GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ELECTIONS
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REGULAR BOARD MEETING
+ + + + +

WEDNESDAY
SEPTEMBER 5, 2018
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The District of Columbia Board of Elections convened a Regular Board Meeting in 1015 Half Street, SE, Washington, D.C., 20003, pursuant to notice at 10:30 a.m., Michael Bennett, Chair, presiding.

BOARD OF ELECTIONS MEMBERS PRESENT:

MICHAEL BENNETT, Chair
KENNETH J. MCGHIE, Member
DIONNA MARIA LEWIS, Member
MICHAEL D. GILL, Member
BOARD OF ELECTIONS STAFF PRESENT:

ALICE P. MILLER, Executive Director
KENNETH MCGHIE, General Counsel
SYLVIA GOLDSBERRY-ADAMS, Operations Manager
KAREN F. BROOKS, Registrar of Voters
LINDA JOHNSON, Assistant to the Executive Director

ALSO PRESENT:

CECILY COLLIER-MONTGOMERY, Director,
Office of Campaign Finance
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11:07 a.m.

MR. BENNET: Good morning. Let me bring the meeting to order. This is our September monthly meeting, of which we will go through our normal order of business, and also conduct hearings on three petition challenges. My apologies for being late.

This is a pretty heavy agenda that we have today, and we had to take a little extra time prior to the start of the meeting to make sure we were fully briefed, and that would allow us to be most efficient today. So thank you. It wasn't because I had to show somebody around the building.

Let me start off by, we're on the record now? Okay, great, are you able to hear okay? Okay, let me start off by introducing the folks that are here.

To my far right is Ms. Cecily Montgomery, Director of the Office of Campaign
Finance. To her left and my right is Mr. Ken McGhie, General Counsel, Board of Elections. To my far left, Ms. Alice Miller, Executive Director of the Board of Elections. To my left, Ms. Dionna Lewis, Board member.

On the phone from across the pond 12 hours ahead of us is Board member Michael Gill. We have regulations that allow him to participate by voice. So Michael is here, and just by voice, Michael Gill, Board member. So I will be taking motions and seconds from Mr. Gill in the process that we go through today.

I'll open up with the adoption of the agenda. Can I get a motion to adopt the agenda?

MS. LEWIS: So moved.

MR. BENNET: Mr. Gill?

MR. GILL: Second.

MR. BENNET: All right. So the motion is, the agenda is properly moved and seconded. It's a unanimous vote. I vote to approve the agenda as well. Adoption of the
minutes from the last meeting. Ms. Lewis?

MS. LEWIS: So moved.

MR. BENNET: Mr. Gill?

MR. GILL: Second, second.

MR. BENNET: Properly moved and seconded. I also approve the minutes from last meeting. Unanimous vote.

Board matters. Ms. Lewis?

MS. LEWIS: None for me, thank you.

MR. BENNET: Mr. Gill?

MR. GILL: None for me.

MR. BENNET: Okay, and no Board matters for me. So we'll start off with the Executive Director's report.

Ms. Miller?

MS. MILLER: Thank you, Mr. Bennet. Good morning. We are in full preparation for the upcoming general election. Just basically as it relates to the nominating petition process for direct access for the ballot. The deadline for filing on any of these issues was August 8. The
challenge period began on August 11 and ended on the 20th.

There were a total of 46 challenges across the board to nominating petitions that were filed. Thirty-nine of those challenges have been resolved, either by the candidate or challenger withdrawal, or through the administrative orders that have been issued.

There are a few that are pending withdrawal, and a couple that are still scheduled to go before the Board. All challenges that are pending must be resolved no later than September 10. The lottery for the November election ballot is set for Friday, that's next Friday, September 14. It will begin at ten o'clock. I think it's going to be right here in the Board room.

Poll worker training for early voting for poll workers began on August 27 and will continue through September 15. Poll worker training for election day voters will begin on September 17 and continue through the month of
October. Our ballot format for the November election has been developed and the staff is now working to begin prepping the machines for logic and accuracy testing.

