

John A. McGrath
Phv No. 04849
Thomas E. Quigley
Federal Bar No. CT 05126
National Labor Relations Board – Subregion 34
A.A. Ribicoff Federal Building
450 Main Street, Suite 410
Hartford, CT 06103
Telephone: (860) 240-3527
Facsimile: (860) 240-3564
John.McGrath@nlrb.gov
Thomas.Quigley@nlrb.gov

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

JONATHAN B. KREISBERG, Regional Director of Region 34
of the National Labor Relations Board, for and on behalf of the
NATIONAL LABOR RELATIONS BOARD

Petitioner

vs.

**HEALTHBRIDGE MANAGEMENT, LLC; 107 OSBORNE
STREET OPERATING COMPANY II, LLC D/B/A
DANBURY HCC; 710 LONG RIDGE ROAD OPERATING
COMPANY II, LLC D/B/A LONG RIDGE OF STAMFORD;
240 CHURCH STREET OPERATING COMPANY II, LLC
D/B/A NEWINGTON HEALTH CARE CENTER; 1 BURR
ROAD OPERATING COMPANY II, LLC D/B/A
WESTPORT HEALTH CARE CENTER; 245 ORANGE
AVENUE OPERATING COMPANY II, LLC D/B/A WEST
RIVER HEALTH CARE CENTER; 341 JORDAN LANE
OPERATING COMPANY II, LLC D/B/A WETHERSFIELD
HEALTH CARE CENTER,**

3:12-cv-01299-RNC

May 30, 2013

Respondents; and

LISA CRUTCHFIELD,

Additional Respondent in
Contempt

**PETITION FOR ADJUDICATION AND ORDER IN CIVIL CONTEMPT
AND FOR OTHER CIVIL RELIEF**

Counsel for Petitioner moves this Court, for and on behalf of the National Labor Relations Board (the “Board”), to adjudicate HealthBridge Management, LLC, (“Respondent HealthBridge”) and additional respondent in contempt, Lisa Crutchfield (the “Additional Respondent”) in civil contempt of this Court and to grant other civil relief for having violated and disobeyed, and for continuing to violate and disobey, the Injunctive Order issued by this Court on December 11, 2012.¹ In support thereof, Petitioner respectfully shows as follows:

1. On September 7, 2012, Petitioner filed with this Court a Petition for Injunction under Section 10(j) of the National Labor Relations Act, as amended (the “Act”), 29 U.S.C. § 160(j), seeking a temporary injunction order enjoining and restraining Respondent Healthbridge and several HealthBridge-managed Respondent Health Care Centers (collectively, the “Respondents”)² from engaging in certain conduct violative of the Act, and affirmatively directing Respondent Healthbridge to take certain ameliorative action, including restoring the wages, benefits, and other terms and condition of employment in place on June 16, 2012, prior to the implementation of Respondent’s Last, Best, Final Proposal (the LBF Proposal).

¹ As modified on December 13, 2012 to correct a typographical error.

² The following Respondent Health Care Centers (the “Centers”) are Respondents in the underlying 10(j) proceedings, but Petitioner is **not** seeking that these following Respondents be held in contempt at this time: 107 Osborne Street Operating Company II, LLC d/b/a Danbury Health Care Center (Respondent Danbury); 710 Long Ridge Road Operating Company II, LLC, d/b/a Long Ridge of Stamford, (Respondent Long Ridge); 240 Church Street Operating Company II, LLC d/b/a Newington Health Care Center (Respondent Newington); 245 Orange Avenue Operating Company II, LLC d/b/a West River Health Care Center (Respondent West River); 1 Burr Road Operating Company II, LLC d/b/a Westport Health Care Center (Respondent Westport) (collectively, the “Centers”), who filed voluntary petitions for Chapter 11 Bankruptcy relief in the U.S. Bankruptcy Court for the District of New Jersey on February 24, 2013. On March 4, 2013, the Debtors were provided with interim relief under 11 U.S.C. § 1113(e), and on April 10, that interim relief was extended by the Bankruptcy Court to July 15, 2013. The NLRB has appealed the Bankruptcy Court’s Order in that case arguing that § 1113(e) does not authorize interim relief (i) in the absence of a current collective bargaining agreement (“CBA”), (ii) where the debtors have previously breached CBAs, or (iii) contrary to a prior federal district court injunction, where a necessary element of the § 1113(e) relief was previously litigated and decided in that injunction litigation. The Union has also appealed. Solely as a result of the Bankruptcy Court’s Order, the Petitioner is not seeking a contempt adjudication against the Centers at this time, but will re-assess the situation if and when the Bankruptcy Order is overturned, and may seek a contempt adjudication at that time if required by the extant circumstances. A sixth health care center, 341 Jordan Lane Operating Company II, LLC d/b/a Wethersfield Health Care Center (Wethersfield) received permission in June 2012 to cease operations. Accordingly, references to the “Centers” or the “Respondents” will exclude Respondent Wethersfield.

