

“Court”). The Debtor continues to manage its business and remains in possession of its property as a debtor-in-possession under Sections 1107 and 1108 of the Bankruptcy Code.

3. No trustee or examiner has been appointed in this case. On July 2, 2008, the United States Trustee for the District of Massachusetts appointed the Official Committee of Unsecured Creditors (the “Committee”).

4. The Debtor is a closely-held Massachusetts corporation formed in 1967 to perform general contracting services. At one time, the Debtor was the largest heavy civil construction company in the northeastern United States and one of the largest in the country. The Debtor served as the largest contractor (in terms of the dollar amount of contracts awarded), on the historic “Big Dig” Central Artery/Tunnel project in Boston, Massachusetts (the “CA/T Project”).

5. The filing of this bankruptcy petition was precipitated by the Debtor’s failure to receive payment from Massachusetts Highway Department/Massachusetts Transportation Authority (the “Authority”) for work previously performed on the CA/T Project, and for work that the Debtor continues to perform on CA/T Project.

6. On September 17, 2008, the Debtor filed a motion seeking an extension of the period within which the Debtor may remove actions pursuant to 28 U.S.C. § 1452 and Fed. R. Bankr. P. 9027 to December 22, 2008. On September 17, 2008, the Court granted the relief requested in the motion.

RELIEF REQUESTED

7. The Debtor respectfully requests the entry of an Order pursuant to Bankruptcy Rule 9006(b) extending the time period within which the Debtor may remove actions pursuant to 28 U.S.C. § 1452 and Bankruptcy Rule 9027. The Debtor requests that the time period during

which they may file notices of removal with respect to any civil actions pending as of the Petition Date and covered by 28 U.S.C. § 1452 be extended through and including the later to occur of (a) Friday, February 27, 2008, or (b) thirty (30) days after entry of an Order terminating the automatic stay with respect to any particular action sought to be removed. This motion is without prejudice to the Debtor's right to seek further extensions of the removal deadline.

BASIS FOR RELIEF REQUESTED

8. 28 U.S.C. § 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). Rule 9027(a)(2) of the Federal Rules of Bankruptcy Procedure further provides:

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

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

9. Bankruptcy Rule 9006(b) provides that the Court may extend unexpired time periods such as the time within which the Debtor may remove actions:

[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 extended by a previous order

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

10. It is well-settled that this Court has the authority to extend the removal period provided under 28 U.S.C. § 1452 and Bankruptcy Rule 9027. See, e.g., Pacor, Inc. v. Higgins, 743 F.2d 984, 996 n.17 (3d Cir. 1984) (bankruptcy court's authority to enlarge time frame for removal under Bankruptcy Rule 9006(b) is "clear"), overruled on other grounds, Things Remembered, Inc. v. Petrarca, 516 U.S. 124, 132-35 (1995); In re Jandous Elec. Constr. Corp., 106 B.R. 48, 50 (Bankr. S.D.N.Y. 1989) (time limit for removal of civil actions may be extended pursuant to Bankruptcy Rule 9006(b)); In re World Fin. Servs. Ctr., Inc., 81 B.R. 33, 39 (Bankr. S.D. Cal. 1987) (bankruptcy judges have the power to enlarge the time period for filing notices of removal under Bankruptcy Rule 9027(a) pursuant to Bankruptcy Rule 9006(b)).

CAUSE EXISTS TO GRANT THE REQUESTED EXTENSION

11. As of the Petition Date, the Debtor was party to numerous judicial and administrative proceedings covered by 28 U.S.C. § 1452 (collectively, the "Prepetition Actions") involving a diverse assortment of claims, including those listed on Exhibit A. Given the number of Prepetition Actions and the variety of claims, the Debtor has not been able to make an informed determination regarding the removal of each Prepetition Action. For instance, during the current removal period, the Debtor extensively negotiated and recently filed two motions to approve global settlements relating to litigation involving disputes arising from Route 3 construction project and the CA/T Project by and among numerous parties asserting significantly large claims. The extension requested in this motion should provide the Debtor the opportunity to consider carefully the possible removal of each Prepetition Action and ensure that the Debtor does not forfeit valuable rights under 28 U.S.C. § 1452.

