

40-7580

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

In re: : Civil Action No.: 02-44 (JJF)  
: :  
FANSTEEL INC., et al., : (Bankruptcy #02-10109)  
: :  
Debtors. : **Objection Deadline: February 15, 2002 at 4:00 p.m.**  
: **Hearing Date: (If necessary, will be determined.)**

**NOTICE OF APPLICATION**

PLEASE TAKE NOTICE that on February 5, 2002, Freeborn & Peters, co-counsel to the Official Committee of Unsecured Creditors, filed the attached Application For An Order Pursuant To Section 1103(a) of the Bankruptcy Code Authorizing the Employment and Retention Nunc Pro Tunc of Freeborn & Peters, As Co-Counsel to the Official Committee of Unsecured Creditors (the "Application") with the United States District Court for the District of Delaware, 844 North King Street, Wilmington, Delaware 19801 (the "District Court").

PLEASE TAKE FURTHER NOTICE that any responses or objections to the Application must be filed with the District Court, and served upon (i) Freeborn & Peters, 311 South Wacker Drive, Suite 3000, Chicago, IL 60606, attn: Frances Gecker, Esquire and (ii) Klett Rooney Lieber & Schorling, P.C., 1000 West Street, Suite 1410, Wilmington, DE 19801, attn: Adam G. Landis, Esquire so as to be received by February 15, 2002 at 4:00 p.m. prevailing Eastern Time.

Wm 5501 Add: Rids Uge mail Center

PLEASE TAKE FURTHER NOTICE that if objections or responses to the Application are filed and served in accordance with this Notice, a hearing will be scheduled at the Court's convenience. If no responses or objections are filed and served in accordance with this Notice, the Motion may be granted by the Court without further notice or hearing.

Dated: February 5, 2002  
Wilmington, Delaware

**KLETT ROONEY LIEBER & SCHORLING**  
**A Professional Corporation**

By: 

Adam G. Landis (I.D. No. 3407)  
1000 West Street, Suite 1410  
Wilmington, DE 19801  
Telephone: (302) 552-4200  
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- and -

Frances Gecker, Esquire  
Joseph D. Frank (ARDC #6216085)  
**FREEBORN & PETERS**  
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Telephone: (312) 360-6000  
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Co-Counsel to the Official Committee of Unsecured  
Creditors

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

In re:	: Civil Action No.: 02-44 (JJF)
	:
FANSTEEL INC., <u>et al.</u> ,	: (Bankruptcy #02-10109)
	:
Debtors.	:

**APPLICATION FOR AN ORDER PURSUANT TO SECTION 1103(a) OF THE  
BANKRUPTCY CODE AUTHORIZING THE EMPLOYMENT AND  
RETENTION NUNC PRO TUNC OF FREEBORN & PETERS, AS CO-COUNSEL TO  
THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

The Official Committee of Unsecured Creditors (the "Committee") of the above-captioned debtors and debtors-in-possession (collectively, the "Debtors"), hereby submits this Application For An Order Pursuant To Section 1103(a) Of The Bankruptcy Code Authorizing The Employment And Retention Nunc Pro Tunc Of Freeborn & Peters, As Co-Counsel To the Official Committee of Unsecured Creditors (the "Application"). In support of this Application, the Committee respectfully represents as follows:

**Background**

1. On January 15, 2002, (the "Petition Date"), the Debtors filed their respective voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware. Subsequently, the Debtors withdrew the reference of their reorganization cases to this Court.

2. The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

3. On January 28, 2002, the United States Trustee (the "UST") appointed the Committee.

4. On January 28, 2002 (the "Retention Date"), the Committee met and selected the law firms of Freeborn & Peters ("Freeborn") and as its co-counsel Klett, Rooney, Lieber & Schorling ("Klett Rooney") nunc pro tunc to the Retention Date.

5. As of the Retention Date, Frances Gecker, Esquire, a partner of Freeborn, together with attorneys from Klett, Rooney, Lieber & Schorling, participated in representing the Committee.

#### **Jurisdiction and Venue**

6. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334, and this Application is a "core proceeding" within the meaning of 28 U.S.C. § 157(b)(2)(A). Venue of this proceeding and this Application is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicate for this Application is 11 U.S.C. § 1103(a).