2. On December 11, 2012, this Court issued an Injunctive Order (the “Injunctive Order”) granting Petitioner’s request for a preliminary injunction during the pendency of the administrative litigation now pending before the Board in Cases 34-CA-070823, et al. A copy of the Injunctive Order, as modified on December 13, 2012, is attached hereto as Exhibit A.

(a) Among other things, the Court’s Injunctive Order affirmatively ordered Respondents to reinstate the employees’ previous wages, benefits and other terms and conditions of employment that were in place on June 16, 2012, and rescind any or all unilateral changes implemented by Respondent Healthbridge.

(b) Respondents were further directed to file a sworn affidavit with the Court setting forth with specificity the manner in which it had complied with the Court’s Order.

3. The Court electronically forwarded copies of its December 11, 2012 injunctive Order on that date to counsel for the parties, including Respondents’ counsel, Rosemary Alito and James Glasser.

(a) Counsel for the Board received a copy of the Court’s December 11, 2012 injunctive Order on the same date.

(b) Consistent with the Court’s electronic service on the parties of its December 11, 2012 injunctive Order, service of that document on Rosemary Alito and James Glasser, Respondents’ counsel, was presumptively effective on the same date.

4. The following provisions of this Court’s Injunctive Order have been in full force and effect since its issuance on December 11, 2012, and have been binding on Respondent Healthbridge, its officers, attorney and agents within the meaning of Rule 65(d) of the Federal Rules of Civil Procedure (Fed. R. Civ. P.), since service was effected upon Respondent’s counsel on or about December 11, 2012:

(a) Respondent shall bargain in good faith with the Union as the exclusive collective bargaining representative of the employees;

(b) Respondent shall post copies of this Order at all of its facilities where notices to employees are customarily posted, including electronic posting if respondent customarily communicates with employees by such means; said postings shall be maintained free from all obstructions and defacements; and agents of the Board shall be granted reasonable access to the facilities to monitor compliance with this posting requirement; and

(c) on or before December 30, 2012, Respondent shall file with this Court, and submit a copy to the Regional Director of Region 34 of the Board, a sworn affidavit from a responsible official, stating with specificity the manner in which respondent has complied with this Order, including the exact locations where respondent has posted the required documents.

5. The following provisions of this Court's Injunctive Order were subject to an emergency partial stay by the Second Circuit Court of Appeals from December 17, 2012 until January 30, 2013 (a copy of the Appellate Court's December 17, 2013 Order is attached as Exhibit B). Since January 30, 2013, the following provisions of the Court's Injunctive Order have been in full force and effect (a copy of the Appellate Court's January 30, 2013 Order is attached as Exhibit C), and have been binding on Respondent HealthBridge, its officers, attorneys, and agents within the meaning of Fed. R. Civ. P. 65(d), as service was effected upon Respondents' counsel on or about December 11, 2012:

(a) On or before December 17, 2012, Respondent shall offer every striker reinstatement to his or her former position, without prejudice to their seniority, rights and privileges previously enjoyed, displacing, if necessary, any other employees hired, transferred or reassigned to replace them;

(b) Respondent shall reinstate the previous wages, benefits and other terms and conditions of employment for the employees that were in place on June 16, 2012, and rescind any or all unilateral changes implemented by Respondents;

6. This Court has jurisdiction under Section 10(j) of the Act to enforce the terms and conditions of the Injunctive Order through appropriate civil contempt proceedings.

