

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re: ) Chapter 11  
)  
FANSTEEL INC., et al.,<sup>1</sup> ) 02-10109 (JJF)  
) (Joint Administration)  
Debtors. )  
) Objection Deadline: May 1, 2003 at 4:00 p.m. Eastern  
) Hearing Date: TBD (Only if objections are timely filed)

**NOTICE OF DEBTORS' MOTION FOR ORDER AUTHORIZING FOURTH  
EXTENSION OF THE PERIOD WITHIN WHICH THE DEBTORS MAY  
REMOVE CIVIL ACTIONS PURSUANT TO 28 U.S.C. § 1452 AND  
FEDERAL RULE OF BANKRUPTCY PROCEDURE 9027**

TO: ALL PARTIES REQUIRED TO RECEIVE NOTICE PURSUANT TO DEL. BANKR.  
L.R. 2002-1(b).

PLEASE TAKE NOTICE that on April 11, 2003, the debtors and debtors-in-  
possession (the "Debtors") filed with the United States Bankruptcy Court for the District of  
Delaware, 824 Market Street, Wilmington, Delaware 19801 (the "Bankruptcy Court") the  
*Motion For Order Authorizing Fourth Extension Of The Period Within Which The Debtors May  
Remove Civil Actions Pursuant to 28 U.S.C. § 1452 and Federal Rule of Bankruptcy Procedure  
9027* (the "Motion").

PLEASE TAKE FURTHER NOTICE THAT RESPONSES OR OBJECTIONS,  
IF ANY, TO THE RELIEF REQUESTED IN THE MOTION MUST BE IN WRITING, FILED  
WITH THE BANKRUPTCY COURT, AND SERVED UPON BOTH UNDERSIGNED

<sup>1</sup> The Debtors are the following entities: Fansteel Inc.; Fansteel Holdings, Inc., Custom Technologies Corp., Escast, Inc., Wellman Dynamics Corp., Washington Mfg. Co., Phoenix Aerospace Corp. and American Sintered Technologies, Inc.

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COUNSEL FOR DEBTORS SO AS TO BE RECEIVED BY 4:00 P.M., PREVAILING EASTERN TIME, ON MAY 1, 2003.

PLEASE TAKE FURTHER NOTICE THAT, IF ANY OBJECTIONS ARE TIMELY FILED AND SERVED, A HEARING ON THE MOTION WILL BE HELD ON A DATE TO BE DETERMINED, BEFORE THE HONORABLE JOSEPH J. FARNAN, JR., OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE. IF NECESSARY, THE HEARING WILL BE HELD IN COURTROOM 4B, J. CALEB BOGGS FEDERAL BUILDING, 844 KING STREET, WILMINGTON, DELAWARE 19801. ONLY TIMELY FILED AND RECEIVED WRITTEN OBJECTIONS WILL BE CONSIDERED BY THE COURT AT THE HEARING.

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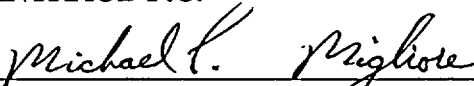
IF NO OBJECTIONS ARE TIMELY FILED AND SERVED IN  
ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF  
REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: April 11, 2003

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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re: ) Chapter 11  
)  
FANSTEEL INC., et al.,<sup>1</sup> ) Case No. 02-10109 (JJF)  
) (Jointly Administered)  
Debtors. )  
) Objection Deadline: May 1, 2003 at 4:00 p.m. Eastern  
) Hearing Date: TBD (Only if objections are timely filed)

**DEBTORS' MOTION FOR ORDER AUTHORIZING FOURTH  
EXTENSION OF THE PERIOD WITHIN WHICH THE DEBTORS MAY  
REMOVE CIVIL ACTIONS PURSUANT TO 28 U.S.C. § 1452 AND  
FEDERAL RULE OF BANKRUPTCY PROCEDURE 9027**

The above-captioned debtors and debtors-in-possession (collectively, the "Debtors") hereby move this Court for entry of an order granting a fourth extension of time through and including August 11, 2003 within which the Debtors may remove civil actions pursuant to 28 U.S.C. § 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure. In support of this Motion, the Debtors state as follows:

**Jurisdiction**

1. This Court has jurisdiction over this Motion under 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A), (M) and (O).
2. The statutory predicates for the relief requested herein are 28 U.S.C. § 1452 ("Section 1452") and Rules 9006 and 9027 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

<sup>1</sup> The Debtors are the following entities: Fansteel Inc.; Fansteel Holdings, Inc., Custom Technologies Corp., Escast, Inc., Wellman Dynamics Corp., Washington Mfg. Co., Phoenix Aerospace Corp. and American Sintered Technologies, Inc.