That process takes approximately two weeks, leading up to L&A, which will begin on September 17. And that then will be ready for the public testing so the public can come in and test and watch the public logic and accuracy process.

We also have going on our overlap of the special election for the Board for State Board of Education. The candidate pickup for that contest, which is scheduled for December 4, was August 15. The challenge period will begin this Saturday, which is September 8, and it will end ten days later.

Thus far, ten candidates have picked up for that Ward 4 State Member of the State Board of Education contest. And just other thing I want to mention, and that is we will have National
Voter Registration Day, which we do every year, it's an annual event. And it's scheduled for September 25.

We've been given access to the national stadium for this event. It's a game day, so we hope to generate a lot of new registrants, as well as being able to have voters update their current voter registration during this time as well. So that's it for me.

MR. BENNET: Okay, great. Any questions from Ms. Lewis?

MS. LEWIS: No, thank you.

MR. BENNET: Mr. Gill, any questions?

MR. GILL: No questions.

MR. BENNET: Okay, great, thanks. None for me.

Next on the agenda is Office of Campaign Finance, Ms. Montgomery.

MS. COLLIER-MONTGOMERY: Yes, good morning. The first thing I would like to report is that there was one report date during the month
of August, and that was for the August 10 report
of receipts and expenditures for active principal
campaign committees, as well as political action
committees, independent expenditure committees,
and initiative committees.

I also have, will include in my report
the statistics for the July 31 report date, which
were not available at the last Board meeting.
First, with respect to the July 31 report of
receipts and expenditures, which was due from
principal campaign committees as well as
political action committees, there were 46
required filers.

Thirty-four of the filers timely
filed, there was one extension requested and
granted. There were 12 failures to file, and
with respect to those failures to file, those
candidates and committees have been referred to
the Office of the General Counsel for the
initiation of the enforcement process. The names
of the committees who failed to file will be
published at our website.

   With respect to the August 10 report
   of receipts and expenditures, there were 122
   required filers. One hundred and four of the
   filers timely filed. There were four late
   filers. There were also four extensions
   requested and granted.

   There were 14 failures to file, and
   with those failures to file as well as the late
   the filers, 18 in total were referred to the
   Office of the General Counsel for the initiation
   of the enforcement process. And again, the names
   of all of the referrals will be published at our
   website.

   During the month of August, we also
   had new candidates and committees who registered.
   There were seven. William Hunt for Mayor
   registered on August 6, 2018. Frank Sewell for
   Mayor registered on August 7, 2018. Ralph
   Chittums, Committee to Elect Ralph J. Chittums
   Council At-Large registered on August 8.

We also conducted entrance conferences during the month of August for the new candidates and committees who registered with us. On August 2, an entrance conference was held. There were 14 participants: David Lynn Green; Treasurer Don Korea -- Dora Korea for State Board of Education; Dora Korea, Candidate, Dora Korea for State Board of Education.

Rory Murray, Treasurer, Credit Union PAC of DC; Johnny Walker, Treasurer, Cali for State Board of Education; Cali Causlek, Candidate, Cali for State Board of Education; Earl Folkes, Treasurer of Gertrude Stein
Democratic Club PAC; Teresa Cusack, Treasurer, Ward 4, Democrat’s PAC; Quincy Carter, Candidate, Mayor; Eleanor Orry, Candidate, Echo4Senate.

James Williams, JW Adams, Candidate for Mayor; Ramsey Davis, Candidate, Mayor; Catherine Henderson, Candidate, Catherine Henderson for DC Council; Clayton Rosenberg, Candidate Rosenberg for Ward 6. William Bill Lewis, Candidate, Citizens to Elect Bill Lewis; Karen Perry, Treasurer of Green for Ward 1; Anthony Green, Candidate, Green for Ward 1.

We held an entrance conference also on August 16. There was six participants. The participants were Aminter Davies, Treasurer, DC Latino PAC; Gabriel E. Rodriguez-Eng, Treasurer, Metro DC Democratic Socialists of America Solidarity DC PAC; Kishan Putta, Candidate, Dump Trump, Democrats for Action; Renee L. Bowser, Candidate, Dump Trump, Democrats for Action.