12. The relief requested in this motion is in the best interests of the estate, its creditors and all parties-in-interest. The extension sought will permit the Debtor to make a full assessment of the possible removal of Prepetition Actions and thereby maximize the potential recovery for its creditors while protecting the Debtor's rights under 28 U.S.C. § 1452. The Debtor's adversaries will not be prejudiced by such an extension because any party whose proceeding is removed may seek to have it remanded under 28 U.S.C. § 1452(b). Although such adversaries may not prosecute a Prepetition Action absent relief from the automatic stay, in the event a party obtains relief from the automatic stay to continue state court litigation, the proposed Order provides that the Debtor has only 30 days to seek removal of such action.

NOTICE

13. The Debtor will serve this motion by this Court's ECF System, and/or by first-class mail, postage prepaid, on (a) the Office of the Attorney General for the Commonwealth of Massachusetts; (b) the Office of the United States Trustee for the District of Massachusetts, (c) each taxing authority that has claim in this case, (d) counsel to the Official Committee of Unsecured Creditors, (e) all parties known by the Debtor claiming to have liens on or security interests in any of the Debtor's assets; (f) all counsel to the parties listed on the attached Exhibit A; and (g) all parties who have filed a notice of appearance in this case. In light of the nature of the relief requested, the Debtor submits that no other or further notice is required.

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WHEREFORE, the Debtor respectfully requests that this Court enter an Order, substantially in the form attached to this motion as Exhibit B: (a) approving the relief requested herein; and (b) granting to the Debtor such other and further relief as the Court deems just and proper in the circumstances.

Respectfully submitted,

MODERN CONTINENTAL
CONSTRUCTION CO., INC.,

By its counsel,

Dated: December 5, 2008

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D. Ethan Jeffery (BBO #631941)
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EXHIBIT A

**In re Modern Continental Construction Co., Inc.
Chapter 11 Case No. 08-14558 (WCH)
Exhibit A to**

*Debtor's Second Motion for Order Extending the Time Period
within Which the Debtor May Remove Actions*

Case No.	Case Name	Court
06-4933-BLS	Commonwealth of Massachusetts, Massachusetts Highway Department and Massachusetts Turnpike Authority, and City of Boston v. Bechtel Corporation f/k/a Bechtel Civil, Inc. and Bechtel Civil and Minerals, Inc., Bechtel Infrastructure Corporation, Parsons Brinckerhoff Quade & Douglas, Inc., Bechtel/Parsons Brinckerhoff, Modern Continental Construction Co., Inc., Gannett Fleming, Inc., Powers Fasteners, Inc., Sika Chemical Corporation, Newman Renner Colony, LLC, Newman Associates, Inc., Renner Colony, LLC, Sigma Engineering International, Inc., Conam, Inc., Firemen's Fund Insurance Company, United States Fidelity and Guaranty Company, and National Surety Corporation	Suffolk Superior Court
07-CV-4815	Patrick Morin and Joseph Olivieri as Trustees of the Empire State Carpenters Welfare, Pension, Vacation, Annuity, Scholarship, Apprentice-Training, Labor-Management Cooperation and Charitable Trust Funds v. Modern Continental Construction Co., Inc. and Modern Continental Construction Co. of New York, Inc.	United States District Eastern District of New York
7041/04	Zano Industries, Inc. and John Doe, Inc. v. Modern Continental Construction Co., Inc., Modern Continental Construction Co. of New York Inc., United States Fidelity & Guaranty Company, Lumbermen's Mutual Casualty Company, Greg Mazur, as a tortfeasor, Lelio Marino a/k/a/ Les Marino under the Lien Law, Ken Anderson under the Lien Law, John Does 1-10, additional defendants pursuant to the Lien Law, Joe Doe Inc. 1-10, additional insurance company or surety or bonding companies presently unknown to plaintiff, Metro Traffic Safety Corporation (as a lienor), John Does 10-20, as additional lienors	Supreme Court of the State of New York, County of Queens
08-2015-BLS1	National Union Fire Insurance Company of Pittsburgh, PA v. Modern Continental Construction Company, Inc.	Suffolk Superior Court
013038/07	Independent Equipment Corp. v. Modern Continental Construction Co., Inc., United States Fidelity and Guaranty Company and John Pastore	Supreme Court of the State of New York County of Nassau

