MOTION TO CONSOLIDATE
FILED BY WEIS BUILDERS, INC.
D-101-CV-2009-01344 WITH THIS CASE

06/02/2009 RESPONSE
RESPONSE IN OPPOSITION TO MOTION TO CONSOLIDATE

06/01/2009 ORD: OF DISMISSAL
STIPULATION TO DISMISS WITHOUT PREJUDICE
THE PARTIES STIPULATED THAT THIRD PARTY DEFENDANT PINON
WINDOW & DOOR INC. BE DISMISSED WITHOUT PREJUDICE

05/22/2009	MTN: TO COMPEL MOTION TO COMPEL WEIS BUILDERS INC TO RESPOND TO AMERICAN NATIONAL'S FIRST SET OF DISCOVERY			
05/19/2009	NTC: NOTICE NOTICE OF UNAVAILABILITY ATTORNEY: WILLIAM C. MADISON COUNSEL FOR: VALLEY FIRE PROTECTION INC DATES UNAVAILABLE: JUNE 15, 2009 THROUGH JUNE 19, 2009			
05/08/2009	CERTIFICATE OF SERVICE			
05/06/2009	NCJ: DISMISSAL BY PARTY NOTICE OF VOLUNTARY DISMISSAL OF STORM WATER CONTROL INC WITHOUT PREJUDICE FORM THE THIRD AMENDED THIRD-PARTY COMPLAINT OF WEIS BUILDERS INC			
05/06/2009	NCJ: DISMISSAL BY PARTY NOTICE OF VOLUNTARY DISMISSAL OF DAWSON SURVEYS INC WITHOUT PREJUDICE FORM THE THIRD AMENDED THIRD-PARTY COMPLAINT OF WEIS BUILDERS INC			
04/27/2009	CERTIFICATE OF SERVICE			
04/24/2009	ANSWER THIRD-PARTY DEFENDANT BMC WEST CORPORATION'S ANSWER TO THIRD-PARTY PLAINTIFF'S THIRD AMENDED THIRD-PARTY COMPLAINT			
04/23/2009	CERTIFICATE OF SERVICE			
04/21/2009	ORD: RULE 16B SCHEDULING/FORM THIRD AMENDED SCHEDULING ORDER			
04/16/2009	ACCEPTANCE OF SERVICE ACCEPTANCE OF SERVICE CERTIFICATE MARY HERRERA SECRETARY OF STATE ACKNOWLEDGES RECEIPT OF SUMMONS AND COMPLAINT ON BEHALF OF KLEIN ENTERPRISES LLC C/O DAVID G KLEIN ON FEBRUARY 17, 2009			
04/14/2009	REPLY WEIS BUILDERS INC'S REPLY TO PCI CONTRACTORS INC'S COUNTERCLAIM			
04/10/2009	ENTRY OF APPEARANCE MARTIN DIAMOND FOR DEFENDANT BMCW SOUTHCENTRAL LP AND BBD CONSTRUCTION LP			
04/08/2009	CERTIFICATE OF SERVICE			
04/01/2009	JURY DEMAND 12 PERSON THIRD-PARTY DEFENDANT HUGHES AND ASSOCIATES, INC.'S JURY DEMAND 12 PERSON RECEIPT #134716			
04/01/2009	ASM: JURY 12 PERSON	TD	21	300.00
03/30/2009	ANSWER THIRD-PARTY DEFENDANT HUGHES AND ASSOCIATES, INC.'S ANSWER TO THIRD AMENDED THIRD-PARTY COMPLAINT			
03/23/2009	SUMMONS RETURN SERVED MARCH 6, 2009 TO ROBERT V QUINAN FOR STORM WATER CONTROL INC			
03/19/2009	SUMMONS RETURN SERVED TO LEN BAUMANN ON 3-4-09			
03/10/2009	ENTRY OF APPEARANCE NOTICE OF SUBSTITUTION OF COUNSEL AND ENTRY OF APPEARANCE EVA RAPPAPORT ENTERS ON BEHALF OF DEFENDANT PCI CONTRACTORS, INC.			
03/10/2009	ANSWER WESTERN TECHNOLOGIES, INC.'S ANSWER TO THIRD AMENDED THIRD PARTY COMPLAINT			
03/10/2009	CAL: MTN HEARING WEIS BUILDERS, INC.'S MOTION FOR RULE 1-016 SCHEDULING CONFERENCE SCHEDULED AT 10:45 A.M. ON MARCH 10, 2009			
03/04/2009	CERTIFICATE OF SERVICE			
03/03/2009	SUMMONS RETURN			

CHRISTINA ESPINOZA, SERVICE OF PROCESS PARTNERSHIPS,
SEC OF STATE, SERVED FEBRUARY 13, 2009, FOR KLEIN
ENTERPRISES
03/03/2009 SUMMONS RETURN
CHRISTINA ESPINOZA, SERVICE OF PROCESS AND PARTNERSHIP,
NM SECRETARY OF STATE SERVED FEBRUARY 13, 2009,
FOR MESA ERECTORS
03/03/2009 SUMMONS RETURN
CLIFFORD HUGH, OWNER, SERVED FEBRUARY 22, 2009, FOR
HUGHES AND ASSOCIATES INC
02/27/2009 ANSWER
THIRD-PARTY DEFENDANT, BOHANNAN-HUSTON INC'S ANSWER TO
THIRD AMENDED THIRD-PARTY COMPLAINT
02/27/2009 NTC: HEARING (CIVIL)
MARCH 10, 2009
10:45 A.M.
WEIS BUILDERS, INC., MOTION FOR RULE 1-016 SCHEDULING
CONFERENCE
02/24/2009 MTN: MOTION
THIRD PARTY PLAINTIFF'S MOTION FOR RULE 16 SCHEDULING
CONFERENCE
02/24/2009 REQUEST FOR
HEARING/SETTING
MATTER: NONE SPECIFIED
02/20/2009 ANSWER TO 3RD PARTY
COMPLAINT
ANSWER OF THIRD PARTY DEFENDANT LOPEZ ROOFING SERVICE,
INC TO THIRD PARTY PLAINTIFF'S THIRD AMENDED THIRD-PARTY
COMPLAINT
02/19/2009 ANSWER
THIRD-PARTY DEFENDANT, GEO TEST INC'S ANSWER
TO THIRD AMENDED THIRD-PARTY COMPLAINT
02/17/2009 ANSWER
DEFENDANT PINON WINDOW & DOOR'S ANSWER TO COMPLAINT
02/13/2009 ENTRY OF APPEARANCE
GERALD DIXON ON BEHALF OF DEFENDANT WESTERN TECHNOLOGIES INC
02/13/2009 ENTRY OF APPEARANCE
JOHNSON LAW FIRM ENTERS FOR LOPEZ ROOFING
02/12/2009 SUMMONS RETURN
CHRISTINEA FELIX, SECRETARY, SERVED JANUARY 16, 2009,
FOR F & J HOME BUILDERS INC
02/12/2009 SUMMONS RETURN
MARJORIE DOMINGUEZ, OFFICE MANAGER, SERVED JANUARY 14, 2009,
FOR VALLEY FIRE PROTECTION
02/12/2009 SUMMONS RETURN
TRISH GONZALES, SECRETARY, SERVED JANUARY 23, 2009, FOR
GEO-TEST INC
02/12/2009 SUMMONS RETURN
LIZ CRUZ, ADMINISTRATIVE ASSISTANT, SERVED JANUARY 21, 2009,
FOR LOPEZ ROOFING SERVICE INC
02/12/2009 SUMMONS RETURN
GARY DAWSON, REGISTERED AGENT, SERVED JANUARY 20, 2009,
FOR DAWSON SURVEYS INC
02/12/2009 SUMMONS RETURN
PAULINE DURAN, OFFICER, SERVED JANUARY 20, 2009,
FOR PCI CONTRACTORS INC
02/12/2009 SUMMONS RETURN
LEABBE MARTONY, PROCESS SPECIALIST AT CT CORP, SERVED
JANUARY 20, 2009, FOR WESTERN TECHNOLOGIES INC
02/12/2009 SUMMONS RETURN
MICHAEL L HUNTER, REGISTERED AGENT, SERVED FOR MICHAEL
HUNTER PAINTING INC ON JANUARY 20, 2009
02/11/2009 ANSWER

	THIRD-PARTY DEFENDANT KOCH MECHANICAL'S ANSWER TO THIRD AMENDED THIRD-PARTY COMPLAINT (FILED TWICE)
02/11/2009	ANSWER THIRD-PARTY DEFENDANT MICHAEL HUNTER PAINTING, INC.'S ANSWER TO THIRD AMENDED THIRD-PARTY COMPLAINT (FILED TWICE)
02/06/2009	ANSWER VALLEY FIRE PROTECTION, INC.'S ANSWER TO THIRD AMENDED THIRD-PARTY COMPLAINT
02/06/2009	ANSWER THIRD-PARTY DEFENDANT TLC COMPANY, INC.'S ANSWER TO WEIS BUILDERS, INC.'S THIRD AMENDED THIRD-PARTY COMPLAINT
02/03/2009	ANSWER ANSWER OF PCI CONTRACTORS, INC. TO THIRD AMENDED THIRD PARTY COMPLAINT AND COUNTERCLAIM
01/30/2009	AMENDED ANSWER THIRD-PARTY DEFENDANT SUPERIOR CONTRACTING CORPORATION, D/B/A AMERICAN NATIONAL INSULATION AND SEALANTS AMENDED ANSWER TO THIRD AMENDED THIRD-PARTY COMPLAINT AND COUNTERCLAIM FOR BREACH OF CONTRACT, COLLECTION ON OPEN ACCOUNT, BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING, AND VIOLATION OF THE RETAINAGE ACT AGAINST WEIS BUILDERS, INC.
01/30/2009	ANSWER ANSWER OF THIRD PARTY DEFENDANT MAVERICK FRAMING INC TO THIRD PARTY PLAINTIFF'S THIRD AMENDED THIRD PARTY COMPLAINT (MAVERICK FRAMING INC)
01/29/2009	ENTRY OF APPEARANCE WILLIAM C. MADISON ENTERS FOR DEFENDANT VALLEY FIRE PROTECTION, INC.
01/27/2009	ANSWER ANSWER OF EMCO, INC. TO THIRD AMENDED THIRD-PARTY COMPLAINT
01/23/2009	SUMMONS RETURN SERVED JANUARY 15, 2009 TO HOWARD STONE FOR BOHANNAH HOUSTON
01/23/2009	SUMMONS RETURN SERVED JANUARY 15, 2009 TO MACCINI FOR PINON WINDOW & DOOR
01/23/2009	SUMMONS RETURN SERVED JANUARY 15, 2009 TO DUANE KOCH
01/15/2009	ANSWER THIRD PARTY DEFENDANT RODGERS PLUMBING AND HEATING CO., INC.'S ANSWER TO THIRD PARTY PLAINTIFFS THIRD AMENDED THIRD PARTY COMPLAINT
01/08/2009	CERTIFICATE/PROOF OF MAILING THIRD PARTY THIRD AMENDED COMPLAINT OF WEIS BUILDERS, INC. SERVED BY MAIL ON DECEMBER 31, 2008 TO COUNSEL OF RECORD
01/06/2009	ORD: ORDER ORDER AND CONSENT FOR WITHDRAWAL CARL A. CALVERT ON BEHALF OF WEIS BUILDERS, INC.
01/06/2009	MTN: TO WITHDRAW MOTION TO WITHDRAW FILED BY CARL A. CALVERT AS COUNSEL FOR WEIS BUILDERS, INC.
12/29/2008	SUMMONS ISSUED SUMMONS ISSUED ON THIRD AMENDED THIRD PARTY COMPLAINT OF WEIS BUILDERS, INC, THIRD PARTY PLAINTIFF THE STATE OF NEW MEXICO DAWSON SURVEYS, INC
12/29/2008	SUMMONS ISSUED SUMMONS ISSUED ON THIRD AMENDED THIRD PARTY COMPLAINT OF WEIS BUILDERS, INC, THIRD PARTY PLAINTIFF THE STATE OF NEW MEXICO KOCH MECHANICAL
12/29/2008	SUMMONS ISSUED SUMMONS ISSUED ON THIRD AMENDED THIRD PARTY COMPLAINT OF