Gordon Aneglou Fletcher, Candidate, Dump Trump, Democrats for Action; and Walter
Springman, Candidate At-Large Committee, Democratic State Committee.

With our Reports, Analysis, and Audit Division during the month of August, the Audit Division conducted 93 desk reviews of the political action committees and filed with the Agency, as well as the principal campaign committees. We have several ongoing audits.

We have a full field audit of the Sheika Reid 4 Ward 1, which was initiated on August 29, 2018. We have periodic random audits of the candidates in the 2018 election of their January 31, 2018 filing. Re-elect Muriel Bowser our Mayor, which was initiated on March 5, 2018. Kenyon McDuffy, 2018, which was initiated on March 22, 2018.

The periodic random audits of our continuing committees for the 2018 election with respect to the June 10, 2018 filing, Anita Bonds, 2018, Elissa 2018. We also initiated periodic random audits of our political action committees
with respect to their July 31, 2018 filing.

The DC Political Action Committee, which was initiated on August 27. The Professional Insurance Agents, which was initiated on August 29. Lawyers for Better Government Fund DC, which was initiated on August 29. And BB&T District of Columbia PAC. The records from that particular PAC are due on August 29, 2018.

We issued one audit during the month of January, and that was of the Evans Constituent Service Fund. The audit was issued on August 8, 2018, and the audit is available at our website for review by members of the public.

I would ask the General Counsel, William Sanford, to present the report of the General Counsel.

MR. SANFORD: Good morning, Mr. Chairman and distinguished Board members. My name is William Sanford, General Counsel for the Office of Campaign Finance.
During the month of August, the Office of the General Counsel received a total of 37 referrals, which included 35 referrals from the Public Information and Records Management Division, and two referrals from the Reports, Analysis, and Audit Division.

The Office of the General Counsel complete five informal hearings and issued two orders which did not impose fines. During the month of August 2018, the Office of the General Counsel collected one $500 fine from Jacques Patterson in payment of, in accordance with an installment payment plan that had been agreed upon between Mr. Patterson and the Office of General Counsel.

During the month of August 2018, there were no open investigations pending before the Office of the General Counsel. And during the month of August 2018, the Office of the General Counsel received one request for an intent to opinion. That request was received, was
submitted by John Zottoli, it was received on the 14th of August 2018.

The issue was restrictions on Independent Expenditures Committee, and the opinion was issued on 27 August, 2018. And that opinion is available at the Office of the Campaign Finance website at www.ocf.dc.gov.

And during the month of August 2018, there were no show-cause proceedings conducted by the Office of General Counsel. And that should conclude my report.

MR. BENNET: Ms. Montgomery.

MS. COLLIER-MONTGOMERY: That concludes the report of the Office of Campaign Finance.

MR. BENNET: Great, any questions, Ms. Lewis?

MS. LEWIS: No, thank you.

MR. BENNET: Mr. Gill, any questions for Office of Campaign Finance?

MR. GILL: No questions. Nice job,
though.

MR. BENNET: Great, thank you. That concludes the Office of Campaign Finance. Thanks, Ms. Montgomery. The other was, we want to go back, we forgot. We have to approve some precinct changes. So we need to go back to Ms. Miller. We'll open your report back up again.

MS. MILLER: Yes, Mr. Butu is hiding back there. We're all just sitting right out front, which is how I overlooked him. But he has that nice, bright yellow shirt on. He's in the back hiding, so I'll ask him to come forward as he's doing. We have about seven precincts that the Board took proposed action on at the last meeting.

MR. BENNET: Right.

MS. MILLER: They were published in the Register, and information was sent to the appropriate individuals, ANCs, Council members of the affected areas. I will ask if you received any response?
MR. BUTU: No, ma'am.

MS. MILLER: And so those precincts are Precinct 8, 14, 33, 86, 93, 105, and 116.

MR. BUTU: Yes.

MS. MILLER: Proposed relocation.
And now I will turn it over to you.

MR. BUTU: Okay, my name is Arlen Butu.