#### **Relief Requested**

7. By this Application, the Committee seeks to employ and retain Freeborn as its co-counsel nunc pro tunc to the Retention Date. The Committee seeks to retain Freeborn as co-counsel because of Freeborn's expertise and extensive knowledge of debtor and creditor representation under the Bankruptcy Code, and its extensive experience representing parties-in-interest in bankruptcy proceedings. The Committee believes that Freeborn is well qualified to represent it in these jointly-administered Chapter 11 cases.

8. The Committee believes that it would be most efficient and in the best interest of the Debtors' estates that Freeborn be retained nunc pro tunc to January 28, 2002, pursuant to Section 1103(a) of the Bankruptcy Code, as co-counsel to perform the legal services that will be

necessary during the pendency of these jointly-administered chapter 11 cases, as more fully described herein.

9. At the request of the Committee, Freeborn will provide various legal services to the Committee in its role as co-counsel, including without limitation the following:

(a) Render legal advice with respect to the powers and duties of the Committee and the other participants in the Debtors' cases;

(b) Assist the Committee in its investigation of the acts, conduct, assets, liabilities and financial condition of the Debtors, the operation of the Debtors' businesses and any other matter relevant to the Debtors' jointly-administered cases, as and to the extent such matters may affect the Debtors' creditors;

(c) Participate in negotiations with parties-in-interest with respect to any disposition of the Debtors' assets, plan of reorganization and disclosure statement in connection with such plan, and otherwise protect and promote the interests of the Debtors' creditors;

(d) Prepare all necessary applications, motions, answers, orders, reports and papers on behalf of the Committee, and appear on behalf of the Committee at Court hearings as necessary and appropriate in connection with the Debtors' cases;

(e) Render legal advice and perform general legal services in connection with the foregoing; and

(f) Perform all other necessary legal services in connection with these jointly-administered chapter 11 cases.

10. Freeborn has indicated a willingness to act on the Committee's behalf in the capacities designated above.

11. It is necessary and essential that the Committee, in order to perform faithfully its duties under the Bankruptcy Code, employ and retain Freeborn to render the foregoing professional services.

12. Subject to this Court's approval, Freeborn will charge for its legal services on an hourly basis in accordance with its ordinary and customary hourly rates as in effect on the date services are rendered. The senior attorneys who will primarily represent the Committee and their standard hourly rates are:

- (a) Frances Gecker, partner, \$350 per hour; and
- (b) Joseph D. Frank, Partner, \$320 per hour.

Such standard hourly rates are subject to periodic adjustment. Other attorneys and support staff may provide services to the Committee in connection with these bankruptcy proceedings, within the following ranges: for partners, from \$280 to \$450 per hour; for associates, from \$125 to \$265 per hour; and for paralegals, from \$75 to \$110 per hour.

13. In addition to seeking payment for such hourly charges, Freeborn will charge for all expenses actually incurred on behalf of the Committee, consistent with its normal practices. These expenses and charges include: telephone charges, mail and express mail charges, facsimile charges, hand delivery and other delivery charges, travel expenses, computerized research, transcription costs, document processing, photocopying charges, and other expenses such as secretarial overtime.

14. To the best of the Committee's knowledge, and except as disclosed herein and in the attached Affidavit of Frances Gecker, Esquire (the "Affidavit"), Freeborn has not represented the Debtors, their creditors, equity security holders, or any other parties-in-interest, or their respective attorneys, in any matter relating to the Debtors or their estates.


15. To the best of the Committee's knowledge, and except as otherwise disclosed in the attached Affidavit, Freeborn does not hold or represent any interest adverse to the Committee or the Debtors' estates, is a "disinterested person" as that phrase is defined in Section 101(14) of the Bankruptcy Code, and such employment is necessary and in the best interests of the Committee and the Debtors and their estates.

16. Notice of this Application has been given to the United States Trustee and to all entities that have filed a request for service of pleadings in these jointly-administered cases. The Committee respectfully submits that, given the administrative nature of the relief requested, no other notice of the relief requested herein need be given.

17. No previous application for the relief sought herein has been made to this or any other Court.

WHEREFORE, the Committee respectfully requests the entry of an Order, in the form attached herewith, (I) authorizing the retention of Freeborn to represent the Committee in these jointly-administered chapter 11 cases, and (ii) granting the Creditors' Committee such other and further relief as is just and proper.

