

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION—AKRON**

CINDA KEENER, SUSAN KELLEY,  
RYAN CHIZMADIA, and  
KATHERINE MANFULL

Plaintiffs,

v.

NATIONAL NURSES ORGANIZING  
COMMITTEE,

Defendant.

Civil Action No. \_\_\_\_\_

**COMPLAINT**

**INTRODUCTION**

This case regards breaches of the duty of fair representation committed by the National Nurses Organizing Committee (“NNOC”). Plaintiffs Cinda Keener, Susan Kelley, Ryan Chizmadia, and Katherine Manfull are registered nurses employed by Affinity Medical Center in Massillon, Ohio. In November 2012, it was revealed that NNOC is a party to a secret agreement with Affinity in which the union pre-negotiated health, dental, life insurance, and retirement benefit concessions in exchange for the employer’s assistance with unionizing its registered nurses.

NNOC, like all unions, owes a duty of fair representation to employees that it is empowered to exclusively represent. NNOC is breaching its fiduciary duties by concealing from Plaintiffs and their co-workers its secret agreement with their employer, by granting Affinity control over the union’s conduct as an employee representative, and by agreeing to compromise Plaintiffs’ interests at the bargaining

table to satiate the union's self-interest in gaining more dues-paying members. In this suit, Plaintiffs seek a declaratory judgment that NNOC is breaching its duty of fair representation, injunctive relief, monetary damages for injuries that they suffer, and nominal damages.

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction over this case under 28 U.S.C. § 1337, because it arises under the National Labor Relations Act ("NLRA"), 29 U.S.C. § 151 *et seq.*, and under 28 U.S.C. §§ 2201 and 2202, because declaratory relief is sought.

2. Venue is proper in this judicial district under 28 U.S.C. § 1391 because the events giving rise to the case occurred in this judicial district and NNOC does business and purports to represent employees in this judicial district.

### **PARTIES**

3. Defendant NNOC is a labor organization within the meaning of NLRA § 2(5), 29 U.S.C. § 152(5) and has its principal office at 2000 Franklin Street, Oakland, California, 94612.

4. Plaintiffs Cinda Keener, Susan Kelley, and Katherine Manfull each reside in Stark County and are employed as registered nurses at Affinity Medical Center in Massillon Ohio. Plaintiff Ryan Chizmadia resides in Wayne County and is also employed as a registered nurse at Affinity Medical Center in Massillon Ohio.

## FACTS

### I. The Election Procedures Agreement

5. DHSC LLC, d/b/a Affinity Medical Center (“Affinity”) is a Delaware limited-liability company with an office and place of business at 875 Eighth Street N.E., Massillon, Ohio, 44646, where it operates an acute care hospital that will hereafter be referred to as the “Medical Center.” Affinity is an employer within the meaning of NLRA § 2(2), 29 U.S.C. § 152(2).

6. Affinity is owned and operated by Community Health Systems (“CHS”), a Delaware corporation that directly or indirectly owns, operates, or leases over 100 hospitals throughout the nation.

7. In July 2012, Plaintiffs and other registered nurses employed by Affinity at its Medical Center were not represented by any union.

8. In late July 2012, Affinity announced to its registered nurses that it was a party to an “election procedures agreement” with NNOC that permits the union to conduct an organizing campaign within the Medical Center. Immediately thereafter, NNOC initiated a campaign to unionize Plaintiffs and their fellow registered nurses.

9. Pursuant to the election procedures agreement, Affinity assisted NNOC’s efforts to unionize its registered nurses by providing several valuable things and services to the union, to include:

- a. granting NNOC organizers access to and use of Affinity’s private property to conduct their organizing campaign, to include non-public areas of the Medical Center and areas where solicitors are generally not permitted;

- b. providing NNOC with information about its nonunion registered nurses, to include their home addresses, telephone numbers, and job classifications; and
- c. providing NNOC with control over Affinity's communications, to include a gag-clause that prohibits the company from providing information to its employees about unionization and a requirement that Affinity engage in certain communications at the behest of NNOC.