	WEIS BUILDERS, INC, THIRD PARTY PLAINTIFF THE STATE OF NEW MEXICO LOPEZ ROOFING SERVICE, INC
12/29/2008	SUMMONS ISSUED SUMMONS ISSUED ON THIRD AMENDED THIRD PARTY COMPLAINT OF WEIS BUILDERS, INC, THIRD PARTY PLAINTIFF THE STATE OF NEW MEXICO KLEIN ENTERPRISES, LLC
12/29/2008	SUMMONS ISSUED SUMMONS ISSUED ON THIRD AMENDED THIRD PARTY COMPLAINT OF WEIS BUILDERS, INC, THIRD PARTY PLAINTIFF THE STATE OF NEW MEXICO F & J HOME BUILDERS, INC
12/29/2008	SUMMONS ISSUED SUMMONS ISSUED ON THIRD AMENDED THIRD PARTY COMPLAINT OF WEIS BUILDERS, INC, THIRD PARTY PLAINTIFF THE STATE OF NEW MEXICO GEO TEST, INC
12/29/2008	SUMMONS ISSUED SUMMONS ISSUED ON THIRD AMENDED THIRD PARTY COMPLAINT OF WEIS BUILDERS, INC, THIRD PARTY PLAINTIFF THE STATE OF NEW MEXICO HUGHES AND ASSOCIATES, INC
12/29/2008	SUMMONS ISSUED SUMMONS ISSUED ON THIRD AMENDED THIRD PARTY COMPLAINT OF WEIS BUILDERS, INC, THIRD PARTY PLAINTIFF THE STATE OF NEW MEXICO BOHANNAH HUSTON, INC
12/29/2008	SUMMONS ISSUED SUMMONS ISSUED ON THIRD AMENDED THIRD PARTY COMPLAINT OF WEIS BUILDERS, INC, THIRD PARTY PLAINTIFF THE STATE OF NEW MEXICO MESA ERECTORS, INC
12/29/2008	SUMMONS ISSUED SUMMONS ISSUED ON THIRD AMENDED THIRD PARTY COMPLAINT OF WEIS BUILDERS, INC, THIRD PARTY PLAINTIFF THE STATE OF NEW MEXICO STORM WATER CONTROL, INC
12/29/2008	SUMMONS ISSUED SUMMONS ISSUED ON THIRD AMENDED THIRD PARTY COMPLAINT OF WEIS BUILDERS, INC, THIRD PARTY PLAINTIFF THE STATE OF NEW MEXICO PCI CONTRACTORS, INC
12/29/2008	SUMMONS ISSUED SUMMONS ISSUED ON THIRD AMENDED THIRD PARTY COMPLAINT OF WEIS BUILDERS, INC, THIRD PARTY PLAINTIFF THE STATE OF NEW MEXICO WESTERN TECHNOLOGIES, INC
12/29/2008	SUMMONS ISSUED SUMMONS ISSUED ON THIRD AMENDED THIRD PARTY COMPLAINT OF WEIS BUILDERS, INC, THIRD PARTY PLAINTIFF THE STATE OF NEW MEXICO VALLEY FIRE PROTECTION, INC
12/29/2008	SUMMONS ISSUED SUMMONS ISSUED ON THIRD AMENDED THIRD PARTY COMPLAINT OF WEIS BUILDERS, INC, THIRD PARTY PLAINTIFF THE STATE OF NEW MEXICO MICHAEL HUNTER PAINTING, INC
12/29/2008	SUMMONS ISSUED SUMMONS ISSUED ON THIRD AMENDED THIRD PARTY COMPLAINT OF WEIS BUILDERS, INC, THIRD PARTY PLAINTIFF THE STATE OF NEW MEXICO PINION WINDOW & DOOR, INC

12/29/2008	NCI: AMENDED COMPLAINT THIRD AMENDED THIRD PARTY COMPLAINT
12/19/2008	ORD: ORDER ORDER APPROVING MOTION TO FILE THIRD PARTY COMPLAINT AND ADD PARTIES
12/18/2008	ORD: VACATING HEARING ORDER VACATING SECOND AMENDED SCHEDULING ORDER AND VACATING HEARINGS AND TRIAL SETTING SET FORTH IN THE SECOND AMENDED SCHEDULING ORDER
12/05/2008	CAL: MTN HEARING MOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT AND ADD PARTIES SCHEDULED AT 11:00 A.M. ON DECEMBER 5, 2008
12/04/2008	REQUEST FOR HEARING/SETTING MATTER: JOINT MOTION TO CONTINUE AND AMENDED SCHEDULING ORDER
12/04/2008	MTN: FOR CONTINUANCE JOINT MOTION TO CONTINUE AND APPROVE SECOND AMENDED SCHEDULING ORDER
12/01/2008	AFFIDAVIT AFFIDAVIT OF NON-ADMITTED LAWYER (TONYA K. MACBETH)
11/24/2008	INTERROGATORIES CERT CERTIFICATE OF SERVICE
11/24/2008	INTERROGATORIES CERT CERTIFICATE OF SERVICE
11/24/2008	INTERROGATORIES CERT CERTIFICATE OF SERVICE
11/24/2008	INTERROGATORIES CERT CERTIFICATE OF SERVICE
11/24/2008	CERTIFICATE OF SERVICE
11/24/2008	CERTIFICATE OF SERVICE
11/24/2008	CERTIFICATE OF SERVICE
11/24/2008	CERTIFICATE OF SERVICE
11/14/2008	SUMMONS RETURN SUMMONS ISSUED TO BBD CONSTRUCTION LP SERVED UPON TAMMY CHESHIRE ON SEPTEMBER 9, 2008 WITH SECOND AMENDED COMPLAINT
11/14/2008	SUMMONS RETURN SUMMONS ISSUED TO BMCW SOUTHCENTRAL LP SERVED UPON TAMMY CHESHIRE ON SEPTEMBER 9, 2008 WITH SECOND AMENDED COMPLAINT
11/06/2008	WITNESS LIST THIRD PARTY DEFENDANT EKER BROTHERS, INC. AND TLC PLUMBING INC.'S PRELIMINARY LIST OF EXPERT WITNESSES
11/06/2008	ORD: STIPULATED STIPULATED ORDER-RELEASE OF MONEY
10/31/2008	WITNESS LIST THIRD-PARTY DEFENDANT RODGERS PLUMBING AND HEATING CO., INC.'S PRELIMINARY LIST OF EXPERT WITNESSES
10/22/2008	NTC: HEARING (CIVIL) ON MOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT AND ADD PARTIES 12/05/08 @ 11:00 AM
10/08/2008	MTN: FOR LEAVE UNOPPOSED MOTION FOR LEAVE TO FILE AMENDED ANSWER AND COUNTERCLAIM FILED BY THIRD-PARTY DEFENDANTS AMERICAN NATIONAL INSULATION AND SEALANTS
09/30/2008	REQUEST FOR HEARING/SETTING REQUEST FOR HEARING MOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT AND ADD PARTIES
09/30/2008	MTN: FOR LEAVE MOTION TO FOR LEAVE TO FILE THIRD AMENDED COMPLAINT AND

09/30/2008	ADD PARTIES JURY DEMAND 12 PERSON JURY DEMAND FILED BY DEFENDANT EMCO INC. 12 PERSON RECEIPT # 128591				
09/30/2008	ASM: JURY 12 PERSON	TD	1		200.00
09/19/2008	ANSWER ANSWER OF EMCO, INC. TO SECOND AMENDED THIRD PARTY COMPLAINT				
09/12/2008	CERTIFICATE OF SERVICE SUBMITTED BY MARK D. JARMIE				
09/03/2008	SUMMONS RETURN SUMMONS ON SECOND AMENDED THIRD PARTY COMPLAINT ISSUED TO EMCO, INC. SERVED UPON TRISA ARCHULETA, OFFICE MANAGER, ON AUGUST 15, 2008 WITH SECOND AMENDED COMPLAINT				
08/29/2008	WITNESS LIST THIRD PARTY PLAINTIFF WEIS BUILDERS, INC., LIST OF EXPERT WITNESSES AND OPINIONS				
08/29/2008	CERTIFICATE OF SERVICE				
08/27/2008	ENTRY OF APPEARANCE PAUL S. GRAND ENTERS FOR DEFENDANT NAUTILUS INS CO.				
08/08/2008	ANSWER ANSWER OF THIRD PARTY DEFENDANT MAVERICK FRAMING, INC. TO THIRD PARTY PLAINTIFF'S SECOND AMENDED THIRD PARTY COMPLAINT				
08/08/2008	ENTRY OF APPEARANCE JARMIE & ASSOCIATES BY MARK JARMIE ON BEHALF OF DEFENDANT MAVERICK FRAMING				
08/06/2008	ANSWER THIRD-PARTY DEFENDANT SUPERIOR CONTRACTING CORPORATION, D/B/A AMERICAN NATIONAL INSULATION AND SEALANT'S ANSWER TO SECOND AMENDED THIRD-PARTY COMPLAINT				
07/16/2008	SUMMONS RETURN SERVED TO LEANNE MARTORY, CT CORP. REP. ON 7-8-08				
07/16/2008	SUMMONS RETURN SERVED TO LOIS CAROLINE PEDRO, NAT'L REG. AGENTS REP. ON 7-8-08				
07/02/2008	ORD: ORDER ORDER TO EXTEND PRELIMINARY MEDIATION DEADLINE EXTENDED TO AUGUST 29, 2008				
06/23/2008	MTN: MOTION JOINT MOTION TO EXTEND PRELIMINARY MEDIATION (THIRD PARTY PLAINTIFF, WEIS BUILDERS; THIRD PARTY DEFENDANTS, EKER BROTHERS' INC, TLC COMPANY INC AND AIR ENGINEERING)				
06/09/2008	RELEASED RELEASE OF NOTICE OF LIS PENDENS				
06/02/2008	CAL: AMENDED SETTING DOCKET CALL RESCHEDULED AT 8:30 A.M. ON JUNE 2, 2008				
05/02/2008	CAL: AMENDED SETTING PRE-TRIAL CONFERENCE RESCHEDULED AT 1:30 P.M. ON MAY 2, 2008				
04/17/2008	ORD: RULE 16B SCHEDULING/FORM SECOND AMENDED SCHEDULING ORDER AND ORDER CONTINUING AND VACATING HEARINGS HEARINGS FOR 5-2-08 AND 6-2-08 ARE VACATED AND RESCHEDULED FOR 7-10-09 AT 1:30PM (PTC) AND 8-10-09 AT 8:30AM (NON- JURY TRIAL)				
04/14/2008	CERTIFICATE OF SERVICE				
03/26/2008	ANSWER				

	THIRD PARTY DEFENDANT RODGER'S PLUMBING AND HEENG CO INC'S ANSWER TO THIRD-PARTY PLAINTFF'S SECOND AMENDED THIRD PARTY COMPLAINT
03/26/2008	ORD: OF DISMISSAL STIPULATED ORDER OF DISMISSAL OF WEIS BUILDERS INC AND LES FILE DRYWALL INC
03/24/2008	ANSWER THIRD PARTY DEFENDANT TLC COMPANY, INC.'S ANSWER TO SECOND AMENDED COMPLAINT
03/24/2008	ANSWER THIRD PARTY DEFENDANT EKER BROTHERS, INC.'S ANSWER TO SECOND AMENDED COMPLAINT
03/14/2008	ORD: STIPULATED STIPULATED ORDER OF DISMISSAL OF CERTAIN CLAIMS AND PARTIES
03/12/2008	CERTIFICATE OF SERVICE
03/07/2008	AMENDED COMPLAINT SECOND AMENDED THIRD PARTY COMPLAINT
03/07/2008	SUMMONS ISSUED SUMMONS ON SECOND AMENDED THIRD PARTY COMPLAINT THE STATE OF NEW MEXICO ISSUED TO: HSD NORDBANK AG
03/07/2008	SUMMONS ISSUED SUMMONS ON SECOND AMENDED THIRD PARTY COMPLAINT THE STATE OF NEW MEXICO ISSUED TO: SIMS RAINBOW LLC
03/07/2008	SUMMONS ISSUED SUMMONS ON SECOND AMENDED THIRD PARTY COMPLAINT THE STATE OF NEW MEXICO ISSUED TO: LOS ALAMOS NATIONAL BANK
03/07/2008	SUMMONS ISSUED SUMMONS ON SECOND AMENDED THIRD PARTY COMPLAINT THE STATE OF NEW MEXICO ISSUED TO: LES FILE DRYWALL INC
03/07/2008	SUMMONS ISSUED SUMMONS ON SECOND AMENDED THIRD PARTY COMPLAINT THE STATE OF NEW MEXICO ISSUED TO: VALLEY NATIONAL BANK
03/07/2008	SUMMONS ISSUED SUMMONS ON SECOND AMENDED THIRD PARTY COMPLAINT THE STATE OF NEW MEXICO ISSUED TO: RODGERS PLUMBING AND HEATING INC
03/07/2008	SUMMONS ISSUED SUMMONS ON SECOND AMENDED THIRD PARTY COMPLAINT THE STATE OF NEW MEXICO ISSUED TO: DOMINGUEZ CARPET AND TILE INC
03/07/2008	SUMMONS ISSUED SUMMONS ON SECOND AMENDED THIRD PARTY COMPLAINT THE STATE OF NEW MEXICO ISSUED TO: EKER BROTHERS INC
03/07/2008	SUMMONS ISSUED SUMMONS ON SECOND AMENDED THIRD PARTY COMPLAINT THE STATE OF NEW MEXICO ISSUED TO: EMCO INC
03/07/2008	SUMMONS ISSUED SUMMONS ON SECOND AMENDED THIRD PARTY COMPLAINT THE STATE OF NEW MEXICO ISSUED TO: TLC COMPANY
03/07/2008	SUMMONS ISSUED SUMMONS ON SECOND AMENDED THIRD PARTY COMPLAINT THE STATE OF NEW MEXICO ISSUED TO: BMCS SOUTHLAND CENTRAL LP
03/07/2008	SUMMONS ISSUED SUPERIOR CONTRACTING CORP