Case No.	Case Name	Court
BC379517	Los Angeles County Metropolitan Transportation Authority v. Modern Continental/HNTB, a joint venture; Modern Continental Construction Co., Inc., a Massachusetts corporation; HNTB Design/Build, Inc., a Delaware corporation; HNTB Holdings, LTD., a Delaware Corporation; United States Fidelity and Guaranty Company, a Maryland Corporation; St. Paul Fire and Marine Insurance Company, a Minnesota corporation; Lumberman's Mutual Casualty Company, an Illinois corporation; Does 1 through 80 inclusive	L.A. Superior Court
07-143IL	Emanouil Brothers, Inc. v. United States Fidelity and Guaranty Company and Modern Continental Construction Corp.	Middlesex Superior Court
08-0184	James Kee on behalf of himself and all others similarly situated v. Modern Continental Construction Company, Inc., John Pastore, Massimo Marino	Middlesex Superior Court
0652CV1298	Ashley Bigelow v. Modern Continental Construction Company, Inc.	Cambridge District Court
07-052248	William M. Gabler v. State of New York	State of New York Court of Claims
06-050588-0	Donald and Rosemarie Sturtevant v. The State of New York	State of New York Court of Claims
114431	Gaynor Aragona v. New York State	NYS Court of Claims
113570	Thomas Cody v. New York State	NYS Court of Claims
112522	Angelo Deliso v. New York State	NYS Court of Claims
CV 08-209-SPATT, J.	Angelo Deliso v. Modern Continental Const. Co. and Mobro Marine, Inc, and M.D. Moody & Sons, Inc.	USDC, Eastern District of NY
	Francis M. Devine v. Modern Continental Construction Co.	
113819	Francis M. Devine v. The State of New York	NYS Court of Claims
06CIV01420	Dennis and Deborah Guenther v. Hallen Construction Company; Spearin, Preston & Burrows, Inc. (3 rd party defendant)	Federal District Court Eastern District of NY

Case No.	Case Name	Court
03871/06	Kevin Hotton v. Spearin, Preston & Burrows, Inc.	NYS Supreme Court Suffolk County
020714/06	Alex Kavazonis v. Modern Continental Companies, Inc.; Modern Continental Construction Co., Inc.; and Modern Continental Construction Co. of New York, Inc.	NYS Supreme Court Nassau County
1104068/06	Michael Olsen v. Hudson River Park Trust; and The City of New York	NYS Supreme Court NY County
36369/06	Christopher Paci v. The City of New York	NYS Supreme Court Kings County
2371/06	Sorenson v. The City of New York, New York City Economic Development Corp., The Port Authority of New York and New Jersey, Queens West Development Corporation, and Empire State Development Corporation	NYS Supreme Court Queens County
113101	Sturtevant, Donald and Rosemarie v. New York State	NYS Court of Claims
Administrative Appeals MA DEP File # 2007-103	Modern Continental Construction Co., Inc. (Appellant) v. Massachusetts Department of Environmental Protection (Appellee)	Massachusetts Division of Administrative Law Appeals
06-04037	John W. Egan Company, Inc. v. Modern Continental Construction Co., Inc., United States Fidelity and Guaranty Co., Fireman's Fund Insurance Company, National Surety Corporation, and Commonwealth of Massachusetts acting by and through the Massachusetts Highway Department	Middlesex Superior Court
04-04450	P.J. Spillane Co., Inc. v. Modern Continental Construction Co., Inc., United States Fidelity and Guaranty Company, Fireman's Fund Insurance Company, and National Surety Corporation	Middlesex County Superior Court, Massachusetts
	Michael Butera and Joyce Butera v. Modern Continental Construction Company, Inc., FEMI-9 Contracting Corporation, Yonkers Contracting Co., Inc., (a/ka/ Yonkers Property Management of New York, Inc.), Hampshire Property Management Company, Inc. and Dimas Cushion Cut	Supreme Court of the State of NY County of Nassau
092922	Joyce Syme v. City of Santa Monica and Modern Continental Construction Company, Inc.; Modern Continental Construction Company of California and DOES 1 through 99	Superior Court of the State of California County of Los Angeles, West District