7. At all material times, the following persons have been and continue to be agents of Respondent Healthbridge, acting within the meaning of Fed R. Civ. P. 65(d) and the scope of their agency authority:

(a) Daniel Straus, Owner of Respondent HealthBridge.

(b) Alberto Lugo, Executive Vice President and General Counsel of Respondent HealthBridge.

(c) Thomas McKinney, Senior Vice President of Respondent HealthBridge.

(d) Lisa Crutchfield, Senior Vice President, Labor Relations for Respondent HealthBridge.

(e) Edmund Remillard, Regional Director of Human Resources in Connecticut for Respondent HealthBridge.

(f) Lawrence Condon, Regional Director of Operations for Respondent HealthBridge, and Acting Administrator for Respondent Long Ridge.

(g) Cynthia Roessler, Administrator for Respondent Danbury;

(h) Lizabeth Carmichael, Administrator for Respondent Newington;

(i) Joanne Wallak, Administrator for Respondent West River;

(j) Marion Najamy, Administrator for Respondent Westport;

8. On December 28, 2012, Lisa Crutchfield, on behalf of Respondent Healthbridge, filed and submitted an affidavit of compliance as required by paragraph 4(c), above, a copy of which is attached as Exhibit D.

9. On about February 24, 2013, the Centers sought protection under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court”).

(a) Pursuant to the Bankruptcy filing, on February 25, 2013, the Centers requested relief under 11 U.S.C. §1113(e) from certain terms and conditions of employment that were in effect on June 16, 2012.

(b) The Centers sought the Bankruptcy Court’s permission to implement changes similar or identical to several of the changes implemented on June 17, 2012, which this Court had ordered rescinded.

(c) A hearing was held on March 1, 2013 regarding the Centers’ request for relief under 11 U.S.C. § 1113(e).

(d) The striking employees returned to work at the Centers beginning March 3, 2013.

(e) On March 4, 2013, the Bankruptcy Court granted the Centers’ requested interim relief for a period of 6 weeks. A copy of the Bankruptcy Court’s Decision and Order is attached as Exhibit E.

(f) On April 10, 2013, the Bankruptcy Court provided the Centers with an additional 12 weeks of relief, pursuant to the Centers’ motion. A Copy of the Bankruptcy Court’s April 10 Order is attached as Exhibit F.

10. Based upon information and belief, Petitioner has, and there is, clear and convincing evidence that Respondent Healthbridge and the Additional Respondent have

disobeyed and failed and refused, and continues to disobey and fail and refuse, to comply with the provisions of the Court's injunctive Order described above in paragraph 2, in the following respects:

(a) Respondent Healthbridge and the Additional Respondent have failed and refused, and are failing and refusing, to provide employees a 30-minute meal break, a benefit provided to employees on and prior to June 16, 2012.

(b) Respondent Healthbridge and the Additional Respondent have failed and refused, and are failing and refusing, to pay employees "daily overtime" for hours worked in excess of 8 per day, a benefit provided to employees on and prior to June 16, 2012.

(c) Respondent Healthbridge and the Additional Respondent have failed and refused, and are failing and refusing, to allow employees to accrue sick leave at the accrual rates in effect on and prior to June 16, 2012.

(d) Respondent Healthbridge and the Additional Respondent have failed and refused, and are failing and refusing, to provide employees with health and other insurance at no monthly cost to the employee, a benefit in effect on and prior to June 16, 2012.

(e) Respondent Healthbridge and the Additional Respondent have failed and refused, and are failing and refusing, to contribute to the District 1199 Pension Fund on behalf of eligible employees, a benefit provided to employees on and prior to June 16, 2012.