This employer assistance collectively will be referred to as "Organizing Assistance."

10. The Organizing Assistance, both individually and cumulatively, has significant value to NNOC because, among other things:

- a. NNOC demanded the assistance from Affinity and/or CHS and has demanded similar organizing assistance from other employers;
- b. NNOC provided consideration to Affinity and/or CHS in exchange for the Organizing Assistance—to include promises of labor peace, restrictions on its own organizing activities, and pre-negotiated bargaining concessions—and has provided similar consideration to other employers in exchange for assistance with unionizing their nonunion employees;
- c. the Organizing Assistance is useful, and subjectively believed useful by NNOC, for unionizing employees because, among other things: (i) access to an employer's property allows NNOC to solicit employees at their workplace, (ii) information about nonunion employees allows NNOC to solicit employees at their homes, (iii) the gag-clause prevents the employer from campaigning against unionization and deprives employees of information about negative

aspects of unionization or the NNOC, and (iv) the assistance facilitated NNOC's organizing campaign at the Medical Center and campaigns against employees at other facilities; and

d. the Organizing Assistance has substantial monetary value because:

- (i) it reduces NNOC's expenses for conducting an organizing campaign,
- (ii) it increases the likelihood that targeted employees will be unionized and compelled to pay dues and fees to NNOC as a condition of their employment,
- and (iii) Affinity expends money to maintain its property and information about its employees, and could charge other persons or organizations for the right to use its private property, confidential business information, and communications to solicit its employees.

11. In addition to the Organizing Assistance, in the election procedures agreement Affinity also agreed to allow its registered nurses to be unionized by means of an expedited consent election that is nominally conducted by the National Labor Relations Board ("NLRB"), but in which any challenges or objections to the election are resolved not by the NLRB, but by a private arbitrator.

## **II. The Organizing Campaign**

12. On 20 August 2012, NNOC requested an expedited consent election. An election was conducted only nine (9) days later on 29 August 2012. The unofficial tally of ballots indicated 100 votes for NNOC, 96 against NNOC, and 7 challenged ballots.

13. On 5 September 2012, Affinity filed objections with the NLRB alleging that the election results did not reflect employee free choice because they were tainted by

several acts of NNOC misconduct. However, under the election procedures agreement, Affinity was precluded from submitting evidence to the NLRB in support of its objections. The objections were thereby dismissed as unproven.

14. Also on 5 September 2012, Plaintiffs Keener and Kelley moved to intervene in the election to object to several acts of NNOC misconduct that tainted the election. However, an NLRB Regional office summarily dismissed their intervention motion the next day and the NLRB later upheld that order on 11 January 2013.

15. On 5 October 2012, the NLRB certified NNOC as the exclusive representative of Plaintiffs and other registered nurses at the Medical Center. Since that time, NNOC has held itself out as being their exclusive representative. NNOC is now pursuing legal actions before the NLRB to compel Affinity to recognize and bargain with it as the exclusive representative of its registered nurses.

16. To date, Affinity refuses to recognize or bargain with NNOC based on its objections to the election and on other grounds. Plaintiffs Keener and Kelley also continue to attempt to object to the certification of the NNOC as their exclusive representative.

17. At approximately the same times these events were occurring at Affinity, the election procedures agreement was also used against registered nurses at two other nonunion hospitals owned or operated by CHS: Bluefield Regional Medical Center (“Bluefield”) in Bluefield, West Virginia, and Greenbrier Valley Medical Center (“Greenbrier”) in Ronceverte, West Virginia. The sequence of events at these locations was similar to that which occurred at Affinity: the employers provided

organizing assistance to NNOC in July and August 2012; expedited elections were held in late August 2012; objections to electoral misconduct by NNOC were disregarded because the employers could not offer evidence in support of their objections; and the NNOC was certified as the exclusive representative of the employers' registered nurses over the employers' continuing objections.