MR. BENNET: Can you bring your mic down so you won't move your arm. It's not on?

MR. BUTU: Okay.

MR. BENNET: Yeah, you're on.

MR. BUTU: My name is Arlen Butu, the Facilities Manager for the DC Board of Election.

The first precinct relocation that was reported last year was Precinct 8. We have a movement from Palisades Neighborhood Library to the Palisades Recreation Center, located at 5200 Sherier Place, NW. We'll be using the gymnasium.

The next precinct is Precinct 14 --

MR. BENNET: Excuse me. That one's
actually --

MR. BUTU: Back.

MR. BENNET: Back to the gymnasium.

MR. BUTU: Back to the recreation center, yes.

MR. BENNET: Yeah, okay, okay. Just want to make that clear for the record.

MR. BUTU: Okay, the next precinct, Precinct 14, we are moving from the Whittemore House back to the MAA Carriage House and Meeting Space, located at 1781 Church St., NW. We'll be using the meeting room.

The next precinct is Precinct 33. We'll be moving from St. Paul's Lutheran Church back to Murch Elementary School, located at 4810 36th St., NW. We'll be using the cafeteria at that location.

The next precinct is Precinct 86. We'll be moving from Eliot-Hine Middle School to Mount Moriah Baptist Church, located at 1636 East Capitol Street, NE. We'll be using the
multipurpose room there.

The next location is Precinct 93, Houston Elementary School. We'll be relocating to Deanwood Recreation Center, 1350 49th St., NE. We'll be using the gymnasium there.

The next precinct is Precinct 105. We'll be moving from CW Harris Elementary School to Benton Park Recreation Center, located at 5100 7 Avenue, SE. We'll be using the multipurpose room there.

And the last relocation is Precinct 116. We'll be moving from THEARC East across the parking lot to THEARC West, located at 1801 Mississippi Ave., SE, and we'll be using the black box theater.

I now ask that all our precincts that were put on the record that need to be approved for final relocation. After relocation is approved today, I will notify all the affected bodies once again, as well as make all the changes on our website as well.
MR. BENNET: Just for the record, just to be clear, though, all those precincts that we're moving back to or to, they passed the ADA inspections and are compliant with ADA requirements?

MR. BUTU: Yes, they were inspected, and some of them does not meet 100% ADA. But there are slight modifications, like a slope may be off on the ramp or the railings may not have the extended hand rails.

And I want to put on the record that one of the sites is a brand new site. So it's a brand new site and it's still Mr. Moffwith (phonetic) addressing the ADA, being fully compliant with the ADA rules and regulations.

MR. BENNET: Okay, but Ms. Jenkins is monitoring that and making sure that we're able to accommodate people without exception.

MR. BUTU: Yes, sir.

MR. BENNET: Okay. And I won't ask Ms. Jenkins to put that on the record. But at
any rate, so you're comfortable --

MR. BUTU: That's correct.

MR. BENNET: That we're in good shape.

MR. BUTU: Yes.

MR. BENNET: Can I get a motion to approve the relocations either to or back to the precincts that, the locations that Mr. Butu noted?

MS. LEWIS: Motion, I move to approve the stated precincts, 8, 14, 33, 86, 93, 105, and 116 either back or towards their new or prior location.

MR. BENNET: Okay, can I get a second, Mr. Gill?

MR. GILL: Second.

MR. BENNET: All righty. So it's been properly moved and seconded. And I vote yes, so it's unanimous. All righty, thank you, Mr. Butu.

MS. MILLER: Just before you move on, Mr. Bennet, I just want to indicate that we had
discussed earlier about also trying to double the early voting sites to two per ward for early voting. We are up to doing that for seven of the -- six of the eight wards. And we will 14 early voting sites.

We have two wards that we're still trying to identify, in addition to the location, and that's Ward 1 and Ward 2. But as of now, we will have 14 early voting sites beginning in November.

MR. BENNET: Okay, great. Anything else, Ms. Miller?

MS. MILLER: That is really it.

MR. BENNET: Okay, that's okay. Let's switch the agenda around a little bit. And because we do have so many things, and I want to make sure we have adequate time for the hearings.