## Background

3. On January 15, 2002 (the "Petition Date"), the Debtors commenced these cases (the "Chapter 11 Cases") by each filing a voluntary petition for relief under chapter 11 of title 11 of the Bankruptcy Code. On the Petition Date, the Debtors also jointly filed motions or applications seeking certain "first day" orders.

4. The United States Bankruptcy Court for the District of Delaware ("Bankruptcy Court") entered an order ("Joint Administration Order") on January 17, 2002 authorizing the Chapter 11 Cases to be consolidated and jointly administered for procedural purposes only.

5. The United States District Court for the District of Delaware ("District Court") withdrew the reference on the Chapter 11 Cases, by order entered January 28, 2002 (the "Withdrawal Order"). Pursuant to the Withdrawal Order, the Chapter 11 Cases were transferred to the District Court.

6. The Debtors continue in possession of their properties and are operating and managing their businesses as debtors and debtors-in-possession pursuant to Bankruptcy Code §§ 1107 and 1108.

7. No request has been made for the appointment of a trustee or examiner. On or about January 28, 2002, the United States Trustee (the "Trustee") appointed an Official Committee of Unsecured Creditors (the "Committee").

8. On May 16, 2002, the Court entered the *Order Granting Extension of Time Within Which Debtors May Remove Actions Pursuant to 28 U.S.C. § 1452 and Federal*

*Rule of Bankruptcy Procedure 9027* (the “First Extension”) [See Docket No. 198]. The First Extension was through and including August 13, 2002.

9. On August 13, 2002, the Court entered the *Order To Approve Second Motion To Extend Period Within Which Debtors May Remove Actions Pursuant to 28 U.S.C. § 1452 and Federal Rule of Bankruptcy Procedure 9027* (the “Second Extension”) [See Docket No. 388]. The Second Extension was through and including December 12, 2002.

10. On January 10, 2003, the Court entered the *Order to Approve Debtors’ Motion for Order Authorizing Third Extension Of The Period Within Which The Debtors May Remove Civil Actions Pursuant To 28 U.S.C. § 1452 And Federal Rule Of Bankruptcy Procedure 9027* (the “Third Extension”) [See Docket No. 676]. The Third Extension was through and including April 11, 2003.

#### **Relief Requested**

11. By this Motion, the Debtors request entry of an order, pursuant to 28 U.S.C. § 1452 and Bankruptcy Rules 9006(b) and 9027(a)(2)(A), further extending the time by which they may file notices of removal with respect to civil actions pending as of the Petition Date through and including August 11, 2003. The Debtors request that the August 11, 2003 deadline (the “Extension Deadline”) to file removal actions apply to only matters specified in Bankruptcy Rule 9027(a)(2)(A). This Motion and proposed Order shall not operate to have any effect on any party’s right to file a notice of removal after the Extension Deadline pursuant to Bankruptcy Rule 9027(a)(2)(B) or (C).

### Basis for Relief

12. Section 1452 and Bankruptcy Rule 9027 govern the removal of pending civil actions. Specifically, section 1452(a) provides:

A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit's police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.

28 U.S.C. § 1452(a). Bankruptcy Rule 9027(a)(2) further provides, in pertinent part:

If the claim or cause of action in a civil action is pending when a case under the [Bankruptcy] Code is commenced, a notice of removal may be filed in the bankruptcy court only within the longest of (A) 90 days after the order for relief in the case under the Code, (B) 30 days after entry of an order terminating a stay, if the claim or cause of action in a civil action has been stayed under § 362 of the Code, or (C) 30 days after a trustee qualifies in a chapter 11 reorganization case but not later than 180 days after the order for relief.

Fed. R. Bankr. P. 9027(a)(2).

13. Bankruptcy Rule 9006(b) provides that the court may extend unexpired time periods, such as the Debtors' removal period, without notice:

[W]hen an act is required or allowed to be done at or within a specified period by these rules or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion . . . with or without motion or notice order the period enlarged if the request therefor is made before the expiration of the period originally prescribed or as extended by a previous order.

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

14. Since filing bankruptcy petitions on January 15, 2002, the Debtors have continued to allocate substantial amounts of their time focusing on financing, business,

operational and cost-containment issues. The Debtors have also allocated a substantial amount of their time to reorganizational issues. Consequently, the Debtors need, and respectfully request this Court for, additional time to review pending litigation and determine whether it makes sense to remove some or all of such litigation. Accordingly, the Debtors believe it is prudent to seek this extension in order to protect their right to remove those pre-petition actions which the Debtors deem appropriate to be considered by this Court.