DATED: February \_\_, 2002

By:   
William R. Kopp  
Chairman of Fansteel Creditors' Committee

446505

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

In re:	: Civil Action No.: 02-44 (JJF)
	:
FANSTEEL INC., et al.,	: (Bankruptcy #02-10109)
	:
Debtors.	:

**AFFIDAVIT OF FRANCES GECKER IN SUPPORT OF  
APPLICATION FOR AN ORDER PURSUANT TO SECTION 1103(a) OF THE  
BANKRUPTCY CODE AUTHORIZING THE EMPLOYMENT AND RETENTION  
NUNC PRO TUNC OF FREEBORN & PETERS, AS CO-COUNSEL TO  
THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

STATE OF DELAWARE	)	
	)	SS.:
COUNTY OF NEW CASTLE	)	

Frances Gecker, being duly sworn, does depose and say as follows:

1. I am a partner of the firm of Freeborn & Peters ("Freeborn"), and I am duly authorized to make this Affidavit on behalf of Freeborn. I am familiar with the facts set forth herein and submit this Affidavit in accordance with Section 1103(a) of Title 11 of the United States Code (the "Bankruptcy Code") and Rule 2014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") in support of the Application For An Order Pursuant To Section 1103(a) Of The Bankruptcy Code Authorizing The Employment And Retention Nunc Pro Tunc Of Freeborn & Peters, As Co-Counsel To the Official Committee of Unsecured Creditors (the "Application").

**Background**

2. On January 15, 2002 (the "Petition Date"), Fansteel, Inc. and certain of its direct and indirect subsidiaries (collectively, the "Debtors"), commenced their respective reorganization cases by filing voluntary petitions for relief under Chapter 11 of the Bankruptcy Code, in the United States



Bankruptcy Court for the District of Delaware. Subsequently, the Debtors' withdrew the reference of their reorganization cases to United States District Court for the District of Delaware (the "Court").

3. The Debtors are continuing in possession of their respective properties and are operating and managing their businesses as debtors-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

4. The Committee was appointed by the United States Trustee (the "UST") on January 28, 2002.

5. To the extent of my knowledge and information and except as disclosed herein, Freeborn neither holds nor represents any interest adverse to the Committee, the Debtors, their estates, creditors, or other parties in interest in these cases. Accordingly, and as set forth herein, I believe that Freeborn is a "disinterested person" as such term is defined in Section 101(14) of the Bankruptcy Code.

#### **Freeborn's Disclosure Procedures**

6. In connection with Freeborn's proposed retention in these cases and in preparing this Affidavit, I have followed a set of procedures developed by Freeborn to ensure compliance under these circumstances with the requirements of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and any order of this Court (the "Freeborn Disclosure Procedures").

7. Under the Freeborn Disclosure Procedures, I have submitted for review the names of significant parties in interest in these cases that are known to me after inquiry. This list of names includes:

- the Debtors' prepetition lenders;

- the Debtors' 40 largest unsecured creditors; and
- certain other known creditors and parties in interest.

(all such entities collectively, the "Potential Parties").

8. I make this Affidavit based in material part on that list, as well as Freeborn's business records, including its conflict database, and the responses to conflict checks circulated throughout Freeborn (generally, the "Freeborn Conflict Identification System"). Freeborn maintains and updates the Freeborn Conflict Identification System in the ordinary course of its business, and it is the regular practice of the firm to make and maintain such records. The Freeborn Conflict Identification System was created to include: (a) every matter for which the firm is now or has been engaged; (b) the entity by which the firm is now or has been engaged; (c) the identity of related parties; (d) the identity of adverse parties; and (e) the responsible attorney in the firm who handles that matter.

9. Under Freeborn's policy, no new matter may be accepted or opened without the responsible attorney completing and submitting to the Freeborn Conflict Identification System all information necessary to check each matter for conflicts, including the identities of the prospective client, the matter and all adverse, potentially adverse and related parties. Consequently, the Freeborn Conflict Identification System is updated for every new matter undertaken by Freeborn. Of course, the Freeborn Conflict Identification System relies upon the completeness of the information submitted by individual attorneys in any new matter.

10. Following submission of the Potential Parties, a list was created by Freeborn's Accounting Department of all potential matches or "hits" among the Potential Parties and the names already included in the Freeborn Conflict Identification System. At the same time, the names of the Potential Parties were sent out firm-wide by e-mail to all attorneys for their individual review and

response.