### **III. Existence of Secret Pre-Negotiated Agreement Revealed**

18. On or about 17 November 2012, Plaintiffs and other registered nurses at the Medical Center became aware of a confidential NNOC proposal for a collective bargaining agreement intended for the union's internal bargaining committee.

19. NNOC's contract proposal states that the union pre-negotiated several important terms of employment with Affinity. Specifically:

- a. Article 17 states that the "Health Plan and Dental Plan" is "pre-negotiated, language to follow;"
- b. Article 18 states that "Life Insurance" is "pre-negotiated, language to follow;"
- c. Article 19 states that the "Retirement Plan" is "pre-negotiated language to follow;" and
- d. Article 34 states that "Substance Abuse" is "pre-negotiated [with] language to follow."

20. It thereby appears that NNOC, prior to becoming the ostensible representative of Affinity's registered nurses, entered into an agreement with Affinity and/or CHS that governs nurses' future health, dental, life insurance, and retirement benefits.

This agreement will be referred to as the “Pre-Negotiated Agreement.”

21. NNOC actively concealed from Plaintiffs and other registered nurses at the Medical Center that it is a party to an agreement with Affinity and/or CHS that controls or will control many of their terms and conditions of employment.

22. To date, NNOC and Affinity have kept the terms of their Pre-Negotiated Agreement secret from Plaintiffs and, on information and belief, from their fellow registered nurses.

23. In the past, to induce employers to enter into organizing agreements, unions have sometimes secretly agreed to make wage, benefit, and other concessions at the expense of employees they seek to unionize in exchange for employer assistance with unionizing those employees. On information and belief, NNOC entered into the Pre-Negotiated Agreement as a *quid pro quo* for Affinity and/or CHS’s agreement to enter into the election procedures agreement and assist NNOC with unionizing registered nurses.

24. NNOC’s Pre-Negotiated Agreement poses a direct and significant threat to Plaintiffs’ rights and interests, including but not limited to Plaintiffs’:

A. pecuniary and other interests in their health, dental, life insurance, retirement, and potentially other benefits; and

B. legal interest in having a union representative with a single-minded loyalty to their interests and that is not under the control of their employer.



## CLAIMS FOR RELIEF

25. A union that acts as an exclusive representative of employees owes a fiduciary duty of fair representation to those employees. This includes both a duty of care, which requires adequate representation, and a duty of loyalty, which requires non-discriminatory and good faith representation. *See, e.g., ALPA v. O'Neill*, 499 U.S. 65 (1991).

26. NNOC owes a duty of fair representation to Plaintiffs and other registered nurses employed by Affinity at the Medical Center due to the NLRB's certification of the union and because NNOC is holding itself out as their exclusive representative.

27. A union breaches its duty of fair representation to employees if its conduct is arbitrary, discriminatory, or in bad faith. This case involves bad faith conduct, i.e., breaches of the duty of loyalty. A union acts in bad faith if its conduct is dishonest, disloyal, or motivated by improper purposes.

28. NNOC has and continues to act in bad faith, and thus in breach of its duty of fair representation, for the reasons stated below in Counts I-IV.

### **I. Count One: Breach of Duty of Fair Representation Based on Concealment of the Pre-Negotiated Agreement**

29. A union acts dishonestly and in bad faith if it is a party to a secret agreement with an employer that controls or affects the working conditions of represented employees and conceals that agreement from those employees.

30. NNOC is acting in bad faith and violating its duty of fair representation by concealing from Plaintiffs and their co-workers a Pre-Negotiated Agreement with

Affinity and/or CHS that controls or will control the nurses' health, dental, life insurance, retirement, substance abuse and potentially other benefits.

**II. Count Two: Breach of Duty of Fair Representation Based on Divided Loyalties**

31. Unions have a duty of complete loyalty to the interests of employees they exclusively represent in collective bargaining with their employer. A union is disloyal, and acts in bad faith, if it permits an employer to control how the union can represent employees in collective bargaining because this creates a conflict of interest that renders the union a servant with two competing masters.

