

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

WHITE SULPHUR SPRINGS HOLDINGS, LLC,

Plaintiff,

v.

JAMES C. JUSTICE, II, *et al.*,

Defendants.

Civil Case No. 5:26-cv-00257

Hon. Frank W. Volk

DEFENDANTS' SIXTH STATUS REPORT

Pursuant to the Court's Order dated August 10, 2026 (ECF No. 109), Defendants James C. Justice II; Cathy L. Justice; James C. Justice III; Greenbrier Hotel Corporation; Greenbrier Medical Institute, LLC; Oakhurst Club, LLC; Greenbrier Golf and Tennis Club Corporation; Greenbrier Legacy Cottage Development Company I, Inc.; and Greenbrier Legacy Cottage Development II, Inc., respectfully submit this status report regarding the ongoing financing transaction referenced in Defendants' Motion to Further Continue Deadlines and Scheduled Hearings (ECF No. 94).

Defendants and Kennedy Lewis Investment Management LLC ("KLIM"), which is Defendants' financing partner, expect the refinancing transaction to close this Friday, August 14, 2026. Due to the significant costs associated with any further delay in closing the transaction described below, the Greenbrier has reluctantly decided that it will shut down its casino in order to close the transaction because the West Virginia Lottery ("Lottery") has indicated that it will not consider the transaction by that date. This will result in the layoff of approximately 90 casino employees, which Defendants deeply regret, as well as a loss of revenue to the State, which is also regrettable. Defendants have diligently provided information to the Lottery for more than two

months and have promptly responded to all information requests from the Lottery. Defendants also have informed the Lottery of the urgent time constraints created by this litigation, that the amount Defendants must pay to close their refinancing is increasing by approximately \$145,000 per day because of interest charges, and that further delay will cost Defendants hundreds of thousands of dollars in additional professional fees. Nonetheless, the Lottery has not yet confirmed when it will consider the Greenbrier's approval request. Faced with no other practical options to close the transaction on a timely basis and avoid even higher costs of delay, the Greenbrier therefore intends to close the casino and conclude the transaction on Friday.

Notably, Defendants' ability to close on Friday depends on cooperation from Plaintiff, which must provide a payoff letter and associated lien releases as part of the closing process. Plaintiff has insisted, with no valid reason, on an in-person closing, which is highly unorthodox for a transaction of this nature in 2026 and which Plaintiff knows will delay the ability of Defendants and KLIM to efficiently and timely record necessary documents in various county courthouses as part of closing. And just hours ago, a day after Defendants advised Plaintiff that Defendants intended to close on Friday, Plaintiff sent Defendants and KLIM an extensive rewrite of its own draft of the Payoff and Release Agreement. The revisions include the rewriting and inclusion for the first time of entire pages of language that Plaintiff itself drafted and provided three weeks ago. Defendants now must review and respond to these eleventh-hour changes. Defendants remain gravely concerned that Plaintiff is attempting to obstruct closing in an effort to derail the refinancing. Defendants will work through these most recent impediments and remain on pace for a Friday closing, but Defendants may well need to approach the Court for emergency relief if more obstacles are interposed. Defendants will submit a further status report no later than Friday, August 14, 2026.

Dated: August 12, 2026

Respectfully submitted,

/s/ Steven R. Ruby

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CERTIFICATE OF SERVICE

I hereby certify that on August 12, 2026, the foregoing document was served upon the following counsel by means of the Court's CM/ECF filing system.

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