03/07/2008 SUMMONS ISSUED
SUMMONS ON SECOND AMENDED THIRD PARTY COMPLAINT THE STATE OF
NEW MEXICO
ISSUED TO: BBD CONSTRUCTION

03/07/2008 SUMMONS ISSUED
SUMMONS ON SECOND AMENDED THIRD PARTY COMPLAINT THE STATE OF
NEW MEXICO
ISSUED TO: RLA

03/07/2008 SUMMONS ISSUED
SUMMONS ON SECOND AMENDED THIRD PARTY COMPLAINT THE STATE OF
NEW MEXICO
ISSUED TO: MAVERICK FRAMING

03/03/2008 ORD: STIPULATED
STIPULATED ORDER OF DISMISSAL DOMINGUEZ CARPET
AND TILE INC
(WEIS BUILDERS INC AND DOMINGUEZ CARPET & TILE HAVE
REACHED A SETTLEMENT OF THEIR DISPUTE AND HAVE STIPULATED
IN THIS ORDER)

02/25/2008 ANSWER
THIRD PARTY DEFENDANT AIR ENGINEERING COMPANY INC'S
ANSWER TO RODGERS PLUMBING AND HEATING COMPANY INC'S
THIRD PARTY COMPLAINT

02/25/2008 ANSWER
THIRD PARTY DEFENDANT AIR ENGINEERING COMPANY INC'S
ANSWER TO RODGERS PLUMBING AND HEARING COMPANY INC'S
THIRD PARTY COMPLAINT

02/21/2008 CAL: MTN HEARING
DEFENDANT RODGERS PLUMBING AND HEATING CO., INC.'S MOTION
FOR SUMMARY JUDGMENT SCHEDULED AT 9:00 A.M. ON
FEBRUARY 21, 2008

02/21/2008 CAL: MTN HEARING
MOTION TO AMEND THIRD-PARTY COMPLAINT // THIRD PARTY
DEFENDANTS LOS ALAMOS NATIONAL BANK'S AND VALLEY NATIONAL
BANK'S MOTION FOR SUMMARY JUDGMENT ON THEIR COUNTERCLAIM
AGAINST THIRD PARTY PLAINTIFF WEIS BUILDERS, INC. AND
ON WEIS BUILDERS, INC.'S AMENDED THIRD PARTY COMPLAINT
SCHEDULED AT 9:00 A.M. ON FEBRUARY 21, 2008

02/14/2008 ENTRY OF APPEARANCE
RHODES AND SALMON PC AS NEW MEXICO LOCAL COUNSEL AND
BURCH AND CRACCHIOLO PA AS PRO HAC VICE COUNSEL ENTER
FOR DEFENDANT WEIS BUILDERS, INC AND AS CO-COUNSEL
FOR DEFENDANT CALVER MENICUCCI PC

02/13/2008 ORD: ORDER
ORDER ALLOWING WEIS BUILDERS INC. TO FILE ITS SECOND
AMENDED THIRD PARTY COMPLAINT

02/07/2008 NTC: HEARING (CIVIL)
2-21-08 AT 9:00AM
MATTER: DEFENDANT ROGERS PLUMBING AND HEATING CO., INC'S
MOTION FOR SUMMARY JUDGMENT ALONG WITH MATTERS PREVIOUSLY
SCHEDULED

01/31/2008 SUMMONS RETURN
TONY MONTOYA, SUPERVISOR, SERVED FOR GILBERT VALDEZ,
AIR ENGINEERING COMPANY ON JANUARY 24, 2008

01/29/2008 CERTIFICATE OF SERVICE
CERTIFICATE OF SERVICE FOR RESPONSES OF WEIS BUILDERS INC.
TO 1ST REQUEST FOR PRODUCTION OF DOCUMENTS AND 1ST SET
OF INTERROGATORIES OF 3RD PARTY DEFENDANT RODGERS PLUMBING
AND HEATING CO, INC.

01/28/2008 REQUEST FOR
HEARING/SETTING
MATTER: DEFENDANT RODGERS PLUMBING AND HEARING, CO., INC.'S
MOTION FOR SUMMARY JUDGMENT

01/28/2008 CAL: DOCKET CALL

01/17/2008 DOCKET CALL SCHEDULED AT 8:30 A.M. ON JANUARY 28, 2008
NTC: HEARING (CIVIL)
2-21-08 AT 9:00AM
MATTER: 3RD PARTY DEFENDANT'S LOS ALAMOS NATIONAL BANK'S AND
VALLEY NATIONAL BANK'S MOTION FOR SUMMARY JUDGMENT ON THEIR
COUNTERCLAIM AGAINST 3RD PARTY PLAINTIFF'S WEIS BUILDERS INC
AND ON WEIS BUILDERS INC'S 3RD PARTY COMPLAINT

01/17/2008 NTC: HEARING (CIVIL)
2-21-08 AT 9:00AM
MATTER: MOTION TO AMEND 3RD PARTY COMPLAINT AND MEMORANDUM
IN SUPPORT OF MOTION TO AMEND 3RD PARTY COMPLAINT

01/15/2008 ORD: ORDER
ORDER ON PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT
REGARDING CALCULATION OF LIQUIDATED DAMAGES CLAIM AND WEIS'
MOTION FOR STAY

01/14/2008 REPLY
REPLY IN SUPPORT OF 3RD PARTY DEFENDANT ROGERS PLUMBING
AND HEATING CO., INC'S MOTION FOR SUMMARY JUDGMENT

01/10/2008 SUMMONS ISSUED
SUMMONS ON THIRD-PARTY COMPLAINT
ISSUED TO GILBERT VALDEZ

01/10/2008 3RD PARTY COMPLAINT
THIRD-PARTY DEFENDANT/THIRD-PARTY PLAINTIFF RODGERS
PLUMBING AND HEATING CO, INC'S PARTY COMPLAINT

01/10/2008 CERTIFICATE
COURT-ANNEXED ARBITRATION CERTIFICATE

01/10/2008 NTC: NOTICE
NOTICE OF NAME CHANGE
STURGES, HOUSTON, AND SEXTON PC HAS MERGED WITH
MONTGOMERY AND ANDREWS PA AND WILL BE KNOWN AS MONTGOMERY &
ANDREWS PA

01/08/2008 ORD: RULE 16B
SCHEDULING/FORM
5/2/08 AT 1:30 PM : PRE-TRIAL
6/2/08 AT 8:30 AM : TRIAL SET FOR DOCKET CALL
*** FIRST AMENDED RULE 16(B) SCHEDULING ORDER****

01/02/2008 ORD: ORDER
RODGERS PLUMBING AND HEATING CO, INC. SHALL BE PERMITTED
TO FILE A THIRD-PARTY COMPLAINT

01/02/2008 NCI: DEFAULT JUDGMENT
DEFAULT JUDGMENT AGAINST THIRD PARTY DEFENDANT SIMS
RAINBOWVISION LLC

01/02/2008 CAL: PRE-TRIAL
CONFERENCE
PRE-TRIAL CONFERENCE SCHEDULED AT 1:30 P.M. ON
JANUARY 2, 2008

12/27/2007 ATTORNEY'S AFFIDAVIT
OF NON-ADMITTED LAWYER
(MITCHELL J. RESNICK)

12/27/2007 NTC: NOTICE
OF ASSOCIATION OF COUNSEL

12/26/2007 CERT STATE OF THE
RECORD
CERTIFICATE AS TO THE STATE OF THE RECORD AND NON-APPEARANCE
RE SIMS RAINBOWVISION LLC

12/26/2007 CERTIFICATE OF SERVICE
FOR RESPONSES OF WEIS BUILDERS INC TO THIRD SET OF REQUESTS
FOR PRODUCTION OF DOUCMENTS OF THIRD PARTY DEFENDANT
TLC COMPANY INC

12/26/2007 OBJECTION/OPOSITION
WEIS BUILDERS INC'S OBJECTION TO EKER BROTHERS INC'S
PROPOSED ORDER AND ALTERNATIVE ORDER

12/26/2007 CERTIFICATE OF SERVICE

	CERTIFICATE OF SERVICE FOR RESPONSES OF WEIS BUILDERS, INC. TO SECOND SET OF INTERROGATORIES FOR PRODUCTION OF DOCUMENTS OF THIRD PARTY DEFENDANT LES FILE DRYWALL, INC.
12/26/2007	CERTIFICATE OF SERVICE CERTIFICATE OF SERVICE FOR RESPONSES OF WEIS BUILDERS, INC. TO FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS OF DOMINGUEZ CARPET & TILE, INC.
12/21/2007	REQUEST FOR HEARING/SETTING MATTER: THIRD PARTY DEFENDANTS LOS ALAMOS NATIONAL BANK'S AND VALLEY NATIONAL BANK'S MOTION FOR SUMMARY JUDGMENT ON THEIR COUNTERCLAIM AGAINST THIRD PARTY PLAINTIFF WEIS BUILDERS INC. AND ON WEIS BUILDERS INC.'S AMENDED THIRD PARTY COMPLAINT
12/21/2007	RESPONSE THIRD PARTY DEFENDANTS LOS ALAMOS NATIONAL BANK'S AND VALLEY NATIONAL BANK'S REPLY TO THIRD PARTY PLAINTIFF WEIS BUILDER'S INC'S RESPONSE TO MOTION FOR SUMMARY JUDGMENT
12/21/2007	OBJECTION/OPPOSITION WEIS BUILDERS INC'S OBJECTION TO EKER BROTHERS, INC'S PROPOSED ORDER AND ALTERNATIVE ORDER
12/21/2007	RESPONSE THIRD PARTY PLAINTIFF WEIS BUILDERS INC'S RESPONSE TO RODGERS PLUMBING AND HEATING CO INC'S MOTION FOR SUMMARY JUDGMENT
12/20/2007	MTN: FOR LEAVE THIRD-PARTY DEFENDANT RODGERS PLUMBING AND HEATING CO., INC.'S UNOPPOSED MOTION FOR LEAVE TO FILE THIRD-PARTY COMPLAINT
12/19/2007	RESPONSE RAINBOWVISION'S RESPONSE TO WEIS'S MOTION TO COMPEL
12/17/2007	REQUEST FOR HEARING/SETTING MOTION TO AMEND THIRD PARTY COMPLAINT
12/17/2007	CERTIFICATE OF SERVICE
12/17/2007	AFFIDAVIT AFFIDAVIT OF KRISTINE KROENKE
12/17/2007	MTN: MOTION TO AMEND/MODIFY MOTION TO AMEND THIRD-PARTY COMPLAINT AND MEMORANDUM IN SUPPORT OF MOTION TO AMEND THIRD-PARTY COMPLAINT
12/17/2007	CAL: MTN HEARING MOTION FOR STAY OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON CALCULATION OF LIQUIDATED DAMAGES SCHEDULED AT 1:00 P.M. ON DECEMBER 17, 2007
12/17/2007	CAL: MTN HEARING MOTION TO REVISE SCHEDULING ORDER SCHEDULED AT 1:00 P.M. ON DECEMBER 17, 2007
12/17/2007	CAL: MTN HEARING EKER BROTHERS, INC.'S FIRST MOTION TO COMPEL RESPONSES TO THEIR FIRST SET OF INTERROGATORIES TO WEIS BUILDERS, INC. SCHEDULED AT 1:00 P.M. ON DECEMBER 17, 2007
12/11/2007	CERTIFICATE OF SERVICE
12/11/2007	CERTIFICATE OF SERVICE
12/07/2007	MTN: TO COMPEL RAINBOWVISION'S FIRST MOTION TO COMPEL AND STATEMENT OF SUPPORTING POINTS AND AUTHORITIES
12/06/2007	WITNESS LIST PLAINTIFF'S FIRST SUPPLEMENTAL LIST OW WITNESSES AND EXHIBITS
12/05/2007	WITNESS LIST WITNESS LIST OF WEIS BUILDERS INC
12/05/2007	EXHIBIT LIST