32. NNOC is breaching its duty of loyalty to Plaintiffs and their co-workers because it granted Affinity contractual control over what NNOC could seek for the nurses in collective bargaining with Affinity, to include health, dental, life insurance, retirement, substance abuse and potentially other benefits. NNOC is thereby acting in bad faith and violating its duty of fair representation.

**III. Count Three: Breach of Duty of Fair Representation Based on Self-Dealing at Employees' Expense**

33. A union acts in bad faith if it engages in self-dealing with an employer at the expense of employees that the union represents vis-à-vis that employer.

34. NNOC engaged in self-dealing by pre-negotiating health, dental, life insurance, retirement, substance abuse and potentially other bargaining concessions at the expense of Plaintiffs and their co-workers in exchange, *quid pro quo*, for Affinity and/or CHS's agreement to assist NNOC with unionizing its registered nurses. NNOC thereby acted in bad faith and violated its duty of fair representation.

**IV. Court Four: Breach of Duty of Fair Representation Based on Agreeing to Bargaining Concessions in Exchange for Unlawful Things of Value from an Employer**

35. A union acts in bad faith if it makes concessions at employee expense in exchange for money or things from an employer whose payment or delivery to the union is unlawful.

36. Section § 302(b)(1) of the Labor Management Relations Act (“LMRA”) makes it unlawful for a union to “request, demand, receive, or accept, or agree to receive or accept, any payment, loan, or delivery of any money or other thing of value [from an employer] prohibited by subsection (a) of this section.” 29 U.S.C. § 186(b)(1). Section 302(a)(2) makes it unlawful for an employer “to pay, lend, or deliver, or agree to pay, lend, or deliver, any money or other thing of value . . . to any labor organization . . . which represents, seeks to represent, or would admit to membership, any of the employees of such employer.” 29 U.S.C. § 186(a)(2). Section 302(c) states nine exceptions to these general prohibitions, 29 U.S.C. § 186(c).

37. Each type of Organizing Assistance—i.e., the use of company property for organizing, information about nonunion employees, and control over employer communications—is a “thing of value” under §§ 302(a) and (b) for the reasons stated in paragraph 10, and is not subject to any of the exceptions listed in § 302(c).

38. NNOC’s request for, receipt of, and acceptance of Organizing Assistance from Affinity and/or CHS, and its agreement to receive and accept these “thing[s] of value” from Affinity and/or CHS, was and is illegal under § 302(b)(1).

39. Accordingly, NNOC acted in bad faith and violated its duty of fair representation

by pre-negotiating health, dental, life insurance, retirement, substance abuse and potentially other bargaining concessions at the expense of Plaintiffs and other registered nurses in exchange for “thing[s] of value” from Affinity and/or CHS whose payment and delivery violates §§ 302(a) and (b).

40. Unless enjoined by this Court, NNOC will continue to breach its duty of fair representation as described in Counts I-IV, thereby causing further harm, damage and injury to Plaintiffs.

### **PRAYER FOR RELIEF**

Plaintiffs request judgment from the Court as follows:

A. A declaratory judgment that NNOC has acted in bad faith and breached its duty of fair representation, and that the Pre-Negotiated Agreement and any related agreement is null, void, and unenforceable;

B. Injunctive relief that prohibits NNOC from enforcing or abiding by the Pre-Negotiated Agreement and from otherwise making bargaining concessions at the expense of Plaintiffs and their co-workers in exchange for Affinity and/or CHS's assistance with unionizing Plaintiffs or other registered nurses;

C. Damages for any losses that Plaintiffs have suffered or will suffer as a result of the Pre-Negotiated Agreement, to include any adverse changes to their health, dental, life insurance, or retirement benefits caused by NNOC's breaches;

E. Nominal damages; and

F. All other relief found to be just and proper, including but not limited to costs and attorney fees.

Respectfully submitted,

/s/ James L. Messenger

James L. Messenger (#0009549)

Richard J. Thomas (#0038784)

Henderson, Covington, Messenger, Newman &  
Thomas Co., L.P.A.

