

**UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT**

NATIONAL LABOR RELATIONS BOARD	)	
Petitioner	)	No. 20-1133
	)	
v.	)	Board Case Nos.
	)	04-CA-235894,
MOUNTAIN VIEW CARE AND	)	04-CA-238216
REHABILITATION CENTER, LLC	)	
Respondent	)	

**MOTION OF THE NATIONAL LABOR RELATIONS BOARD  
FOR A 60-DAY EXTENSION OF TIME FOR FILING  
THE CERTIFIED LIST**

To the Honorable, the Judges of the United States  
Court of Appeals for the Third Circuit:

The National Labor Relations Board (“the Board”), by its Assistant General Counsel, respectfully moves this Court for a 60-day extension of time, from March 1, 2020, to and including April 30, 2020, for filing the certified list in the above matter, and shows:

1. On December 5, 2019, the Board issued its Decision and Order against Mountain View Care and Rehabilitation Center, LLC (“the Company”), which is reported at 368 NLRB No. 128.
2. On January 21, 2020, the Board applied to the Court for enforcement of its Order.
3. On January 24, 2020, the Court issued an Order advising that the Board’s certified list in lieu of the record is due on March 1, 2020.

4. Also on January 24, 2020, the Court issued a letter, noting, consistent with Federal Rule of Appellate Procedure 15(b)(2), that the Company must file an answer to the Board's application for enforcement within 21 days of the application's filing. Pursuant to the Court's letter and FRAP 15(b)(2), the Company's answer was due on February 11, 2020.

5. On February 7, 2020, the Court issued an Order directing that an attorney must appear on behalf of the Company within 21 days, or, by February 28, 2020.

6. As of the time of this filing, no attorney has appeared on behalf of the Company, nor has the Company answered the Board's application for enforcement.<sup>1</sup> Additionally, the Company and the Board are now engaged in settlement discussions. Those discussions may resolve this case without the need for any further litigation. Moreover, should the settlement discussions prove unsuccessful, and should the Company continue to fail to have an attorney appear on its behalf or to answer the Board's application for enforcement, default judgment may ultimately be appropriate.

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<sup>1</sup> The Court's January 24 case-opening-information letter indicates that the record need not be filed where the Respondent has failed to file its Answer: "Pursuant to Fed. R. App. 17(a), the agency must file the record with this Court within 40 days after it files the application for enforcement unless the Respondent fails to answer."

WHEREFORE, the Board respectfully requests that the Court grant the Board's motion for a 60-day extension of time, to and including April 30, 2020, to file the certified list.

/s/ David Habenstreit  
David Habenstreit  
Assistant General Counsel  
NATIONAL LABOR RELATIONS BOARD  
1015 Half Street, SE  
Washington, DC 20570  
(202) 273-2960

Dated at Washington, DC  
this 28th day of February 2020

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**CERTIFICATE OF COMPLIANCE**

Pursuant to Federal Rule of Appellate Procedure 27(d)(2), the Board certifies that this motion contains 476 words of proportionally-spaced, 14-point type, and the word processing system used was Microsoft Word 2016.

/s/ David Habenstreit  
David Habenstreit  
Assistant General Counsel  
National Labor Relations Board  
1015 Half Street SE  
Washington, DC 20570  
(202) 273-2960

Dated at Washington, DC  
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**CERTIFICATE OF SERVICE**

I hereby certify that on February 28, 2020, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Third Circuit by using the appellate CM/ECF system. I further certify that a copy of the foregoing document was served today upon the respondent, who is not represented by counsel, by email and by certified mail as follows:

Bill Kammerer, Administrator  
Mountain View Health Care and Rehabilitation Center, LLC  
2309 Stafford Avenue  
Scranton, PA 18505  
[ceo@mountainviewscranton.com](mailto:ceo@mountainviewscranton.com)  
[CEO@mountainviewhc.com](mailto:CEO@mountainviewhc.com)

/s/ David Habenstreit  
David Habenstreit  
Assistant General Counsel  
NATIONAL LABOR RELATIONS BOARD  
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Dated at Washington, DC  
this 28th day of February 2020