I'll ask Mr. McGhie to report on his, well, we'll address the proposed rulemaking, and then we'll go to the litigation status. And then we're going to take public matters, and the we'll
get to the nominating petition challenges. Okay?

And so we're going to limit the comments with regard to public matters to five minutes at a max, so we can kind of get through the other agenda, unless there's something completely urgent, of which we'll come back to later.

So, without further ado, so to speak, Mr. McGhie, can you start your General Counsel report.

MR. McGHIE: Okay, the first matter I have on my agenda is emergency and proposed rulemaking to amend Chapters 30, campaign finance operation, Section 3014, constituent services program. As indicated, this is an Office of Campaign Finance proposed regulation, so I will defer to the Director of Campaign Finance to explain the purpose of that regulation.

MR. BENNET: Okay, can you give a quick summary, Ms. Montgomery.

MS. COLLIER-MONTGOMERY: Yes, good
morning again. The purpose of the rule is to increase the amount of expenditures that can be made from constituent service programs which are established by the mayor, and also by members of the Council from 40,000 in any one calendar year to 60,000.

That proposed amendment to our regulations is consistent with recent amendments to the Campaign Finance Act.

MR. BENNET: Okay. Let me just, and I'm going to repeat what Ms. Montgomery said, we're, these, this regulation modification is really to make sure that our regulations are consistent with what the law already, or the Council, has already passed with regard to the law.

MS. COLLIER-MONTGOMERY: That's correct.

MR. BENNET: Okay. All right, anything else, Ms. Montgomery, with regard to that that you'd like to make a?
MS. COLLIER-MONTGOMERY: No, that's it.

MR. BENNET: Okay. Mr. McGhie?

MR. McGHIE: No, just request that the Board entertain a motion at this time to adopt this as emergency proposed rulemaking. Once that's adopted, it will be published in the DC Register for comment.

MR. BENNET: Okay, great. Can I get a motion to approve the emergency regulation?

MS. LEWIS: So moved.

MR. BENNET: Mr. Gill, can I get a second?

MR. GILL: Second.

MR. BENNET: All righty, so it's been properly moved and seconded. And I vote yes, so it's unanimous. All right.

MR. McGHIE: Okay, the next thing on my agenda is a litigation status update. All of these matters are enforcement measures by the Board to collect a fine that was imposed by the
Office of Campaign Finance for various amounts, ranging from $500 to maybe $2000.

First one is the Board versus Gaston 2014, the Board versus Carter At-Large, the Board versus Bruce Majors, the Board versus Naisha Harley, the Board versus Christie Love-Davis, the Board versus Walter Garcia, the Board versus Flanders Sharpe, the Board versus Melton Bell, and the Board versus Robert Whittaker.

The Board versus Bruce Majors, the Board versus Christian Carter, and the last one is the Board versus Joe Davis.

The Board filed motions for enforcement, petitions for enforcement, in the Superior Court last month. It's now scheduled to go before the court on September 14, and at that time, we hope to get a judgement on all these matters.

MR. BENNET: Great, so they'll all be handled as --

(Simultaneous speaking.)
MR. BENNET: Great, all right, so we'll have outcomes at the October meeting.

MR. McGHIE: Yes.

MR. BENNET: All right, anything else, Mr. McGHie, you wanted to, your report?

MR. McGHIE: No.

MR. BENNET: Okay, we're going to, as I said before, shift the agenda around a little bit. And so now we're going to take any public matters. I'm going to ask that we limit the amount of time. I'll try and make sure we give you enough time, but I want to try and move to the challenges as expeditiously as possible.

So are there any Board matters before the Board? Or matters, I'm sorry, public matters before the Board? Great, hearing none, we will move now to the nominating petition challenges.

MR. SINDRUM: Hello, Mr. Chair, can you hear me?

MR. BENNET: Yes, I can now, Mr. Sindrum.
MR. SINDRUM: Okay, I moved. There is a question I have for you. At the outset of the session today --

MR. BENNET: Mr. Sindrum, I'm sorry. Just for the record, sir, could you identify yourself?