15. The extension sought will afford the Debtors an opportunity to make fully-informed decisions concerning removal of each pre-petition action and will ensure that the Debtors do not forfeit valuable rights under section 1452. Further, the rights of the Debtors' adversaries will not be prejudiced by such an extension. Any party to a pre-petition action that is removed may seek to have it remanded to the state court pursuant to 28 U.S.C. § 1452(b).

16. The Debtors further request that the order approving this Motion be without prejudice to (a) any position the Debtors may take regarding whether section 362 of the Bankruptcy Code applies to stay any given litigation pending against the Debtors and (b) the right of the Debtors to seek further extensions of the period in which they may remove actions pursuant to Bankruptcy Rule 9027.

17. The Debtors submit that the relief requested by this Motion is in the best interest of the Debtors, their estates and their creditors because it will maximize the Debtors'



likelihood of a successful reorganization. Moreover, requests by debtors for extensions of the removal period have been routinely granted by Courts in this District.<sup>2</sup>

Notice

18. Notice of this Motion has been given to all parties required to receive notice pursuant to Del. Bankr. L.R. 2002-1(b). In light of the nature of the relief requested, the Debtors submit that no further or other notice is required.

WHEREFORE, the Debtors respectfully request that this Court enter an order further extending the period within which the Debtors may remove actions brought pursuant to

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<sup>2</sup> See, e.g., In re Armstrong World Indus., Inc., Case No. 00-4471 (RJN) (Bankr. D. Del. April 19, 2001) (The Court granted 120-day extension); In re W.R. Grace & Co., Case No. 01-1139 (JKF) (Bankr. D. Del. July 19, 2001) (six-month extension granted); In re Pillowtex, Inc., Case No. 00-4211 (SLR) (Bankr. D. Del. Feb. 6, 2001); In re Philip Servs. (Delaware), Inc., Case No. 99-2385 (MFW) (Bankr. D. Del. Oct. 28, 1999).

28 U.S.C. § 1452 and Bankruptcy Rule 9027(a)(2)(A) through and including August 11, 2003,  
and granting such other and further relief as this Court deems just and proper.

Dated: April 11, 2003

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Co-Counsel for the Debtors and Debtors-in-Possession

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re: ) Chapter 11  
)  
FANSTEEL INC., *et al.*,<sup>1</sup> ) Case No. 02-10109 (JJF)  
) (Jointly Administered)  
Debtors. )

**ORDER TO APPROVE DEBTORS' MOTION FOR ORDER AUTHORIZING  
FOURTH EXTENSION OF THE PERIOD WITHIN WHICH THE DEBTORS  
MAY REMOVE CIVIL ACTIONS PURSUANT TO 28 U.S.C. § 1452 AND  
FEDERAL RULE OF BANKRUPTCY PROCEDURE 9027**

Upon consideration of the Motion<sup>2</sup> for entry of an order extending the period within which the Debtors may remove civil actions pursuant to 28 U.S.C. § 1452 and Federal Rules of Bankruptcy Procedure 9006 and 9027 (the "Motion"); and good cause having been shown; and notice of the Motion appearing sufficient and proper under the circumstances; and the relief requested appearing in the best interests of the Debtors, their estates and creditors; it is hereby

ORDERED that the Motion is granted in full; and it is further

ORDERED that the time period provided by Bankruptcy Rule 9027(a)(2)(A) within which the Debtors may file notices of removal of related proceedings is enlarged and extended through and including August 11, 2003; and it is further

<sup>1</sup>The Debtors are the following entities: Fansteel Inc.; Fansteel Holdings, Inc., Custom Technologies Corp., Escast, Inc., Wellman Dynamics Corp., Washington Mfg. Co., Phoenix Aerospace Corp. and American Sintered Technologies, Inc.

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

ORDERED that the August 11, 2003 deadline to file removal actions shall not operate to have any effect on any party's right to file a notice of removal after the Extension Deadline pursuant to Bankruptcy Rule 9027(a)(2)(B) or (C); and it is further

ORDERED that this Order shall be without prejudice to (i) any position the Debtors may take regarding whether section 362 of the Bankruptcy Code applies to stay any given litigation pending against the Debtors, and (ii) the Debtors' right to seek further extensions of time within which to remove related proceedings.

Dated: \_\_\_\_\_, 2003

\_\_\_\_\_  
The Honorable Joseph J. Farnan, Jr.  
United States District Court Judge