12/04/2007 EXHIBIT LIST OF WEIS BUILDERS INC
REPLY
EKER BROTHERS, INC.'S REPLY TO RAINBOW VISION'S, LOS ALAMOS
NATIONAL BANK'S AND VALLEY NATIONAL BANK'S RESPONSE TO
MOTION TO REVISE SCHEDULING ORDER

12/04/2007 MEMORANDUM IN SUPPORT
MEMORANDUM IN SUPPORT THIRD-PARTY DEFENDANT RODGERS
PLUMBING AND HEATING CO INC'S MOTION FOR SUMMARY JUDGMENT

12/04/2007 MTN: FOR SUMMARY
JUDGMENT
THIRD-PARTY DEFENDANT RODGERS PLUMBING AND HEATING COMPANY
INC'S MOTION FOR SUMMARY JUDGMENT

12/03/2007 REPLY
EKER BROTHERS INC'S REPLY TO WEIS BUILDER'S RESPONSE TO
EKER BROTHERS INC'S MOTION TO COMPEL RESPONSES TO THEIR
FIRST SET OF INTERROGATORIES TO WEIS BUILDERS INC

12/03/2007 WITNESS LIST
THIRD-PARTY DEFENDANT RODGERS PLUMBING AND HEATING CO.,
INC.'S WITNESS LIST

12/03/2007 EXHIBIT LIST
THIRD-PARTY DEFENDANT RODGERS PLUMBING AND HEATING CO.,
INC.'S EXHIBIT LIST

11/30/2007 WITNESS LIST
PLAINTIFF'S WITNESSES AND EXHIBITS

11/30/2007 EXHIBIT LIST
EXHIBIT LIST OF WEIS BUILDERS, INC

11/29/2007 WITNESS LIST
THIRD PARTY DEFENDANT'S EKER BROTHERS, INC.'S WITNESS LIST

11/29/2007 WITNESS LIST
THIRD PARTY DEFENDANT'S LES FILE DRYWALL INC.'S WITNESS LIST

11/29/2007 EXHIBIT LIST
THIRD PARTY DEFENDANT EKER BROTHER'S INC.'S EXHIBIT LIST

11/29/2007 EXHIBIT LIST
THIRD PARTY DEFENDANT LES FILE DRYWALL, INC.'S EXHIBIT LIST

11/29/2007 EXHIBIT LIST
THIRD PARTY DEFENDANT TLC COMPANY, INC.'S EXHIBIT LIST

11/29/2007 WITNESS LIST
THIRD PARTY DEFENDANT'S TLC COMPANY, INC.'S WITNESS LIST

11/29/2007 WITNESS LIST
WITNESS LIST OF WEIS BUILDERS, INC.

11/29/2007 NTC: NOTICE
NOTICE OF ADDRESS CORRECTION:
AARON BARTELS, ESQ.
P.O. BOX 4621
SANTA FE, NM 87502

11/29/2007 CERTIFICATE OF SERVICE
CERTIFICATE OF SERVICE FOR DOMINGUEZ CARPET & TILE, INC.
FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION
OF DOCUMENTS TO WEIS BUILDERS, INC.

11/29/2007 WITNESS LIST
DOMINGUEZ CARPET & TILE, INC.'S WITNESS AND EXHIBIT LISTS

11/29/2007 EXHIBIT LIST
THIRD PARTY DEFENDANTS LOS ALAMOS NATIONAL BANK'S AND
VALLEY NATIONAL BANK'S PRELIMINARY EXHIBIT LIST

11/29/2007 WITNESS LIST
THIRD PARTY DEFENDANTS LOS ALAMOS NATIONAL BANK'S AND
VALLEY NATIONAL BANK'S PRELIMINARY WITNESS LIST

11/29/2007 REPLY
REPLY TO RESPONSES OF PLAINTIFF AND THIRD PARTY
DEFENDANTS LOS ALAMOS NATIONAL BANK AND VALLEY NATIONAL
BANK ON MOTION TO REVISE SCHEDULING ORDER

11/29/2007 REQUEST FOR
HEARING/SETTING

11/29/2007	MOTION TO REVISE SCHEDULING ORDER REQUEST FOR HEARING/SETTING MOTION TO COMPEL RAINBOWVISION SANTA FE LLC TO PRODUCE DOCUMENTS
11/29/2007	RESPONSE THIRD PARTY PLAINTIFF WEIS BUILDERS, INC.'S RESPONSE TO LOS ALAMOS NATIONAL BANK AND VALLEY NATIONAL BANK'S MOTION FOR SUMMARY JUDGMENT
11/29/2007	MTN: TO COMPEL MOTION TO COMPEL RAINBOWVISION SANTA FE LLC TO PRODUCE DOCUMENTS
11/28/2007	MTN: FOR DEFAULT JUDGMENT
11/26/2007	CERTIFICATE OF SERVICE
11/21/2007	CERTIFICATE OF SERVICE
11/21/2007	CERTIFICATE OF SERVICE
11/20/2007	AFFIDAVIT AFFIDAVIT OF JUDITH A. WAGNER CPA/ABV, CVA
11/20/2007	AFFIDAVIT REVISED RULE 1-056 F AFFIDAVIT
11/20/2007	RESPONSE WEIS BUILDERS, INC.'S RESPONSE TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT ON CALCULATION OF LIQUIDATED DAMAGES
11/20/2007	AFFIDAVIT AFFIDAVIT OF PETER WORTHINGTON
11/20/2007	CERTIFICATE OF SERVICE
11/19/2007	RESPONSE THIRD PARTY DEFENDANTS LOS ALAMOS NATIONAL BANK'S AND VALLEY NATIONAL BANK'S RESPONSE TO MOTION TO REVISE SCHEDULING ORDER
11/19/2007	RESPONSE PLAINTIFF'S RESPONSE TO MOTION TO REVISE SCHEDULING ORDER
11/19/2007	CERTIFICATE OF SERVICE
11/15/2007	NTC: HEARING (CIVIL) DECEMBER 17, 2007 1:00 P.M. MOTION FOR STAY OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON CALCULATION OF LIQUIDATED DAMAGES
11/15/2007	AFFIDAVIT AFFIDAVIT OF KRISTINE KROENKE
11/15/2007	MEMORANDUM WEIS BUILDERS, INC.'S MEMORANDUM OF LAW IN OPPOSITION TO EKER BROTHERS, INC.'S MOTION TO COMPEL DISCOVERY TO ITS FIRST SET OF INTERROGATORIES TO WEIS BUILDERS, INC.
11/14/2007	CERTIFICATE OF SERVICE
11/14/2007	CERTIFICATE OF SERVICE
11/13/2007	CERTIFICATE OF SERVICE
11/09/2007	CERTIFICATE OF SERVICE
11/08/2007	CERTIFICATE OF SERVICE
11/07/2007	CERTIFICATE OF SERVICE
11/07/2007	MEMORANDUM IN SUPPORT MEMORANDUM IN SUPPORT OF THIRD PARTY DEFENDANTS LOS ALAMOS NATIONAL BANK'S & VALLEY NATIONAL BANK'S MOTION FOR SUMMARY JUDGMENT ON THEIR COUNTERCLAIM AGAINST THIRD PARTY PLAINTIFF WEIS BUILDERS INC AND ON WEIS BUILDER INC'S AMENDED THIRD PARTY COMPLAINT
11/07/2007	MTN: MOTION THIRD PARTY DEFENDANTS LOS ALAMOS NATIONAL BANK'S AND VALLEY NATIONAL BANK'S MOTION FOR SUMMARY JUDGMENT ON THEIR COUNTERCLAIM AGAINST THIRD PARTY PLAINTIFF WEIS BUILDERS INC AND ON WEIS BUILDER INC'S AMENDED THIRD PARTY COMPLAINT

11/07/2007	NTC: HEARING (CIVIL) DECEMBER 17, 2007 AT 1:00 PM MOTION TO REVISE SCHEDULING ORDER ALONG WITH MATTER PREVIOUSLY SCHEDULED
11/07/2007	NTC: HEARING (CIVIL) DECEMBER 17, 2007 AT 1:00 PM EKER BROTHERS, INC.'S FIRST MOTION TO COMPEL RESPONSES TO THEIR FIRST SET OF INTERROGATORIES TO WEIS BUILDERS, INC.
11/06/2007	CERTIFICATE OF SERVICE
11/05/2007	REQUEST FOR HEARING/SETTING REQUEST FOR EXPEDITED SETTING MOTION FOR STAY OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON CALCULATION OF LIQUIDATED DAMAGES
11/05/2007	MTN: MOTION MOTION FOR STAY OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON CALCULATION OF LIQUIDATED DAMAGES
11/01/2007	REQUEST FOR HEARING/SETTING RE: MOTION TO REVISE SCHEDULING ORDER
11/01/2007	MTN: MOTION MOTION TO REVISE SCHEDULING ORDER
10/30/2007	REQUEST FOR HEARING/SETTING MATTER:EKER BROTHERS, INC.'S FIRST MOTION TO COMPEL RESPONSES TO THEIR FIRST SET OF INTERROGATORIES TO WEIS BUILDERS, INC.
10/30/2007	MTN: TO COMPEL EKER BROTHERS, INC.'S MOTION TO COMPEL RESPONSES TO THEIR FIRST SET OF INTERROGATORIES TO WEIS BUILDERS, INC.
10/25/2007	CERTIFICATE OF SERVICE CERTIFICATE OF SERVICE FOR WEISS BUILDERS, INC. INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS TO RAINBOWVISION SANTA FE, LLC (SET II)
10/25/2007	CERTIFICATE OF SERVICE CERTIFICATE OF SERVICE FOR WEIS BUILDERS, INC. ANSWERS TO FIRST SET OF REQUESTS FOR ADMISSIONS OF THIRD PARTY DEFENDANT LES FILE DRYWALL, INC.
10/25/2007	CERTIFICATE OF SERVICE CERTIFICATE OF SERVICE FOR WEIS BUILDERS, INC. ANSWERS TO FIRST SET OF REQUESTS FOR ADMISSIONS OF THIRD PARTY DEFENDANT TLC COMPANY, INC.
10/17/2007	CERTIFICATE OF SERVICE
10/17/2007	CERTIFICATE OF SERVICE
10/17/2007	CERTIFICATE OF SERVICE
10/11/2007	CERTIFICATE OF SERVICE BY ATTORNEY
10/10/2007	MTN: FOR SUMMARY JUDGMENT PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING THE CALCULATION OF LIQUIDATED DAMAGES AND STATEMENT OF SUPPORTING POINTS AND AUTHORITIES
10/09/2007	CERTIFICATE OF SERVICE
09/28/2007	ORD: ORDER ORDER ON PLAINTIFF'S MOTION FOR PARTIALLY SUMMARY JUDGMENT REGARDING LIQUIDATED DAMAGES CLAIM
09/28/2007	CAL: PRESENTMENT PRESENTMENT OF ORDER ON PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING LIQUIDATED DAMAGES CLAIM SCHEDULED AT 8:30 A.M. ON SEPTEMBER 28, 2007
09/26/2007	OBJECTION/OPPOSITION OBJECTIONS TO PLAINTIFF'S PROPOSED ORDE - LR1-304(C)
09/26/2007	CERTIFICATE OF SERVICE

FRO WEISS BUILDERS, INC ANSWERS TO INTERROGATORIES OF
THIRD PARTY DEFENDANT EKER BROTHERS INC AND RESPONSES
TO REQUESTS FOR PRODUCTION OF THIRD PARTY DEFENDANT
EKER BROTHERS INC

09/21/2007 CERTIFICATE OF SERVICE
09/17/2007 CERTIFICATE OF SERVICE
09/17/2007 CERTIFICATE OF SERVICE
08/31/2007 NTC: HEARING (CIVIL)
SEPTEMBER 28, 2007 AT 8:30 AM
PRESENTMENT OF ORDER ON PLAINTIFF'S MOTION
FOR PARTIAL SUMMARY JUDGMENT

