

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

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**GREENBRIER HOTEL CORPORATION,  
et al.**

**Case No. 2:19-cv-00118**

**Plaintiffs,**

**v.**

**ACE AMERICAN INSURANCE  
COMPANY (CHUBB), et al.**

**Defendants.**

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**RESPONSE OF PLAINTIFFS TO SHOW CAUSE ORDER**

Plaintiffs, by counsel, and in response to the Show Cause Order [Doc. 8] regarding service of process on Defendants in this matter, respectfully state as follows:

1. On or about September 8, 2017, certain of the Plaintiffs and Defendants herein entered into a Tolling, Standstill and Non-Waiver Agreement (“Tolling Agreement”) in relation to earlier litigation that Plaintiffs had filed to obtain copies of insurance policies that Defendants had refused to provide. Pursuant to the terms of that Tolling Agreement, the parties agreed to toll any “statute of limitations, suit limitation clause, arbitration clause, or similar provision” from June 23, 2017 through the termination of that agreement.<sup>1</sup> The claims covered by the Tolling Agreement arguably include those asserted by Plaintiffs in the instant matter, but present counsel for Plaintiffs was not aware of the existence of the Tolling Agreement when the Complaint in this matter was filed.

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<sup>1</sup> The Agreement is confidential by its terms and is therefore not attached. However, Plaintiffs will provide a copy to the Court for *in camera* review should the Court so order or request.

2. Upon learning of the Tolling Agreement, Plaintiffs' counsel invoked the termination provision of the Tolling Agreement, but Plaintiffs and Defendants have subsequently agreed to extend the termination date of the Tolling Agreement in order to allow the parties to attempt to resolve the matters at issue in the Complaint.

3. Attached as *Exhibit A* is a letter agreement executed by counsel for Plaintiffs and counsel for Defendants which includes the following:

[T]ermination of the September 8, 2017 Tolling, Standstill and Non-Waiver Agreement by the Justice-related parties will not be effective until 12:01 a.m. on July 1, 2019. This also confirms that our earlier agreements that none of the Plaintiffs in the Litigation will take any steps to effect service of the Complaint is extended until July 1, 2019. ... [N]one of the Defendants in the Litigation will take any formal steps in the Litigation ... until July 1, 2019. ... [T]he time for Plaintiffs to effect service of the Complaint shall be tolled from May 31, 2019 through June 30, 2019.

Exhibit A, p.1.

4. The parties have agreed to participate in a meeting on June 18, 2019 in Pittsburgh, Pennsylvania to discuss whether the matter can be resolved and the Complaint dismissed.

5. If that meeting is unsuccessful, Plaintiffs will proceed with service of process on Defendants on July 1, 2019.

6. Plaintiffs therefore respectfully request that the matter remain on the Court's active docket.

Respectfully submitted,

GREENBRIER HOTEL CORPORATION, THE GREENBRIER SPORTING CLUB, INC., GREENBRIER SPORTING CLUB DEVELOPMENT COMPANY, INC., OLD WHITE CHARITIES, INC., OAKHURST CLUB LLC, GREENBRIER GOLF AND TENNIS CLUB CORPORATION, JUSTICE FAMILY GROUP, LLC, THE CHESAPEAKE & OHIO TRAVELER, INC., THE GREENBRIER RESORT & CLUB MANAGEMENT CO., GREENBRIER IA, INC., OLD WHITE CLUB CORPORATION, AND GREENBRIER MEDICAL INSTITUTE, LLC

By counsel,

/s/ Michael W. Carey  
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May 24, 2019

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and

Matthew M. Burke, Esq.  
Robins Kaplan LLP  
800 Boylston  
Suite 2500  
Boston, Massachusetts 02199

Re: Greenbrier Hotel Corporation, et al. v. ACE American Ins. Co., et al.,  
Case No. 2:19-cv-00118 (S.D. W. Va.)

Gentlemen:

This letter will memorialize the agreement among all parties to the referenced action (the "Litigation") that termination of the September 8, 2017 Tolling, Standstill and Non-Waiver Agreement by the Justice-related parties will not be effective until 12:01 a.m. on July 1, 2019. This also confirms that our earlier agreements that none of the Plaintiffs in the Litigation will take any steps to effect service of the Complaint is extended until July 1, 2019.

In addition, this confirms that our earlier agreements that none of the Defendants in the Litigation will take any formal steps in the Litigation is extended until July 1, 2019. The Defendants also agree that the time for Plaintiffs to effect service of the Complaint shall be tolled from May 31, 2019 through June 30, 2019.

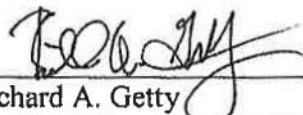
**EXHIBIT A**

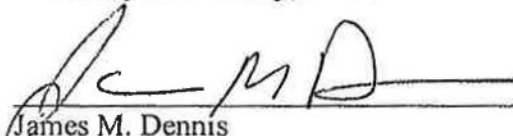
# THE GETTY LAW GROUP<sub>PLLC</sub>


James Dennis, Esq.  
and  
Matthew M. Burke, Esq.  
May 24, 2019  
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By signing below, counsel for the parties acknowledge and agree to the provisions set forth above.

Have seen and agree:

  
\_\_\_\_\_  
Richard A. Getty  
The Getty Law Group, PLLC

  
\_\_\_\_\_  
James M. Dennis  
Mound Cotton Wollan & Greengrass LLP

  
\_\_\_\_\_  
Matthew M. Burke  
Robins Kaplan LLP