6 Federal Plaza Central, Suite 1300

Youngstown, Ohio 44503

Telephone: 330.744.1148

Facsimile: 330.744.3807

[jmessenger@hendersoncovington.com](mailto:jmessenger@hendersoncovington.com)

[rthomas@hendersoncovington.com](mailto:rthomas@hendersoncovington.com)

William L. Messenger (Va. Bar. 47174)\*

*\*Pro Hac Vice Motion to Be Filed*

c/o National Right to Work Legal Defense  
Foundation

8001 Braddock Road, Suite 600

Springfield, Virginia 22160

Telephone: 703.321.8510

Facsimile: 703.321.9319

[wlm@nrtw.org](mailto:wlm@nrtw.org)

*Attorneys for Plaintiffs*

JS 44 (Rev. 12/12)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Cinda Keener, Susan Kelley, Ryan Chizmadia &amp; Katherine Manfull

**DEFENDANTS**

National Nurses Organizing Committee

(b) County of Residence of First Listed Plaintiff Stark  
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Alameda, California  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Henderson, Covington, Messenger, Newman & Thomas Co., L.P.A.  
6 Federal Plaza Central, Suite 1300, Youngstown, Ohio 44503  
330-744-1148

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input checked="" type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Recopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
29 U.S.C. 160

Brief description of cause:  
Breach of fair representation

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE  
05/10/2013

SIGNATURE OF ATTORNEY OF RECORD  
/s/ James L. Messenger

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO**

I. Civil Categories: (Please check one category only).

1. General Civil
2. Administrative Review/Social Security
3. Habeas Corpus Death Penalty

\*If under Title 28, §2255, name the SENTENCING JUDGE:

CASE NUMBER:

II. **RELATED OR REFILED CASES.** See LR 3.1 which provides in pertinent part: "If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State court, and subsequently refiled, it shall be assigned to the same Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such cases to the attention of the Court by responding to the questions included on the Civil Cover Sheet."

This action is **RELATED** to another **PENDING** civil case. This action is **REFILED** pursuant to **LR 3.1**.

If applicable, please indicate on page 1 in section VIII, the name of the Judge and case number.

III. In accordance with Local Civil Rule **3.8**, actions involving counties in the Eastern Division shall be filed at any of the divisional offices therein. Actions involving counties in the Western Division shall be filed at the Toledo office. For the purpose of determining the proper division, and for statistical reasons, the following information is requested.

ANSWER ONE PARAGRAPH ONLY. ANSWER PARAGRAPHS 1 THRU 3 IN ORDER. UPON FINDING WHICH PARAGRAPH APPLIES TO YOUR CASE, ANSWER IT AND STOP.

(1) **Resident defendant.** If the defendant resides in a county within this district, please set forth the name of such county

**COUNTY:**

**Corporation** For the purpose of answering the above, a corporation is deemed to be a resident of that county in which it has its principal place of business in that district.

(2) **Non-Resident defendant.** If no defendant is a resident of a county in this district, please set forth the county wherein the cause of action arose or the event complained of occurred.

**COUNTY:**

(3) **Other Cases.** If no defendant is a resident of this district, or if the defendant is a corporation not having a principle place of business within the district, and the cause of action arose or the event complained of occurred outside this district, please set forth the county of the plaintiff's residence.

**COUNTY:**

IV. The Counties in the Northern District of Ohio are divided into divisions as shown below. After the county is determined in Section III, please check the appropriate division.

**EASTERN DIVISION**

**AKRON  
CLEVELAND**

(Counties: Carroll, Holmes, Portage, Stark, Summit, Tuscarawas and Wayne)

(Counties: Ashland, Ashtabula, Crawford, Cuyahoga, Geauga, Lake,  
Lorain, Medina and Richland)

**YOUNGSTOWN**

(Counties: Columbiana, Mahoning and Trumbull)

**WESTERN DIVISION**

**TOLEDO**

(Counties: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry,  
Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca  
VanWert, Williams, Wood and Wyandot)