08/22/2007 REQUEST FOR
HEARING/SETTING
PRESENTMENT OF ORDER ON PLAINTIFF'S MOTION FOR PARTIAL
SUMMARY JUDGMENT

08/17/2007 CERTIFICATE OF SERVICE
08/17/2007 CAL: MTN HEARING
PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING
LIQUIDATED DAMAGES CLAIM SCHEDULED AT 2:30 P.M. ON
AUGUST 17, 2007

07/30/2007 CERTIFICATE OF SERVICE
07/30/2007 CERTIFICATE OF SERVICE
07/30/2007 CERTIFICATE OF SERVICE
07/30/2007 CERTIFICATE OF SERVICE
07/20/2007 CERTIFICATE OF SERVICE
CERTIFICATE OF SERVICE FOR WEISS BUILDERS, INC.
INTERROGATORIES, REQUESTS FOR PRODUCTION OF DOCUMENTS AND
THINGS, AND REQUESTS FOR ADMISSION TO RAINBOWVISION SANTA
FE, LLC

06/29/2007 ANSWER
THIRD PARTY DEFENDANT EKER BROTHERS, INC.'S ANSWER TO
AMENDED THIRD PARTY COMPLAINT

06/29/2007 ANSWER
THIRD PARTY DEFENDANT TLC COMPANY, INC.'S ANSWER TO THIRD
PARTY COMPLAINT

06/28/2007 NTC: NOTICE
NOTICE OF DISMISSAL WITHOUT PREJUDICE OF HSH NORDBANK AG

06/26/2007 SUMMONS RETURN
SERVED TO BRIAN BAUSHMAN, DISTRICT MANAGER ON 05-07-07

06/14/2007 ANSWER TO
COUNTERCLAIM
THIRD-PARTY PLAINTIFF WEISS BUILDERS, INC.'S ANSWER TO THE
COUNTERCLAIM OF LOS ALAMOS NATIONAL BANK AND VALLEY NATIONAL
BANK

06/12/2007 ANSWER
DEFENDANT COUNTERCLAIMANT AND THIRD-PARTY PLAINTIFF WEIS
BUILDERS INC'S ANSWER TO LES FILE DRYWALL INC'S
COUNTERCLAIM AND CROSS-CLAIM

06/08/2007 ANSWER
DEFENDANT, COUNTERCLAIMANT, AND THIRD-PARTY PLAINTIFF WEIS
BUILDERS, INC.'S ANSWER TO LES FILE DRYWALL, INC.'S
COUNTERCLAIM AND CROSS-CLAIM

06/08/2007 ORD: STIPULATED
STIPULATED ORDER OF DISMISSAL WITH PREJUDICE-(RLA, INC.)

06/08/2007 ORD: STIPULATED
STIPULATED ORDER-RELEASE OF MONEY
XC: BONDS

06/08/2007 ANSWER
THIRD-PARTY DEFENDANT RODGERS PLUMBING AND HEATING CO.,
INC.'S ANSWER TO THIRD-PARTY PLAINTIFF'S AMENDED THIRD
PARTY COMPLAINT

06/08/2007 NTC: NOTICE
NOTICE OF CORRECTION

06/07/2007 ANSWER
ANSWER TO AMENDED THIRD PARTY COMPLAINT BY THIRD
PARTY DEFENDANT DOMINGUEZ CARPET AND TILE INC

06/06/2007 REPLY
PLAINTIFFS REPLY TO DEFENDANT WEIS'S RESPONSE TO MOTION
FOR PARTIAL SUMMARY JUDGMENT REGARDING LIQUIDATED DAMAGES
CLAIM

06/06/2007 NTC: HEARING (CIVIL)
RE: PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT
AUG 17, 2007 @ 2:30 PM

06/05/2007 ENTRY OF APPEARANCE
PAUL E. HOUSTON ENTERS ON BEHALF OF DEFENDANT RODGERS
PLUMBING AND HEARING CO. INC

05/30/2007 REQUEST FOR
HEARING/SETTING
MATTER: PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT
REGARDING LIQUIDATED DAMAGES CLAIM

05/25/2007 ANSWER
ANSWER TO COUNTERCLAIM AND CROSSCLAIM OF LFDI
BY RAINBOW VISION

05/21/2007 SUMMONS RETURN
SERVED TO PHIL RODGERS, MANAGER ON 05-07-07

05/18/2007 PETITION (NON-OPENING)
DEFENDANT, COUNTERCLAIMANT, AND THIRD PARTY PLAINTIFF WEIS
BUILDERS, INC'S MEMORANDUM OF LAW IN OPPOSITION TO
PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT
REGARDING LIQUIDATED DAMAGES CLAIM

05/18/2007 ANSWER TO CROSSCLAIM
THIRD PARTY DEFENDANTS LOS ALAMOS NATIONAL BANK AND VALLEY
NATIONAL BANK'S ANSWER TO CROSS-CLAIM BY THIRD PARTY
DEFENDANT LES FILE DRYWALL, INC.

05/15/2007 SUMMONS RETURN
SUMMONS RETURN
ISSUED TO: EKER BROTHERS, INC. DEFENDANT C/O DON EKER

05/11/2007 CERTIFICATE OF SERVICE

05/11/2007 CERTIFICATE OF SERVICE

05/10/2007 COUNTERCLAIM
THIRD PARTY DEFENDANTS LOS ALAMOS NATIONAL BANK AND VALLEY
NATIONAL BANK'S COUNTERCLAIM AGAINST WEIS BUILDERS, INC. AMN
CROSS CLAIMS FOR DECLARATORY JUDGMENT AGAINST THIRD PARTY
DEFENDANTS HSH NORDBANK AG, SIMS RAINBOWVISION LLC, AND
LES FILE DRYWALL, INC.

05/10/2007 ANSWER
PCT'S ANSWER TO CROSS-CLAIM OF WIES BUILDERS, INC

05/10/2007 SUMMONS RETURN
SERVED TO HELEN DOMINGUEZ FOR DOMINGUEZ CARPET AND TILE
ON MAY 4, 2007

05/10/2007 ANSWER
ANSWER TO AMENDED THIRD PARTY COMPLAINT,
COUNTERCLAIM AND CROSSCLAIM BY THIRD PARTY DEFENDANT
LES FILE DRYWALL, INC

05/07/2007 AMENDED/MODIFIED
AMENDED SUBSTITUTION OF COUNSEL
SIMON AND SLATERY SUBSTITUTES FOR JURGEN AND WITH PA
ON BEHALF OF THIRD PARTY DEFENDANTS LOS ALAMOS NATIONAL BANK

05/04/2007 NTC: OF LIS PENDENS
NOTICE OF LIS PENDENS

05/04/2007 ANSWER
THIRD PARTY DEFENDANTS LOS ALAMOS NATIONAL BANK AND
VALLEY NATIONAL BANK'S ANSWER TO AMENDED THIRD
PARTY COMPLAINT

05/02/2007 AFFIDAVIT OF SERVICE
AFFIDAVIT OF SERVICE OF THIRD PARTY SUMMONS THIRD PARTY

COMPLAINT EXHIBITS
DATED 04-17-07 AT 4:25PM JOHN KARNOAKY GENERAL COUNSEL FOR
HSH NORDBANK AD NEW YORK BRANCH WAS SERVED
05/02/2007 AFFIDAVIT OF SERVICE
AFFIDAVIT OF SERVICE OF
THIRD PARTY SUMMONS THIRD PARTY COMPLAINT EXHIBITS
DATED 04-04-07 AT 12:43PM JEFFERY SANDS EXECUTIVE VICE
PRESIDENT/GENERAL COUNSEL OF RAINBOWVISION LLC WAS
PERSONALLY SERVED
04/30/2007 SUMMONS ISSUED
THIRD-PARTY SUMMONS ISSUED TO DOMINGUEZ CARPET AND TILE,
INC.
04/30/2007 SUMMONS ISSUED
THIRD-PARTY SUMMONS ISSUED TO RODGERS PLUMBING & HEATING CO
04/30/2007 SUMMONS ISSUED
THIRD-PARTY SUMMONS ISSUED TO TLC COMPANY INC
04/30/2007 SUMMONS ISSUED
THIRD-PARTY SUMMONS ISSUED TO EKER BROTHERS, INC.
04/30/2007 NCJ: AMENDED COMPLAINT
AMENDED THIRD PARTY COMPLAINT
04/30/2007 CROSSCLAIM
WEIS BUILDERS, INC'S CROSS-CLAIM AGAINST RLA INC
04/27/2007 MTN: FOR SUMMARY
JUDGMT
PLAINTIFFS MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING
LIQUIDATED DAMAGES CLAIM AND STATEMENT OF SUPPORTING
POINTS AND AUTHORITIES
04/26/2007 ORD: WITHDRAWAL/SUB OF
COUNSEL
WITHDRAWAL AND SUBSTITUTION OF COUNSEL
JURGENS & WITH PA WITHDRAWS AND SIMONS & SLATTERY
SUBSTITUTES FOR THIRD PARTY DEFENDANTS LOS ALAMOS
NATIONAL BANK
04/26/2007 ENTRY OF APPEARANCE
BY ALEXIA CONSTANTARAS ON BEHALF OF THE THIRD PART DEFENDANT
LOS ALAMOS NATIONAL BANK AND VALLEY NATIONAL BANK
04/25/2007 ANSWER
PLAINTIFFS ANSWER TO COUNTERCLAIM
04/23/2007 SUMMONS RETURN
JEANNIE GIBSON WAS PERSONALLY SERVED ON BEHALF OF LOS ALAMOS
BANK ON 04-03-07
04/23/2007 SUMMONS RETURN
JASON FILE MANAGER FOR LES FILE DRYWALL WAS PERSONALLY
SERVED ON 04-10-07
04/23/2007 AFFIDAVIT OF SERVICE
A COPY OF THIRD PARTY SUMMONS AND COMPLAINT WAS SERVED
UPON VALLEY NATIONAL BANK BY HAND DELIVERING THE SAME TO
NICK VIGIL, EXECUTIVE VICE PRESIDENT ON APRIL 2, 2007
04/12/2007 ANSWER & CROSSCLAIM
WEIS BUILDERS INC REPLU TO DEFENDANT PCI CONTRACTORS INC
CROSS-CLAIM AND CROSS-CLAIM
04/05/2007 STATEMENT
APPELLEES STATEMENT OF APPELLATE ISSUES
FILED BY NATHAN ADAMS ATTORNEY FOR THE APPELLEE
04/05/2007 ENTRY OF APPEARANCE
ENTRY OF APPEARANCE FILED BY JAMES JURGENS ON BEHALF OF
THE THIRD PARTY DEFENDANTS LOS ALAMOS NATIONAL BANK AND
VALLEY NATIONAL BANK
03/30/2007 ANSWER & COUNTERCLAIM
WEIS BUILDERS INC'S ANSWER TO PLAINTIFFS FIRST AMENDED
PETITION TO CANCEL LIENS AND COMPLAINT TO RECOVER
DAMAGES, AND DEFENDANT WEIS BUILDERS INC'S COUNTERCLAIM
03/27/2007 SUMMONS ISSUED