MR. SINDRUM: Oh, absolutely. Michael Sindrum, disabled veteran. Served our country more than most, appearing via phone.

At the induction of the meeting, it was indicated challenges. Challenges to what, for what?

MR. BENNET: Oh, challenges to ballot access for the November election, for the November, yeah, balloting.

MR. SINDRUM: And is that what the subsequent hearing is going to be about shortly?

MR. BENNET: Oh, I'm sorry, and nominating petitions. It's, say again, sir.

MR. SINDRUM: The challenges, is that to a specific candidate?
MR. BENNET: Yes.

MR. SINDRUM: And who is that candidate?

MR. BENNET: We will actually go through the list. There are multiple candidates, Mr. Sindrum. So we'll actually go through the list prior to starting the challenges.

MR. SINDRUM: I see. And it was indicated that the format for the upcoming election is set, the candidate naming and sequence and so on. Tracey Ewes appears on that format?

MR. BENNET: I'll let Ms. Miller answer that. Go ahead.

MR. SINDRUM: Thank you.

MS. MILLER: Ms. Ewes did not file nominating petitions.

MR. SINDRUM: Meaning she's not on the ballot?

MS. MILLER: That's correct.

MR. SINDRUM: Okay. Thank you, Mr.
Chair.

MR. BENNET: All right, thank you. Any other public matters before the Board? Okay, we will officially end our monthly meeting and go to the challenges.

Mr. McGhie.

MR. McGHIE: Okay, this is a nominating petition challenge. The first matter is the challenger Chris Hershey versus Candidate Veda Rasheed, Candidate for ANC 7E-01. Can I ask Mr. Hershey and Ms. Rasheed to take a seat at the front, as well as the Registrar of Voters and Ms. Joiner from my office.

Okay, beginning with the challenger, could you state your full name and address for the record.

MR. HERSHEY: Dr. Christopher Hershey.

MR. McGHIE: Address.

MR. McGHIE: Okay, and Ms. Rasheed.

MS. RASHEED: Veda Rasheed, 703 Chapman St., SE.

MR. McGHIE: Okay, so procedurally, what will happen is that -- well, first I should say that all of these challenges were brought under the DC Code, which allows for any registered qualifier elected to challenge another in a petition of an individual after it's been posted for ten days.

The Board has 20 days to resolve those challenges. And the last day to resolved these challenges was on Monday, September 10.

The format for today's hearing will be first that the challenger, because they have the burden of proof, will be getting three minutes to present their case. And there will be a timer in the back that will indicate how much time you have left.

After that, the candidate will be given three minutes to respond, and then each
party will be given one minute for closing argument. Before we begin the presentation by the parties, the Registrar of Voters will give her preliminary determination on the validity of the challenge. Does anybody have any questions?

MR. HERSHEY: A member of our campaign staff is here to make a statement on behalf of the campaign. We filed the appropriate paperwork, and I'd like to introduce him now, before the time limit starts.

MR. McGHIE: Sure.

PARTICIPANT: Can you actually pass out what you just showed?

MR. HERSHEY: Absolutely. On behalf of the campaign, I'd like to introduce to you Mr. Calvin Dark. He is sitting in the front row here, and I'll be happy to make room for him.

MR. BENNET: You're more than welcome to pull up a chair if you decide to.

MR. McGHIE: So Mr. Dark is going to represent you?
MR. HERSHEY: Yes, sir.

MR. McGHIE: All right. Mr. Dark, could you please state your full name and address for the record.

MR. DARK: Calvin Dark, 1423 F St., NW, Washington, DC.

MR. McGHIE: Okay. Do you have any questions about the format?

MR. DARK: No.

MR. McGHIE: So okay, let's hear the preliminary report from the Registrar of Voters.

MS. SMITH: Good morning. On August 6, 2019, Veda Rasheed submitted a nominating petition to appear on the ballot as a candidate for the November 6, 2018 general election contest for the contest of ANC SMD 7E-01.