11. I reviewed the "hit" list and any e-mail responses to determine any true matches, discarding obvious name mismatches, and created a subset of the list of Potential Parties for disclosure to the Court in this Affidavit. Where the Freeborn Conflict Identification System determined that Freeborn had an existing relationship with a Potential Party, Freeborn attorneys discussed the nature of the representations of, respectively, the Debtors, the Committee, and the Potential Party. Except as otherwise disclosed herein, in all cases I ascertained that Freeborn did not represent a Potential Party in connection with the Debtors or the Committee. These disclosures are set forth herein below.

12. Except as set forth herein, Freeborn does not represent and has not represented any entity, other than the Committee, in matters related to these jointly administered Chapter 11 cases. On or about the Retention Date, Freeborn withdrew from all other representations in the Debtors' cases and did not represent any entity other than the Committee in these cases.

#### **Connections with Potential Parties**

13. Freeborn's only connection with the office of the United States Trustee is as follows: I am a member of the Panel of Trustees maintained by the Under States Trustee for the Northern District of Illinois. No other attorney or paraprofessional employed by Freeborn has any connection with the United States Trustee or any person employed in the Office of the United States Trustee.

14. Freeborn represents the Northern Trust Company ("Northern Trust") in unrelated transactions. Northern Trust has consented to Freeborn's representation of the Committee. In addition, the Firm represented Northern Trust, as agent, in regards to certain defaults by Fansteel, Inc., under that certain prepetition loan agreement between Fansteel, Inc. and the Prepetition

Lenders. The Firm has since withdrawn from that representation. To the extent that the Committee determines during the course of the case that it would be required to commence an action against Northern Trust, and to the extent that Freeborn would be prohibited from prosecuting such action, the Committee will utilize the services of co-counsel or special counsel, as appropriate.

15. Neither I, nor Freeborn, nor any shareholder, counsel or associate thereof, as far as I have been able to ascertain, holds or represents any interest adverse to the Debtors, the Debtors' estates, or the Committee in the matters for which Freeborn is proposed to be retained.

16. The Debtors have numerous relationships and creditors. Consequently, although every reasonable effort has been made to discover and eliminate the possibility of conflict, including the efforts outlined above, Freeborn is unable to state with absolute certainty whether one of its clients or an affiliated entity holds a claim or otherwise is a party in interest in these Chapter 11 cases. To the extent that any information disclosed herein requires supplementation, amendment or modification upon Freeborn's completion of further analysis or as additional information becomes available to it, a supplemental affidavit will be submitted to the Court.

17. The proposed retention of Freeborn is not prohibited by or improper under Rule 5002 of the Bankruptcy Rules.

#### Compensation

18. Subject to this Court's approval, Freeborn will charge for its legal services on an hourly basis in accordance with its ordinary and customary hourly rates in effect on the date services are rendered. The primary Freeborn attorneys who will be representing the Committee and their corresponding rates as of the date hereof, are as follows: myself, partner, at \$350 per hour; and Joseph D. Frank, partner, at \$320 per hour. These rates may increase from time to time in

accordance with Freeborn's established billing practices and procedures, and other Freeborn partners and associates will be involved in the Debtors' cases as required. Freeborn will maintain detailed, contemporaneous records of time and any actual and necessary expenses incurred in connection with the rendering of legal services described above by category and nature of the service rendered, consistent with the Bankruptcy Code, Bankruptcy Rules, Local Rules and United States Trustee's Guidelines.

19. Freeborn intends to apply to the Court for payment of compensation and reimbursement of expenses in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules of this Court and any other orders entered in these cases.

20. No promises have been received by Freeborn, or any partner or associate thereof, as to payment or compensation in connection with these cases other than in accordance with the provisions of the Bankruptcy Code. Neither Freeborn nor any of its attorneys has entered into an agreement or understanding to share compensation with respect to the representation of the Debtors as described in Rule 2016 of the Bankruptcy Rules.

21. Freeborn has agreed to accept as compensation such sums as may be allowed by the Court based upon the professional time spent, the rates charged for such services, the necessity of such services to the administration of the estates, the reasonableness of the time spent in relation to the results achieved, and the complexity, importance and nature of the problems, issues, or tasks addressed in these cases.