03/27/2007	ISSUED TO VALLEY NATIONAL BANK SUMMONS ISSUED			
03/27/2007	ISSUED TO LOS ALAMOS NATIONAL BANK SUMMONS ISSUED			
03/27/2007	ISSUED TO SIMS RAINBOWVISION LLC SUMMONS ISSUED			
03/27/2007	ISSUED TO HSH NORDBANK AG NEW YORK BRANCH SUMMONS ISSUED			
03/27/2007	ISSUED TO LES FILE DRYWALL, INC 3RD PARTY COMPLAINT			
03/16/2007	ANSWER ANSWER TO COUNTERCLAIM OF RLA INC			
03/14/2007	ORD: RULE 16B SCHEDULING/FORM JAN 2, 2008 @ 1:30 PM : PRE-TRIAL JAN 28, 2008 @ 8:30 AM : TRIAL SET FOR DOCKET CALL			
03/02/2007	ANSWER ANSWER TO FIRST AMENDED PETITION TO CANCEL LIENS AND COMPLAINT TO RECOVER DAMAGES, COUNTERCLAIM AND CROSS-CLAIM FILED BY PCI CONTRACTORS, INC			
02/28/2007	ANSWER ANSWER TO FIRST AMENDED PETITION TO CANCEL LIENS AND COMPLAINT TO RECOVER DAMAGES BY DEFENDANT RLA, INC. AND COUNTERCLAIM TO FORECLOSE LIEN			
02/28/2007	ENTRY OF APPEARANCE FOR WEIS BUILDERS, INC. ATTORNEY CARL A CALVERT			
02/06/2007	AMENDED PETITION AMENDED PETITION TO CANCEL LIENS AND COMPLAINT TO RECOVER DAMAGES			
02/05/2007	DBS: CASH BOND	P	1	19396.00
	DISBURSED \$19,396.61 CK #183 TO P-1			
02/05/2007	DBS: CASH BOND	P	1	92303.00
	DISBURSED \$92,303.75 CK #182 TO P-1			
01/29/2007	SUMMONS RETURN SERVED TO SYLVIA CAMPBELL OFFICE MANAGER FOR RLA INC ON JAN 4, 2007			
01/29/2007	SUMMONS RETURN SERVED TO PAULINE DURAN FOR PCI CONTRACTORS INC			
01/05/2007	ORD: ORDER ORDER CANCELING LIENS, APPROVING SECURITY, AND APPROVING DEPOSIT OF CASH INTO COURT REGISTRY			
01/04/2007	NTC: JUDGE ASSIGNMENT NOTICE OF JUDGE ASSIGNMENT THIS CAUSE HAS BEEN REASSIGNED TO JUDGE JAMES HALL, DIV II DUE TO THE EXCUSAL OF JUDGE DANIEL SANCHEZ, DIV VII, EFFECTIVE JANUARY 3, 2007			
01/03/2007	JDG: JUDGE ASSIGN EXCUSAL/CHAL THIS CASE HAS BEEN REASSIGNED TO JUDGE JAMES HALL DUE TO THE EXCUSAL OF JUDGE DANIEL SANCHEZ BY PLAINTIFF			
01/03/2007	SUMMONS ISSUED JOHN DEERE LANDSCAPING, INC			
01/03/2007	SUMMONS ISSUED PCI CONTRACTORS INC			
01/03/2007	SUMMONS ISSUED RLA, INC.			
01/03/2007	OPN: PETITION PETITION TO CANCEL LIENS			
01/03/2007	ASM: CIVIL FILING W/ ARBITRAT	P	1	122.00

JUDGE ASSIGNMENT HISTORY

D-101-CV-200700010 - Tuesday, September 22, 2009

ASSIGNMENT DATE	JUDGE NAME	SEQ #	ASSIGNMENT EVENT DESCRIPTION
01/03/2007	DANIEL A SANCHEZ	1	INITIAL ASSIGNMENT
01/03/2007	JAMES A HALL	2	JDG: JUDGE ASSIGN EXCUSAL/CHAL

Attachment 2

ENDORSED
First Judicial District Court

APR 24 2009

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT

Santa Fe, Rio Arriba &
Los Alamos Counties
PO Box 2268
Santa Fe, NM 87504-2268

No. D 0101 CV 2007-00010

RAINBOW VISION SANTA FE, LLC,

Plaintiff,

vs.

**WEIS BUILDERS, INC.,
PCI CONTRACTORS, INC., and
RLA, INC.,**

Defendants,

WEIS BUILDERS, INC.,

Third-Party Plaintiffs,

vs.

**RODGERS PLUMBING AND HEATING, INC.,
et al.**

Third-Party Defendants.

THIRD-PARTY DEFENDANT BMC WEST CORPORATION'S ANSWER
TO THIRD-PARTY PLAINTIFF'S
THIRD AMENDED THIRD-PARTY COMPLAINT

COMES NOW the Third-Party Defendant, BMC West Corporation (heretofore misidentified as BMCW Southcentral L.P., d/b/a BMC Construction, BBD Construction, L.P., as successor in interest to or assignee of BMC Construction and hereinafter "Defendant"), by and through its attorneys of record, Butt Thornton & Baehr PC (Martin Diamond), and hereby answers the Third-Party Plaintiff's Third Amended Third-Party Complaint ("Complaint"), as follows:

1. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 1 of the Complaint and, therefore, denies the same.

2. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 2 of the Complaint and, therefore, denies the same.

3. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 3 of the Complaint and, therefore, denies the same.

4. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 4 of the Complaint and, therefore, denies the same.

5. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 5 of the Complaint and, therefore, denies the same.

6. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 6 of the Complaint and, therefore, denies the same.

7. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 7 of the Complaint and, therefore, denies the same.

8. Defendant denies the allegations contained in Paragraph 8 of the Complaint.

9. Defendant denies the allegations contained in Paragraph 9 of the Complaint.

10. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 10 of the Complaint and, therefore, denies the same.

11. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 11 of the Complaint and, therefore, denies the same.

12. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 12 of the Complaint and, therefore, denies the same.

13. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 13 of the Complaint and, therefore, denies the same.

14. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 14 of the Complaint and, therefore, denies the same.

15. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 15 of the Complaint and, therefore, denies the same.

16. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 16 of the Complaint and, therefore, denies the same.

17. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 17 of the Complaint and, therefore, denies the same.

18. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 18 of the Complaint and, therefore, denies the same.

19. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 19 of the Complaint and, therefore, denies the same.

20. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 20 of the Complaint and, therefore, denies the same.

21. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 21 of the Complaint and, therefore, denies the same.

22. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 22 of the Complaint and, therefore, denies the same.

23. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 23 of the Complaint and, therefore, denies the same.

24. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 24 of the Complaint and, therefore, denies the same.

25. Defendant admits the allegations contained in Paragraph 25 of the Complaint.

26. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 26 of the Complaint and, therefore, denies the same.

27. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 27 of the Complaint and, therefore, denies the same.

28. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 28 of the Complaint and, therefore, denies the same.

29. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 29 of the Complaint and, therefore, denies the same.

30. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 30 of the Complaint and, therefore, denies the same.

31. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 31 of the Complaint and, therefore, denies the same.

32. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 32 of the Complaint and, therefore, denies the same.

33. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 33 of the Complaint and, therefore, denies the same.

COUNT I
EXPRESS INDEMNIFICATION

34. In response to the allegations contained in Paragraph 34 of the Complaint, Defendant restates its answers to Paragraphs 1 through 33 as though fully set forth herein.

35. Defendant denies the allegations contained in Paragraph 35 of the Complaint.

36. Defendant denies the allegations contained in Paragraph 36 of the Complaint.

37. Defendant denies the allegations contained in Paragraph 37 of the Complaint.

38. Defendant denies the allegations contained in Paragraph 38 of the Complaint.

39. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 39 of the Complaint and, therefore, denies the same.

40. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 40 of the Complaint and, therefore, denies the same.

41. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 41 of the Complaint and, therefore, denies the same.

42. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 42 of the Complaint and, therefore, denies the same.

43. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 43 of the Complaint and, therefore, denies the same.

44. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 44 of the Complaint and, therefore, denies the same.

45. Defendant denies the allegations contained in Paragraph 45 of the Complaint.

46. Defendant denies the allegations contained in Paragraph 46 of the Complaint.

COUNT II
ALLEGED BREACH OF CONTRACT

47. In response to the allegations contained in Paragraph 47 of the Complaint, Defendant restates its answers to Paragraphs 1 through 46 as though fully set forth herein.

48. Defendant denies the allegations contained in Paragraph 48 of the Complaint.

49. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 49 of the Complaint and, therefore, denies the same.

50. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 50 of the Complaint and, therefore, denies the same.

51. Defendant denies the allegations contained in Paragraph 51 of the Complaint.

52. Defendant denies the allegations contained in Paragraph 52 of the Complaint.

53. Defendant denies the allegations contained in Paragraph 53 of the Complaint.

54. Defendant denies the allegations contained in Paragraph 54 of the Complaint.

55. Defendant denies the allegations contained in Paragraph 55 of the Complaint.

56. Defendant denies the allegations contained in Paragraph 56 of the Complaint.

57. Defendant denies the allegations contained in Paragraph 57 of the Complaint.

58. Defendant denies the allegations contained in Paragraph 58 of the Complaint.

59. Defendant denies the allegations contained in Paragraph 59 of the Complaint.

60. Defendant denies the allegations contained in Paragraph 60 of the Complaint.

61. Defendant denies the allegations contained in Paragraph 61 of the Complaint.

COUNT III
IMPLIED/COMMON LAW/EQUITABLE INDEMNIFICATION

62. In response to the allegations contained in Paragraph 62 of the Complaint, Defendant restates its answers to Paragraphs 1 through 61 as though fully set forth herein.

63. Defendant denies the allegations contained in Paragraph 63 of the Complaint.

64. Defendant denies the allegations contained in Paragraph 64 of the Complaint.

65. Defendant denies the allegations contained in Paragraph 65 of the Complaint.

COUNT IV
ALLEGED BREACH OF EXPRESS/IMPLIED WARRANTY

66. In response to the allegations contained in Paragraph 66 of the Complaint, Defendant restates its answers to Paragraphs 1 through 65 as though fully set forth herein.

67. Defendant denies the allegations contained in Paragraph 67 of the Complaint.

68. Defendant denies the allegations contained in Paragraph 68 of the Complaint.

69. Defendant denies the allegations contained in Paragraph 69 of the Complaint.

70. Defendant denies the allegations contained in Paragraph 70 of the Complaint.

COUNT V
ALLEGED NEGLIGENCE

71. In response to the allegations contained in Paragraph 71 of the Complaint, Defendant restates its answers to Paragraphs 1 through 70 as though fully set forth herein.

72. Defendant denies the allegations contained in Paragraph 72 of the Complaint.

73. Defendant denies the allegations contained in Paragraph 73 of the Complaint.

74. Defendant denies the allegations contained in Paragraph 74 of the Complaint.

All allegations made in the Third-Party Plaintiff's Third Amended Third-Party Complaint not expressly admitted herein are denied.

AFFIRMATIVE DEFENSES

As and for separate and alternative affirmative defenses, Defendant states:

1. The Complaint fails to state a cause of action upon which relief may be granted.
2. If this Defendant or its predecessors were negligent, which is specifically denied, then said negligence should be compared to the conduct of the Third-Party Plaintiff and others, so as to bar or reduce recovery herein.
3. Any defects or deficiencies in the work performed by this Defendant or its predecessors were the result of the negligence and/or breach of contract by the Third-Party Plaintiff.
4. The Third-Party Complaint is barred by the provisions of NMSA 1978, §56-7-1.
5. The Third-Party Plaintiff's claims are barred by the doctrine of unclean hands.
6. The Third-Party Plaintiff's claims are barred due to its failure to provide timely and adequate notice to this Defendant or its predecessors.
7. The Third-Party Plaintiff has failed to mitigate those damages prayed for in the Complaint, thereby barring or reducing recovery herein.

8. The Defendant expressly reserves the right to add such additional affirmative defenses as are necessary and appropriate.

WHEREFORE, the Third-Party Defendant, BMC West Corporation (heretofore misidentified as BMCW Southcentral L.P., d/b/a BMC Construction, BBD Construction, L.P., as successor in interest to or assignee of BMC Construction), prays that the Third-Party Plaintiff's Third Amended Third-Party Complaint against it be dismissed with prejudice, for its fees and costs, and for such other relief as this Court deems just and proper.

