

**UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
DOCKETING STATEMENT--CIVIL/AGENCY CASES**

Directions: Counsel must make a **docketing statement (civil/agency) filed** entry in CM/ECF within 14 days of docketing of the appeal, or within the due date set by the clerk's docketing notice, whichever is later. File with the entry the (1) docketing statement form with any extended answers and (2) any transcript order form. Parties proceeding pro se are not required to file a docketing statement. Opposing counsel who finds a docketing statement inaccurate or incomplete may file any objections within 10 days of service of the docketing statement using the ECF event-**docketing statement objection/correction filed**.

Appeal No. & Caption	20-1694, NLRB v. Greenbrier, VMC, LLC
Originating No. & Caption	No. 10-CA-150997, Greenbrier, VMC, LLC et al., & NNOC
Originating Court/Agency	National Labor Relations Board

Jurisdiction (answer any that apply)	
Statute establishing jurisdiction in Court of Appeals	29 U.S.C. § 160(e)
Time allowed for filing in Court of Appeals	na
Date of entry of order or judgment appealed	June 17, 2020
Date notice of appeal or petition for review filed	June 25, 2020
If cross appeal, date first appeal filed	
Date of filing any post-judgment motion	
Date order entered disposing of any post-judgment motion	
Date of filing any motion to extend appeal period	
Time for filing appeal extended to	
Is appeal from final judgment or order?	<input checked="" type="radio"/> Yes <input type="radio"/> No
If appeal is not from final judgment, why is order appealable? This is a petition to enforce a final agency order pursuant to Section 10(e) of the National Labor Relations Act, as amended (29 U.S.C. §§ 151, 160(e)).	

Settlement (The docketing statement is used by the circuit mediator in pre-briefing review and mediation conducted under Local Rule 33. Counsel may make a confidential request for mediation by calling the Office of the Circuit Mediator at 843-731-9099.)	
Is settlement being discussed?	<input type="radio"/> Yes <input checked="" type="radio"/> No

Transcript (transcript order must be attached if transcript is needed and not yet on file)		
Is transcript needed for this appeal?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
Has transcript been filed in district court?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
Is transcript order attached?	<input type="radio"/> Yes	<input checked="" type="radio"/> No

Case Handling Requirements (answer any that apply)	
Case number of any prior appeal in same case	
Case number of any pending appeal in same case	
Identification of any case pending in this Court or Supreme Court raising similar issue	
	If abeyance or consolidation is warranted, counsel must file an appropriate motion.
Is expedited disposition necessary?	<input type="radio"/> Yes <input checked="" type="radio"/> No
	If yes, motion to expedite must be filed.
Is oral argument necessary?	<input type="radio"/> Yes <input checked="" type="radio"/> No
Does case involve question of first impression?	<input type="radio"/> Yes <input checked="" type="radio"/> No
Does appeal challenge constitutionality of federal or state statute in case to which federal or state government is not a party	<input type="radio"/> Yes <input checked="" type="radio"/> No
	If yes, notice re: challenge to constitutionality of law must be filed.

Nature of Case (Nature of case and disposition below. Attach additional page if necessary.)
<p>On March 11, 2020, Greenbrier, VMC, LLC et al., and the National Nurses Organizing Committee, AFL-CIO, and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation authorizing the Board to enter an order embodying the stipulation's terms. On June 17, 2020, the Board entered an order pursuant to the terms of the settlement agreement. Paragraph 10 of the stipulation authorized the Board to apply to this Court of Appeals for a judgment enforcing the Board's order and provided that the United States Postal Service waived all defenses to the entry of the judgment. The Board now seeks enforcement of its order.</p>

Issues (Non-binding statement of issues on appeal. Attach additional page if necessary)

The parties have an agreement and the Board's order reflects the terms of that agreement. The parties contemplated, and the Board seeks, enforcement of the Board's order which reflects the terms of the agreement.

Adverse Parties (List adverse parties to this appeal and their attorneys; provide party's address if the party is not represented by counsel. Attach additional page if necessary.)

Adverse Party: See attached list

Attorney:
Address:

E-mail:

Phone:

Adverse Party:

.

Attorney:
Address:

E-mail:

Phone:

Adverse Parties (continued)

Adverse Party:

Attorney:
Address:

E-mail:

Phone:

Adverse Party:

Attorney:
Address:

E-mail:

Phone:

Appellant (Attach additional page if necessary.)	
Name: National Labor Relations Board Attorney: David Habenstreit Address: National Labor Relations Board 1015 Half Street, S.E. Washington, D.C. 20570 E-mail: Phone:	Name: Attorney: Address: E-mail: Phone:
Appellant (continued)	
Name: Attorney: Address: E-mail: Phone:	Name: Attorney: Address: E-mail: Phone:
Signature: <u>s/ David Habenstreit</u> Date: <u>7/1/2020</u>	
Counsel for: <u>National Labor Relations Board</u>	
Certificate of Service: I certify that on <u>7/1/2020</u> the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below (Attach additional page if necessary):	
see attached list	
Signature: s/ David Habenstreit	Date: 7/1/2020