Case No.	Case Name	Court
BRCV2007-01476	National Lumber Co. v. Modern Continental Enterprises, Inc.	Comm. of Massachusetts
	Scaccia & Sons Leasing Co., Inc. and City Ready Mix Inc. v. Ronal Harman, City Wide Sewer & Drain Service Corp and Modern Continental Construction Co., Inc.	Supreme Court Queens County
03-10905-GAO Civil Action No. 04-1519	Megan McLaughlin v. Boston Harbor Cruises, LLC Megan McLaughlin v. Boston Harbor Cruises, LLC	U.S. District Court Court of Appeals for the First Circuit
Civil Action No. SUCV2007- 03907-C	Modern Continental Construction Co., Inc. v. The Massachusetts Commission Against Discrimination	Suffolk County Superior Court, Massachusetts
Civil Action No. 2002-8406	Detroy Fulmore II and Mary Davis v. Modern Continental Construction Co. Inc., Modern Continental Construction Co. of New York, Inc., Pedro Valentin, Dorothea Scouras and I. Karathanassis	Supreme Court State of New York, Orange County
Case No. BC315745	Automated Switching & Controls, Inc. v. Modern Continental Roadway, a California Joint Venture; Modern Continental Construction Company of California, Inc.; Modern Continental Construction Company, Inc.; Modern Continental Construction Holding Company, Inc.; Modern Continental Companies, Inc.; Fireman's Fund Insurance Company; National Surety Company; and Does 1 to 250, Inclusive	Superior Court of the State of California, Los Angeles County
Civil Action No. 06-3320-A	Edward Sullivan and Joanne Sullivan v. Modern Continental Construction Co., Inc.	Middlesex County Superior Court, Massachusetts
2008-106	John Harkin, Local Union 1456 (Grievant) v. Modern Continental Companies	District Counsel for New York City and Vicinity
06-0682-BLS2	Obayashi Corporation, individually and derivatively on behalf of the Aquarium Joint Venture, v. Modern Continental Construction Co., Inc. <u>et al.</u>	Suffolk Superior Court (BLS2)
05-1074-D	Boston Water and Sewer Commission v. Massachusetts Turnpike Authority and Modern Continental Construction Company, Inc.	Suffolk Superior Court

EXHIBIT B

(Proposed Order)

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
(Eastern Division)**

In re:)	
)	
MODERN CONTINENTAL)	Chapter 11
CONSTRUCTION CO., INC.,)	
Debtor.)	Case No. 08-14558 (WCH)

**ORDER EXTENDING THE TIME PERIOD
WITHIN WHICH THE DEBTOR MAY REMOVE ACTIONS**

Upon the motion dated December 4, 2008 (the "Motion") of Modern Continental Construction Co., Inc. (the "Debtor") for entry of an Order pursuant to Rule 9006(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), for an extension of the period within which the Debtor may remove actions pursuant to 28 U.S.C. § 1452 and Bankruptcy Rule 9027; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the motion was sufficient under the circumstances; the Court determining that the legal and factual bases set forth in the Motion establish just cause for the relief granted by this Order; and it appearing that the relief requested is in the best interests of the Debtor's estate, its creditors and other parties in interest and that no party in interest will be unduly prejudiced thereby;

IT IS HEREBY ORDERED THAT:

- A. The relief requested in the Motion is hereby granted.
- B. The time period within which the Debtor may file notices of removal with respect

to any civil actions pending as of the Petition Date and covered by 28 U.S.C. § 1452 is extended through and including the later to occur of (a) Friday, February 27, 2008, or (b) thirty (30) days after the entry of an order terminating the automatic stay with respect to any particular action sought to be removed.

C. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.

Dated: _____, 2008

The Honorable William C. Hillman
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
(Eastern Division)**

In re:)	
MODERN CONTINENTAL CONSTRUCTION CO., INC.,)	Chapter 11
Debtor.)	Case No. 08-14558 (WCH)

CERTIFICATE OF SERVICE

I, Christian J. Urbano, hereby certify that on this 5th day of December, 2008, I caused to be served a copy of the *Debtor's Motion for Order Extending the Time Period Within Which the Debtor May Remove Actions* by this Court's CM/ECF System and/or by first-class mail, postage prepaid on the persons and entities listed on the attached Service List.

Dated: December 5, 2008
515232-v1

/s/ Christian J. Urbano
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(Counsel to the Debtor)

Modern Continental Construction Co., Inc.
Case Number: 08-14558 (WCH)
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