BUTT THORNTON & BAEHR PC

Original signed by
Michael P. Clemens for

Martin Diamond
Attorneys for Third-Party Defendant,
BMC West Corporation
P.O. Box 3170
Albuquerque, NM 87190
Telephone: (505) 884-0777
madiamond@btblaw.com
jmmoses@btblaw.com

I hereby certify that I have emailed a true copy of the foregoing pleading to all counsel of record this 16th day of April, 2009:

Attorneys for Plaintiff
Jack N. Hardwick
Somer, Udall, Hardwick Ahern & Hyatt LLP
P.O. Box 1984
Santa Fe, NM 87504-1984
(505) 982-4676
FAX (505) 988-7029
jhardwick@somlawfirm.com

Attorney for Weis Builders, Inc.
William C. Salmon
Rhodes & Salmon PC
1801 Lomas Blvd. NW
Albuquerque, NM 87104-1205
(505) 247-0328
FAX (505) 766-9402
wcs@rspcnm.com

Mitchell J. Resnick
Tonya K. MacBeth
Burch & Cracchiolo PA
702 E. Osborn, Suite 200
Phoenix, AZ 85014-5281
(602) 234-8778
FAX (602) 850-9778
mresnick@bcattorneys.com
tmacbeth@bcattorneys.com

Attorneys for PCI Contractors Inc.
Eva K. Rappaport
Law Offices of Eva K. Rappaport
6121 Indian School Rd. NE, Suite 240
Albuquerque, NM 87110-4172
(505) 872-3122
FAX (505) 872-3159
Eva.rappaport@thehartford.com

Attorneys for Rodgers Plumbing and Heating
Co. Inc.
Paul E. Houston
Brian Judson
Montgomery & Andrews PA
PO Box 36210
Albuquerque, NM 87176-6210
(505) 884-4200
phouston@montand.com
bjudson@montand.com

Attorney for EMCO Inc.
Paul S. Grand
Law Offices of Paul S. Grand PA
460 St. Michael's Drive, Suite 802
Santa Fe, NM 87505-7643
(505) 989-9980
FAX (505) 989-9987
paul@grandlawfirm.net

Co-Counsel attorney for Weis Builders, Inc.
Carl A. Calvert
Calvert Menicucci PC
8900 Washington St. NE, Suite A
Albuquerque, NM 87113-2702
(505) 247-9100
FAX (505) 247-9761
ccalvert@hardhatlaw.com

Attorneys for Les File Drywall, Inc.
Eker Brothers, Inc. and TLC Company, Inc.
Christopher Saucedo
Silva, Saucedo & Gonzales, P.C.
P.O. Box 100
Albuquerque, NM 87103-0100
(505) 246-8300
FAX (505) 246-0707
csaucedo@silvalaw.org

Attorneys for Maverick Framing
Mark D. Jarmie
Jarmie & Associates
P.O. Box 26416
Albuquerque, NM 87125-6416
(505) 243-6727
FAX 243-6735
mjarmie@jarmielaw.com

Attorney for American National Insulation and
Sealants
Max J. Madrid
Modrall Sperling Roehl Harris & Sisk PA
P.O. Box 2168
Albuquerque, NM 87103-2168
(505) 848-1800
FAX (505) 848-9710
mmadrid@modrall.com

Attorney for Hughes Steel, Koch Mechanical
and Michael Hunter Painting
Robert Bruce Collins
Holly R. Harvey
Julie A. Koschtial
Collins Law Office
1009 Marquette Ave. NE
Albuquerque, NM 87106-4717
(505) 243-6948
FAX (505) 243-6948
jkoschtial@hotmail.com

Attorney for Lopez Roofing, Inc.
Andrew L. Johnson
Johnson Law Firm
P.O. Box 27747
Albuquerque, NM 87125-7747
(505) 243-4549
FAX (505) 243-4323
Andrew@johnsonlawfirmnm.com

Attorney for Western Technologies, Inc.
Gerald G. Dixon
Veronica Lewis
Dixon, Scholl & Bailey PA
P.O. Box 26746
Albuquerque, NM 87125-6746
(505) 244-3890
(505) 827-5055
jdixon@dsblaw.com

Attorneys for Storm Water
Larry Montano
Holland & Hart
P.O. Box 2208
Santa Fe, NM 87504-2208
(505) 988-4421
FAX (505) 983-6043
jmontano@hollandhart.com

Original signed by
Michael P. Clemens for

Martin Diamond

Attachment 3

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT

No. D 0101 CV 2007-00010

RAINBOW VISION SANTA FE, LLC,

Plaintiff,

v.

WEIS BUILDERS, INC.
PCI CONTRACTORS, INC. AND
RLA, INC.

Defendants,

v.

RODGERS PLUMBING AND HEATING, INC.,
et al.

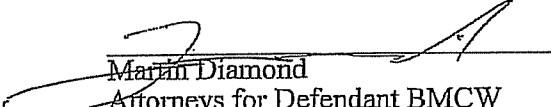
Third Party Defendants.

NOTICE OF BANKRUPTCY FILING

COMES NOW TPD Building Materials Holding Corporation, and all of its subsidiaries (and entities described in the Third Amended Third-Party Complaint filed on September 8, 2008), and does hereby provide notice that on June 16, 2009 said TPD filed for Chapter 11 protection in the United States Bankruptcy Court for the District of Delaware under the caption of:

Building Materials Holding Corporation, et al.
Case No. 09-12074

BUTT THORNTON & BAEHR PC



Martin Diamond

Attorneys for Defendant BMCW
Southcentral LP d/b/a BMC Construction
and BBD Construction LP
P.O. Box 3170
Albuquerque, NM 87190
Telephone: (505) 884-0777
madiamond@btblaw.com
jmmoses@btblaw.com

I hereby certify that I have emailed a
true copy of the foregoing pleading
to all counsel of record this 22nd
day of June, 2009:

Attorneys for Plaintiff – Rainbow Vision Santa Fe LLC
Jack N. Hardwick
Somer, Udall, Hardwick Ahern & Hyatt LLP
P.O. Box 1984
200 West Marcy St. #129
Santa Fe, New Mexico 87504-1984
(505)982-4676
FAX (505)988-7029
jhardwick@somlawfirm.com

Attorney for Weis Builders, Inc.
William C. Salmon
1801 Lomas Blvd. NW
Albuquerque, New Mexico 87104
(505)247-0328
FAX (505)766-9402
wcs@rspcnm.com

Mitchell J. Resnick
Tonya K. MacBeth
Burch & Cracchiolo PA
702 E. Osborn, Suite 200

Phoenix, Arizona 85014
(602)234-8778
FAX (602)850-9778
mresnick@bcattorneys.com
tmacbeth@bcattorneys.com

Co – Counsel attorney for Weis Builders, Inc.
Carl A. Calvert
8900 Washington St. N.E. Suite A
Albuquerque, New Mexico 87113
(505)247-9100
FAX (505)247-9761
ccalvert@hardhatlaw.com

Attorneys for PCI Contractors Inc.
Eva K. Rappaport
6121 Indian School Rd. N.E. Suite 240
Albuquerque, New Mexico 87110
(505)872-3122
FAX (505)872-3159
Eva.rappaport@thehartford.com

Attorneys for Les File Drywall, Inc.
Eker Brothers, Inc. and TLC Company, Inc.
Christopher Saucedo
201 Third Street N.W. #1800
P.O. Box 100
Albuquerque, New Mexico 87103
(505)246-8300
FAX (505)246-0707
csaucedo@silvalaw.org

Attorneys for Rodgers Plumbing and Heating Co. Inc.
Paul E. Houston
Brian Judson
6301 Indian School Rd. N.E. Suite 400
Albuquerque, New Mexico 87110
(505)884-4200
phouston@montand.com
bjudson@montand.com

Attorneys for Maverick Framing
Mark D. Jarmie
Mark D. Jarmie LLC
P.O. Box 26416
Albuquerque, New Mexico 87125-6416
(505)243-6727
FAX 243-6735
mjarmie@swcp.com

Attorney for EMCO Inc.
Paul S. Grand
460 St. Michael's Drive, Suite 802
Santa Fe, New Mexico 87505
(505)989-9980
FAX (505)989-9987
psgrand@gwest.net

Attorney for American National Insulation and Sealants
Max J. Madrid
P.O. Box 2168
Albuquerque, New Mexico 87103-2168
(505)848-1800
FAX (505)848-9710
mmadrid@modrall.com

Attorney for Hughes Steel, Koch Mechanical and Michael Hunter Painting
Robert Bruce Collins
Holly R. Harvey
Julie A. Koschtial
1009 Marquette Ave. NE
Albuquerque, New Mexico 87106
(505)243-6948
FAX (505)243-6948
jkoschtial@hotmail.com

Attorney for Western Technologies, Inc.
Gerald G. Dixon
Veronica Lewis
Dixon, Scholl & Bailey PA
P.O. Box 26746
Albuquerque, New Mexico 87125-6746

(505)244-3890
(505)827-5055
jdixon@dsblaw.com

Attorney for Lopez Roofing, Inc.
Andrew L. Johnson
Johnson Law Firm
P.O. Box 27747
Albuquerque, New Mexico 87125-7747
(505)243-4549
FAX (505)243-4323
Andrew@johnsonlawfirmnm.com

Attorneys for Storm Water
Larry Montano
Holland & Hart
P.O. Box 2208
Santa Fe, New Mexico 87504-2208
(505)988-4421
FAX (505)983-6043
jmontano@hollandhart.com

Attorneys for Pinion Window & Door
Holly Davies, Esq.
4801 Lang N.E. Suite 110
Albuquerque, New Mexico 87109
(505)307-4332
FAX (505)213-0144
bdavies@lorberlaw.com

Attorneys for Valley Fire Protection
William Madison
Michael Dekleva
Madison, Harbour & Mroz PA
P.O. Box 25467
Albuquerque, New Mexico 87125-0467
mjd@madisonlaw.com

Attorney for Geo-Test Inc. and Bohanan-Huston, Inc.
And Lloyd & Associates
Kevin M. Sexton

Montgomery & Andrews PA
P.O. Box 36210
Albuquerque, New Mexico 87176-6210
(505)884-4200
FAX (505)888-8929
ks Sexton@montand.com

Attorneys for Morey Walker & Associates
Engineering, Inc.
Robert J. Perovich
Keleher & McLeod PA
P.O. Box AA
Albuquerque, New Mexico 87103
(505)341-0025
rjp@keleher-law.com

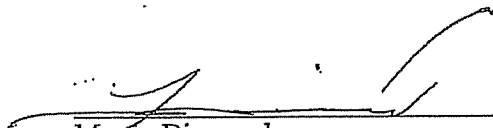

Martin Diamond

EXHIBIT C

Declaration of Gregory Guarton

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

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

DECLARATION OF GREGORY B. GUARTON

I, Gregory B. Guarton, declare and state as follows:

1. I am Gregory B. Guarton, Senior Consultant for The Garden City Group, Inc. ("**GCG**"), the claims and noticing agent in the above-captioned chapter 11 cases (the "**Chapter 11 Cases**").
2. As filed proofs of claim were received by GCG, GCG scanned each claim into a secure proprietary database maintained exclusively for these Chapter 11 Cases (the "**Database**"). When GCG received a proof of claim containing a GCG barcode, GCG's scanning equipment read the barcode and programmatically linked the claim to the appropriate Database record. When GCG received a proof of claim that did not contain a GCG barcode, a trained claims processor created a new Database record for that claim by data entering the claimant's name, address, and other contact information provided on the claim form. All proofs of claim

¹ 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.

(whether barcoded or not barcoded) were then fully reviewed and the details asserted thereon were entered into the Database.

3. I have reviewed the Database, and verified that as of the date hereof, 2,764 proofs of claim have been filed in the Chapter 11 Cases.

4. I have reviewed the Database, and verified that as of the date hereof, 216 proofs of claim (other than claims filed by government entities which are subject to the governmental bar date) (the "*Late Claims*") have been filed since the August 31, 2009 bar date.

5. I have reviewed the Database, and verified that as of the date hereof, the aggregate amount claimed in the Late Claims is \$15,646,926.78.

6. I have reviewed the Database, and verified that as of the date hereof, no proof of claim has been filed in the Chapter 11 Cases on behalf of Weis Builders, Inc.; Rhodes & Salmon, P.C.; or William Salmon.

7. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

/s/ Gregory B. Guarton
Gregory B. Guarton

Executed on November 12, 2009.

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

In re:

BUILDING MATERIALS HOLDING
CORPORATION, *et al.*,¹

Debtors.

Chapter 11

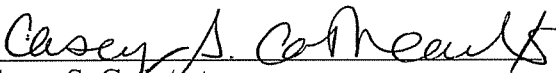
Case No. 09-12074 (KJC)

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 November 12, 2009, she caused a copy of the **Debtors' Objection to Weis Builders, Inc.'s Motion for Entry of an Order Enlarging the Claims Bar Date** to be served as indicated upon the parties identified on the attached service lists.


Casey S. Cathcart

SWORN TO AND SUBSCRIBED before me this 12th day of November, 2009.


Notary Public
My Commission Expires:

**ERICA A. BROYLES
NOTARY PUBLIC
STATE OF DELAWARE
My commission expires Sept. 6, 2013**

¹ 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.