(f) Respondent Healthbridge and the Additional Respondent have failed and refused, and are failing and refusing, to contribute to the District 1199 Training Fund on behalf of eligible employees, a benefit provided to employees on and prior to June 16, 2012.

(g) Respondent Healthbridge and the Additional Respondent have failed and refused, and are failing and refusing, to pay a yearly uniform allowance to eligible employees, a benefit provided to employees on and prior to June 16, 2012.

(h) Respondent Healthbridge and the Additional Respondent have failed and refused, and are failing and refusing, to allow employees to accrue paid personal days, a benefit provided to employees on and prior to June 16, 2012.

(i) Respondent Healthbridge and the Additional Respondent have failed and refused, and are failing and refusing, to pay employees their wages on a weekly basis, a benefit provided to employees on and prior to June 16, 2012.

11. By memoranda dated March 5, 2013, copies of which are attached as Exhibit G, the returning employees were told that they would be working under the terms and conditions of employment described above in paragraph 10.

12. By letter dated March 6, 2013, a copy of which is attached as Exhibit H, the Union was informed that the returning employees were working, and would continue to work, under the terms and conditions of employment described above in paragraph 10.

13. The wages and benefits described above in paragraphs 10 are mandatory subjects of collective bargaining within the meaning of §§ 8(d) and 8(a)(5) of the Act, 29 U.S.C. §§ 158(d) and 158(a)(5).

14. By the acts and conduct described above in paragraph 10, Respondent Healthbridge and the Additional Respondent have failed and refused, and are failing and refusing, to obey and comply with the terms of the Court's injunctive Order. More particularly:

(a) By the acts and conduct described above in paragraph 10, Respondent Healthbridge and the Additional Respondent have disobeyed and failed to comply with

affirmative paragraph 2 of the Court's Injunctive Order, which required Respondent Healthbridge to reinstate the previous wages, benefits and other terms and conditions of employment for the employees that were in place on June 16, 2012, and rescind any or all implemented unilateral changes.

(b) By the acts and conduct described above in paragraph 10, Respondent Healthbridge and the Additional Respondent has disobeyed and failed to comply with affirmative paragraph 3 of the Court's Injunctive Order, which required Respondent Healthbridge to bargain in good faith with the Union as the exclusive collective bargaining representative of the employees.

WHEREFORE, Petitioner respectfully prays the following:

1. That the Court direct Respondent Healthbridge and the Additional Respondent to file with the Court and serve upon Petitioner, by a date certain, an answer to this Petition, specifically admitting or denying, or meeting by affirmative defense, each and every allegation of this Petition, and to file with the Court and serve upon Petitioner, by a fixed date, counter affidavits or declarations in support of any such denial or affirmative defenses.

2. That the Court direct Respondent Healthbridge and the Additional Respondent to appear before it, at a time and place to be fixed by the Court, and show cause, if any there be, why Respondent Healthbridge and the Additional Respondent should not be adjudged in civil contempt for disobeying and refusing to fully comply with the Court's injunctive Order of December 11, 2012.

3. That upon return of said order to show cause, and such other proceedings as are appropriate, the Court adjudge Respondent Healthbridge and the Additional Respondent in civil contempt of the Court's December 11, 2012 injunctive Order and that the Court issue the

following purgation order requiring Respondent Healthbridge, its officers, agents, attorneys, owners, and all persons acting in concert or participation with it, as well as the Additional Respondent, to:

(a) comply with all provisions of the District Court's order of December 11, 2012, as well as all provisions of the Court's Contempt Purgation Order;

(b) reinstate and maintain the previous wages, benefits and other terms and conditions of employment for the employees that were in place on June 16, 2012, and rescind any or all implemented unilateral changes;

(c) promptly post copies of the District Court's Contempt Opinion and Purgation Order at Respondent HealthBridge's premises and at each of the five Centers in all places where notices to its affected employees are normally posted; maintain such postings free from all obstructions and defacements for the duration of the 10(j) decree; all bargaining unit employees shall have free and unrestricted access to said postings; and grant reasonable access to agents of Region 1 of the Board to all such locations to monitor compliance with this posting requirement;