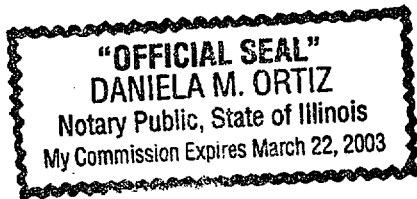
22. Freeborn will reasonably amend this affidavit to the extent Freeborn becomes aware of relationship for which disclosure is appropriate.

  
\_\_\_\_\_  
Frances Gecker, Esquire

SWORN TO AND SUBSCRIBED before  
me this 1st day of February, 2002.

  
\_\_\_\_\_  
Notary Public

446500



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

In re:	:	Civil Action No.: 02-44 (JJF)
	:	
FANSTEEL INC., <u>et al.</u> ,	:	(Bankruptcy #02-10109)
	:	
Debtors.	:	

**ORDER AUTHORIZING EMPLOYMENT AND RETENTION OF  
FREEBORN & PETERS, AS CO-COUNSEL TO  
OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

Upon the Application for Order Pursuant to Section 1103(a) of the Bankruptcy Code Authorizing the Employment and Retention of Freeborn & Peters, as Co-Counsel to the Official Committee of Unsecured Creditors (the "Application"); and upon the Affidavit of Frances Gecker in Support of Application for an Order Pursuant to Section 1103(a) of the Bankruptcy Code Authorizing the Employment and Retention Nunc Pro Tunc of Freeborn & Peters, as Co-counsel to The Official Committee of Unsecured Creditors (the "Affidavit"); and due notice of the Application having been given; and the Court being satisfied, based upon the representations made in the Application and the Affidavit that said attorneys represent no adverse interest to any of the Debtors' estates with respect to matters for which they are to be retained and that they are disinterested persons as such term is defined in section 101(14) of the Bankruptcy Code; and it appearing that the relief requested in the Application is in the best interest of the Committee, the Debtors, their estates, creditors, and shareholders; and sufficient cause appearing therefor, it is hereby

ORDERED that the Application is GRANTED; and it is further

ORDERED that the Official Committee of Unsecured Creditors is authorized to retain the firm of Freeborn & Peters, as co-counsel to the Official Committee of Unsecured Creditors, in accordance with section 1103(a) of the Bankruptcy Code and on the terms set forth in the Application and Affidavit, nunc pro tunc to January 28, 2002.

Dated: \_\_\_\_\_, 2002  
Wilmington, Delaware

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The Honorable Joseph F. Farnan, Jr.



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

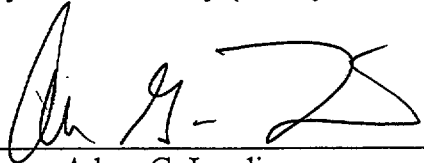
In re: : Civil Action No.: 02-44 (JJF)  
: :  
FANSTEEL INC., et al., : (Bankruptcy #02-10109)  
: :  
Debtors. :

**CERTIFICATE OF SERVICE OF ADAM G. LANDIS, ESQUIRE**

I, Adam G. Landis, certify that I am, and at all times during the service of process, have been, an employee of Klett, Rooney, Lieber and Schorling, P.C., not less than 18 years of age and not a party to the matter concerning which service of process was made. I certify further that the service of the attached:

1. **APPLICATION FOR AN ORDER PURSUANT TO SECTION 1103(a) OF THE BANKRUPTCY CODE AUTHORIZING THE EMPLOYMENT AND RETENTION NUNC PRO TUNC OF FREEBORN & PETERS, AS CO-COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS;**
2. **NOTICE OF APPLICATION; and**
3. **AFFIDAVIT OF FRANCES GECKER IN SUPPORT OF APPLICATION FOR AN ORDER PURSUANT TO SECTION 1103(a) OF THE BANKRUPTCY CODE AUTHORIZING THE EMPLOYMENT AND RETENTION NUNC PRO TUNC OF FREEBORN & PETERS, AS CO-COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS.**

was made on the following parties on the attached list by Hand Delivery (to City of Wilmington addresses only) and First Class Mail.

  
Adam G. Landis

Fansteel Inc. - 2002

Ellis Merschoff, Regional Administrator  
Attention: Dr. Blair Spitzberg  
U.S. Nuclear Regulatory Commission  
Region IV - Harris Tower  
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Arlington, TX 76011-8064

Jim Gardella  
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Pachulski, Stang, Ziehl, Young & Jones P.C.  
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(Co-Counsel for Debtors)

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