**BUILDING MATERIALS HOLDING CORPORATION
SPECIAL SERVICE LIST RE: DEBTORS' OBJECTION TO
WEIS BUILDERS, INC.'S MOTION TO ENLARGE BAR DATE
11/12/2009**

Don A. Beskrone, Esq.
Leigh-Anne M. Raport, Esq.
Ashby & Geddes, P.A.
500 Delaware Avenue, 8th Floor
Wilmington, DE 19801
(Counsel to Weis Builders, Inc.)
Hand Delivery

2002 SERVICE LIST
BUILDING MATERIALS HOLDING CORPORATION
11/12/2009

David G. Aelvoet, Esq.
Linebarger Goggan Blair & Sampson LLP
Travis Building, 711 Navarro, Suite 300
San Antonio, TX 78205
(Counsel to Bexar County)
First Class Mail

Christopher M. Alston, Esq.
Foster Pepper PLLC
1111 Third Avenue, Suite 3400
Seattle, WA 98101
(Counsel to JELD-WEN, inc.)
First Class Mail

Sanjay Bhatnagar, Esq.
Cole, Schotz, Meisel, Forman & Leonard, P.A.
500 Delaware Avenue, Suite 1410
Wilmington, DE 19801
(Counsel to CNH Capital America, LLC)
Hand Delivery

Brian W. Bisignani, Esq.
Post & Schell, P.C.
17 North 2nd Street, 12th Floor
Harrisburg, PA 17101-1601
(Counsel to Aon Consulting)
First Class Mail

Robert McL. Boote, Esq.
Ballard Spahr Andrews & Ingersoll, LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599
(Counsel to Westchester Fire Insurance
Company and ACE USA)
First Class Mail

David Boyle
Airgas, Inc.
259 Radnor-Chester Road, Suite 100
P.O. Box 6675
Radnor, PA 19087-8675
First Class Mail

Barbara L. Caldwell, Esq.
Aiken Schenk Hawkins & Ricciardi P.C.
4742 North 24th Street, Suite 100
Phoenix, AZ 85016
(Counsel to Maricopa County)
First Class Mail

Andrew Cardonick, Esq.
Greenberg Traurig, LLP
77 West Wacker Drive, Suite 3100
Chicago, IL 60601
(Counsel to Grace Bay Holdings, II, LLC)
First Class Mail

Scott T. Citek, Esq.
Lamm & Smith, P.C.
3730 Kirby Drive, Suite 650
Houston, TX 77098
(Counsel to Bay Oil Company)
First Class Mail

Scott D. Cousins, Esq.
Dennis A. Melero, Esq.
Greenberg Traurig, LLP
1007 North Orange Street, Suite 1200
Wilmington, DE 19801
(Counsel to Grace Bay Holdings, II, LLC)
Hand Delivery

2002 SERVICE LIST
BUILDING MATERIALS HOLDING CORPORATION
11/12/2009

Raniero D. D'Aversa, Jr., Esq.
Laura D. Metzger, Esq.
Weston T. Eguchi, Esq.
Orrick, Herrington & Sutcliffe LLP
666 Fifth Avenue
New York, NY 10103-0001
(Counsel to Rabobank International)
First Class Mail

Tobey M. Daluz, Esq.
Joshua E. Zugerman, Esq.
Ballard Spahr Andrews & Ingersoll, LLP
919 North Market Street, 12th Floor
Wilmington, DE 19801
(Counsel to Westchester Fire Insurance Company
and ACE USA)
Hand Delivery

Robert J. Dehney, Esq.
Erin R. Fay, Esq.
Morris Nichols Arsht & Tunnell LLP
1201 North Market Street, 18th Floor
P.O. Box 1347
Wilmington, DE 19899-1347
(Counsel to D.R. Horton, Inc.)
Hand Delivery

John P. Dillman, Esq.
Linebarger Goggan Blair & Sampson LLP
P.O. Box 3064
Houston, TX 77253-3064
(Counsel to Cypress-Fairbanks ISD, Fort Bend
County, and Harris County)
First Class Mail

Mark W. Eckard, Esq.
Reed Smith LLP
1201 North Market Street, Suite 1500
Wilmington, DE 19801
(Counsel to CIT Technology Financing
Services, Inc.)
Hand Delivery

Kevin B. Fisher, Esq.
Seth Mennillo, Esq.
Paul, Hastings, Janofsky & Walker LLP
55 Second Street, 24th Floor
San Francisco, CA 94105
(Counsel to Wells Fargo Bank, N.A.)
First Class Mail

John M. Flynn, Esq.
Carruthers & Roth, P.A.
235 North Edgeworth Street
P.O. Box 540
Greensboro, NC 27401
(Counsel to Arrowood Indemnity Company)
First Class Mail

Christopher J. Giaimo, Jr., Esq.
Katie A. Lane, Esq.
Arent Fox LLP
1050 Connecticut Avenue, NW
Washington, DC 20036-5339
(Counsel to the Official Committee of Unsecured
Creditors)
First Class Mail

Paul N. Heath, Esq.
Richards, Layton & Finger, P.A.
One Rodney Square
920 North King Street
Wilmington, DE 19801
(Counsel to Wells Fargo Bank, N.A.)
Hand Delivery

Melody C. Hogston
Royal Mouldings Limited
P.O. Box 610
Marion, VA 24354
First Class Mail

2002 SERVICE LIST
BUILDING MATERIALS HOLDING CORPORATION
11/12/2009

Eric H. Holder, Jr., Esq.
U. S. Attorney General
Department of Justice - Commercial Litigation
Branch
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001
First Class Mail

James E. Huggett, Esq.
Amy D. Brown, Esq.
Margolis Edelstein
750 Shipyard Drive, Suite 102
Wilmington, DE 19801
(Counsel to Eduardo Acevedo, et al.)
First Class Mail

IKON Financial Services
Attn: Bankruptcy Administration
1738 Bass Road
P.O. Box 13708
Macon, GA 31208-3708
First Class Mail

Internal Revenue Service
Attn: Insolvency Section
11601 Roosevelt Blvd., Mail Drop N781
P.O. Box 21126
Philadelphia, PA 19114
First Class Mail

Thomas W. Isaac, Esq.
Dietrich, Glasrud, Mallek & Aune
5250 North Palm Avenue, Suite 402
Fresno, CA 93704
(Counsel to Wilson Homes, Inc.)
First Class Mail

Neal Jacobson, Esq.
Senior Trial Counsel
Securities and Exchange Commission
3 World Financial Center, Suite 400
New York, NY 10281
First Class Mail

Michael J. Joyce, Esq.
Cross & Simon, LLC
913 North Market Street, 11th Floor
Wilmington, DE 19801
(Counsel to Arrowood Indemnity Company)
Hand Delivery

Chad A. Kelsch, Esq.
Hellmuth & Johnson, PLLC
10400 Viking Drive, Suite 500
Eden Prairie, MN 55344
(Counsel to FCA Construction Company, LLC)
First Class Mail

Thomas L. Kent, Esq.
Paul, Hastings, Janofsky & Walker LLP
75 East 55th Street, 1st Floor
New York, NY 10022
(Counsel to Wells Fargo Bank)
First Class Mail

Gary H. Leibowitz, Esq.
Cole, Schotz, Meisel, Forman & Leonard, P.A.
300 East Lombard Street, Suite 2600
Baltimore, MD 21202
(Counsel to CNH Capital America, LLC)
First Class Mail

2002 SERVICE LIST
BUILDING MATERIALS HOLDING CORPORATION
11/12/2009

Louisiana-Pacific Corporation
Attn: Bruce J. Iddings
P.O. Box 4000-98
Hayden Lake, ID 83835-4000
(Top 50)
First Class Mail

Cliff W. Marcek, Esq.
Cliff W. Marcek, P.C.
700 South Third Street
Las Vegas, NV 89101
(Counsel to Edward and Gladys Weisgerber)
First Class Mail

Dan McAllister
San Diego County Treasurer-Tax Collector,
Bankruptcy Desk
1600 Pacific Highway, Room 162
San Diego, CA 92101
First Class Mail

Frank F. McGinn, Esq.
Bartlett Hackett Feinberg, P.C.
155 Federal Street, 9th Floor
Boston, MA 02110
(Counsel to Iron Mountain Information
Management, Inc.)
First Class Mail

Joseph J. McMahon, Jr., Esq.
Office of the United States Trustee
844 King Street, Suite 2207
Lock Box 35
Wilmington, DE 19801
Hand Delivery

Joseph McMillen
Midlands Claim Administrators, Inc.
3503 N.W. 63rd Street, Suite 204
P.O. Box 23198
Oklahoma, OK 73123
First Class Mail

Kathleen M. Miller, Esq.
Smith, Katzenstein & Furlow LLP
800 Delaware Avenue, 7th Floor
P.O. Box 410
Wilmington, DE 19801
(Counsel to Airgas, Inc.)
Hand Delivery

Sheryl L. Moreau, Esq.
Missouri Department of Revenue - Bankruptcy Unit
P.O. Box 475
Jefferson City, MO 65105-0475
First Class Mail

Charles J. Pignuolo, Esq.
Devlin & Pignuolo, P.C.
1800 Bering Drive, Suite 310
Houston, TX 77057
(Counsel to Partners in Building, L.P.)
First Class Mail

Michael Reed, Esq.
McCreary, Veselka, Bragg & Allen, P.C.
P.O. Box 1269
Round Rock, TX 78680
(Counsel to Local Texas Taxing Authorities)
First Class Mail

2002 SERVICE LIST
BUILDING MATERIALS HOLDING CORPORATION
11/12/2009

Jonathan Lee Riches
Federal Medical Center
P.O. Box 14500
Lexington, KY 40512
First Class Mail

Debra A. Riley, Esq.
Allen Matkins Leck Gamble Mallory & Natsis LLP
501 West Broadway, 15th Floor
San Diego, CA 92101
(Counsel to D.R. Horton, Inc.)
First Class Mail

Randall A. Rios, Esq.
Timothy A. Million, Esq.
Munsch Hardt Kopf & Harr, PC
700 Louisiana, 46th Floor
Houston, TX 77002
(Counsel to Cedar Creek Lumber, Inc.)
First Class Mail

Martha E. Romero, Esq.
Romero Law Firm
6516 Bright Avenue
Whittier, CA 90601
(Counsel to Yuba County and San Bernardino
County)
First Class Mail

George Rosenberg, Esq.
Assistant Arapahoe County Attorney
5334 South Prince Street
Littleton, CO 80166
(Counsel to Arapahoe County Treasurer)
First Class Mail

Howard C. Rubin, Esq.
Kessler & Collins, P.C.
2100 Ross Avenue, Suite 750
Dallas, TX 75201
(Counsel to CRP Holdings B, L.P.)
First Class Mail

Bradford J. Sandler, Esq.
Jennifer R. Hoover, Esq.
Jennifer E. Smith, Esq.
Benesch, Friedlander, Coplan & Aronoff LLP
222 Delaware Avenue, Suite 801
Wilmington, DE 19801
(Counsel to the Official Committee of
Unsecured Creditors)
Hand Delivery

Secretary of State
Franchise Tax
Division of Corporations
P.O. Box 7040
Dover, DE 19903
First Class Mail

Secretary of Treasury
Attn: Officer, Managing Agent or General Agent
P.O. Box 7040
Dover, DE 19903
First Class Mail

Securities & Exchange Commission
Attn: Christopher Cox
100 F Street, NE
Washington, DC 20549
First Class Mail

2002 SERVICE LIST
BUILDING MATERIALS HOLDING CORPORATION
11/12/2009

Securities & Exchange Commission
Bankruptcy Unit
Attn: Michael A. Berman, Esq.
450 Fifth Street NW
Washington, DC 20549
First Class Mail

Ellen W. Slights, Esq.
Assistant United States Attorney
U.S. Attorney's Office
1007 Orange Street, Suite 700
P.O. Box 2046
Wilmington, DE 19899
Hand Delivery

Tennessee Department of Revenue
c/o Tennessee Attorney General's Office,
Bankruptcy Division
P.O. Box 20207
Nashville, TN 37202-0207
First Class Mail

Kimberly Walsh, Esq.
Assistant Attorney General
Texas Comptroller of Public Accounts, Bankruptcy
& Collections Division
P.O. Box 12548
Austin, TX 78711-2548
First Class Mail

Christopher A. Ward, Esq.
Shanti M. Katona, Esq.
Polsinelli Shughart PC
222 Delaware Avenue, Suite 1101
Wilmington, DE 19801
(Counsel to SunTrust Bank)
Hand Delivery

Paul M. Weiser, Esq.
Buchalter Nemer
16435 North Scottsdale Road, Suite 440
Scottsdale, AZ 85254-1754
(Counsel to Elwood HA, L.L.C.)
First Class Mail

Elizabeth Weller, Esq.
Linebarger Goggan Blair & Sampson LLP
2323 Bryan Street, Suite 1600
Dallas, TX 75201
(Counsel to Dallas County and Tarrant County)
First Class Mail

Duane D. Werb, Esq.
Julia B. Klein, Esq.
Werb & Sullivan
300 Delaware Avenue, Suite 1300
Wilmington, DE 19801
(Counsel to CRP Holdings B, L.P.)
Hand Delivery

Joanne B. Wills, Esq.
Sally E. Veghte, Esq.
Klehr, Harrison, Harvey, Branzburg & Ellers LLP
919 Market Street, Suite 1000
Wilmington, DE 19801
(Counsel to Rabobank International)
Hand Delivery