(d) promptly serve copies of the District Court's Contempt Purgation Order on each officer, agent, owner, and counselor of each of the Centers, as well as on each officer, agent, owner, and counselor, of Respondent HealthBridge, and obtain signed acceptances of such copies from each officer, agent, owner, and counselor, and submit the originals of those acceptances to the Regional Director of Region 1 of the Board;

(e) within 20 days of the entry of this Contempt Purgation Order, serve upon the District Court, with a copy submitted to the Regional Director of Region 1 of the Board, a sworn affidavit by a responsible corporate official of Respondent HealthBridge, and by the

Additional Respondent, setting forth with specificity the manner in which they have complied with the terms of the Court's Contempt Purgation Order;

(f) grant reasonable, periodic access to agents of the Board to all of Respondent HealthBridge's corporate records, payroll data, personnel records and files, for inspection and reproduction, to assure compliance with the terms of the Court's Injunctive Order and the Contempt Purgation Order; and

(g) comply with any other further relief of a remedial nature that the Court deems "just and proper" to coerce future compliance with the terms of the Section 10(j) decree.

4. In addition, Petitioner seeks as part of the purgation order that Respondent HealthBridge shall:

(a) pay to the Board compensatory damages for all the costs and expenditures incurred in the investigation and prosecution of this contempt proceeding; these costs shall include attorneys' fees of Board personnel; said amounts, unless agreed upon by the parties, shall be fixed by the Court upon further submission by the Board of a verified statement of costs and expenses;

(b) Pay to all bargaining unit employees at each of the Centers, as compensatory damages, all backpay and/or fringe benefits, plus normal interest as computed in Board proceedings, accrued and owing as a result of Respondent HealthBridge's failure to implement and maintain the terms and conditions of employment in place on June 16, 2012, as required by the District Court's Injunctive Order.

5. Petitioner seeks the imposition of a prospective compliance fine schedule upon Respondent HealthBridge and the Additional Respondent to coerce them to fully comply with the terms of the injunctive decree and of the contempt purgation order and to refrain from

further breaches of that injunction or that purgation order in the future. Thus, Petitioner seeks prospective compliance fines, including daily compliance fines as specified, payable to the National Labor Relations Board, as follows:

(a) \$10,000.00 (ten thousand dollars) against Respondent HealthBridge, and \$5,000 (five thousand dollars) against the Additional Respondent, and a daily compliance fine of \$500.00 (five hundred dollars) per day against Respondent HealthBridge, and \$150 (one hundred and fifty dollars) per day against the Additional Respondent, upon the failure of Respondent HealthBridge to comply with each of the paragraphs, noted above, of the Contempt Purgation Order.

(b) \$5,000.00 (five thousand dollars) against Respondent HealthBridge and \$1,000 (one thousand dollars) against the Additional Respondent for each future violation of any other provision of the Court's Section 10(j) decree.

6. That this Court include a provision in the Contempt Purgation Order that any fines imposed upon and collected from the Additional Respondent shall neither be paid for nor reimbursed by HealthBridge nor reimbursed by any entity she controls.

7. That this Court order any further relief or procedure of a remedial nature that the Court deems "just and proper" to coerce future compliance with the terms of the Court's December 11, 2012 Injunctive Order.

8. That this Court grant expedited consideration of this contempt Petition pursuant to 28 U.S.C. Section 1657(a) and the Congressional intent underlying Section 10(j) of the Act.

Respectfully submitted this 30th day of May, 2013.

/s/ John McGrath

John A. McGrath
Phv No. 04849
Thomas E. Quigley
Federal Bar No. CT 05126
Attorneys for Petitioner,
National Labor Relations Board
Region 1, Subregion 34
450 Main Street, Suite 410
Hartford, CT 06103
Telephone: (860) 240-3527
Facsimile: (860) 240-3564
John.McGrath@nlrb.gov
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