Adverse Parties & Service List

RESPONDENT COUNSEL:

Bryan T. Carmody, Esquire
4 Honey Hollow Court
Katonah, NY 10536

Tel: (203) 249-9287

Fax: (860) 430-9437

E-mail: bryancarmody@carmodyandcarmody.com

RESPONDENT COUNSEL:

Robert D. Hudson, Attorney at Law
Frost Brown Todd LLC
7310 Turfway Rd., Ste. 210
Florence, KY 41042-1374

Tel: (859) 817-5909

Fax: (859) 283-5902

E-mail: rhudson@fbtlaw.com

RESPONDENT COUNSEL:

Don T. Carmody, Attorney
Law Office of Don T Carmody
PO Box 3310
Brentwood, TN 37024-3310

Tel: (203) 249-9287

Fax: (860) 430-9437

E-mail: dcarmody@carmodyandcarmody.com

RESPONDENT COUNSEL:

Carmen Dirienzo, Attorney at Law
4 Honey Hollow Court
Katonah, NY 10536-3607

Tel: (917) 217-4691

E-mail:

cdirienzo@carmodyandcarmody.com

RESPONDENT COUNSEL:

Tracy C. Litzinger, Attorney at Law
Howard & Howard Attorneys PLLC
211 Fulton St., Ste. 600
PEORIA, IL 61602-1350

Tel: (309) 672-1483

Fax: (309) 672-1568

E-mail: tlitzinger@howardandhoward.com

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**GREENBRIER, VMC, LLC D/B/A GREENBRIER
VALLEY MEDICAL CENTER, COMMUNITY
HEALTH SYSTEMS, INC., AND/OR COMMUNITY
HEALTH SYSTEMS PROFESSIONAL SERVICES
CORPORATION, LLC, A SINGLE EMPLOYER
AND/OR JOINT EMPLOYERS**

and

Case 10-CA-150997

**NATIONAL NURSES ORGANIZING COMMITTEE
(NNOC), AFL-CIO**

DECISION AND ORDER

Statement of the Case

On March 11, 2020, Greenbrier, VMC, LLC d/b/a Greenbrier Valley Medical Center (Respondent Greenbrier), Community Health Systems, Inc. (CHSI), Community Health Systems Professional Services Corporation, LLC (CHSPSC), National Nurses Organizing Committee (NNOC), AFL-CIO (Charging Party or NNOC), and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, approved by the administrative law judge and subject to Board approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals. The Respondent waived all further and other proceedings before the Board to which it may be entitled under the National Labor Relations Act (the Act) and the Board's Rules and Regulations, and the Respondent waived its right to contest the entry of a consent judgment or to receive further notice of the application therefor.

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following

Findings of Fact

1. The Respondent's business

At all material times, Respondent Greenbrier has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act and has been a health care institution within the meaning of Section 2(14) of the Act.

2. At all material times, NNOC has been a labor organization within the meaning of Section 2(5) of the Act.

3. The appropriate unit

At all times since September 25, 2012, based on Section 9(a) of the Act, NNOC has been the exclusive collective-bargaining representative of the following appropriate bargaining unit:

All full time, regular part-time, and per diem Registered Nurses, including those who serve as relief charge nurses, employed by Respondent Greenbrier at its 202 Maplewood Avenue, Ronceverte, West Virginia hospital; excluding all other employees, including managers, confidential employees, physicians, technical employees, service and maintenance employees, employees of outside registries and other agencies supplying labor to Respondent Greenbrier, guards and supervisors as defined in the Act.

ORDER

Based on the above findings of fact, the Formal Settlement Stipulation and the entire record, and pursuant to Section 10(c) of the National Labor Relations Act, the National Labor Relations Board orders that the Respondent, Greenbrier, VMC, LLC d/b/a Greenbrier Valley Medical Center, Ronceverte, West Virginia, its officers, agents, successors, and assigns, shall take the following affirmative action necessary to effectuate the policies of the Act:¹

¹ The General Counsel and the Respondent also negotiated an informal settlement agreement that provides, among other things, for the posting, reading, emailing, and mailing of a Notice to Employees that includes the allegations of the Third Amended Consolidated Complaint covered by this Formal Settlement Stipulation. The administrative law judge further issued an Order Granting Motions to Correct Notices and Clarify Settlement Agreements that, for the purposes of this Formal Settlement, corrects the heading of the notice.

In addition, par. 6(B)(6) of the settlement stipulation twice refers to “subsection 8(B)(5).” However, the referenced provision appears in par. 6(B)(5). We correct the inadvertent errors.

(a) Make Respondent Greenbrier's bargaining unit employees whole for any loss of wages or benefits suffered as a result of any requirement enforced beginning in or about October 2014 to reduce Paid Time Off accrual banks to 80 hours.

Dated, Washington, D.C., June 17, 2020.

John F. Ring, Chairman

Marvin E. Kaplan, Member

William J. Emanuel, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

The Board's decision can be found at www.nlr.gov/case/10-CA-150997 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