The petition was posted for public inspection for ten days, as required by law and challenged on August 20, 2018 by Christopher Hershey, a registered voter in the District of Columbia.
The preliminary review of the petition challenge indicates that Ms. Rasheed submitted a total of 34 signatures. The minimum requirement for this office is 25 signatures of District voters who are duly registered, and then the same SMD as the candidate.

Challenger Christopher Hershey filed a challenge, or challenges, to a total of 25 signatures, enumerated by line and page number on individual challenge sheets filed for each petition page. Petition signatures were challenged pursuant to Title 3 DCMR 1607.1 of the Board's regulations.

The review of the challenge indicates that a total of five out of the 25 challenges are valid. This leaves the candidate's nominating petition with 29 signatures, four signatures over the number of required, required for ballot access. Thank you.

MR. McGHIE: Do you have copies of your report that you can give to the Board?
MS. SMITH: Yes.

MR. McGHIE: Okay. You can also give us copies of the next matter as well?

MS. SMITH: Sure.

MR. BENNET: Hold on one second, -- once we get those we'll B-

MR. McGHIE: In short, the Registrar of Voters has indicated that based on the preliminary report, the candidate is four signatures over the required amount. So, Mr. Dark.

MR. DARK: Okay.

MR. McGHIE: You have three minutes starting now.

MR. DARK: Perfect. Good morning, everybody.

MR. BENNET: Good morning.

MR. DARK: What we'd like to say is Ms. Rasheed should be denied ballot access because for the following reasons. The circulator of petition was not the candidate, the
candidate was not present for circulation of at least one full sheet of an opposition petition she submitted, and yet the candidate signed a petition affirming under penalty of law that she personally circulated the petition, and that she personally witnessed the signing of each signature on the petition, and that she personally inquired from each signer whether the signer was eligible to sign the petition.

Now, these challenges are clear misrepresentations of her admissions on the affidavit she signed supported by the sampling of signatures and their defects that we've identified, that Mr., that Dr. Hershey the burden of proof.

Ms. Rasheed should be denied ballot access because as we all know, the DC Board of Elections bends over backwards to explain and clarify the ANC petition campaign and election process and provides numerous opportunities for candidates and petitioners to correct omissions
and mistakes. There is no excuse for Ms. Rasheed's misrepresentations on the affidavit.

Now, whether she didn't pay attention to the rules, didn't seek clarification, or didn't clarify her representations to the Board, or she doesn't care doesn't really change what's facts. The ANC petition process has been established and clearly explained so that there's absolute transparency and equal access for everyone, for Dr. Hershey and Ms. Rasheed, so that we can all put trust in the process.

So this doesn't leave room for the misrepresentations and omissions, which cast doubt on her, the supposed signatures, and all the other assertions that were sworn true and accurate when they were not.

MR. McGHIE: Okay, Ms. Rasheed, would you like to respond?

MR. BENNET: I have a question, though. So how do you know that Ms. Rasheed didn't do the collection of the signatures
herself? Do you have some evidence of that, or
did she say she didn't, or?

MR. DARK: We have, and I think this
is in the record, affidavit of two or three, three
of the signers, who submitted affidavit that Ms.
Rasheed wasn't the person circulating. And
that's included in the record I think you just
received.

MR. BENNET: Okay, great, thank you.

Do you have any questions, Ms. Lewis?

MS. LEWIS: Maybe.

MR. BENNET: Ms. Lewis will probably
have some questions.

MR. McGHIE: Can you point to those
affidavits and just state what the affidavits
briefly state?

MR. DARK: Do you want the names of
the three?

MR. McGHIE: Yeah, the names of the
three and what they're affirming.

MR. BENNET: Were they included in the
document we just got?

MR. DARK: One of the affidavits we have is, I'm not sure what page it is on your documents, but from Kenneth Ellerby of 4527 Alabama Ave., SE.

MR. BENNET: That's numbered, signature on line number three.

MR. DARK: Yeah.

MR. BENNET: Okay, all right, got it.

MR. DARK: Then we have a petition from William Ellerby of 4527 Alabama Ave., SE. And then the third is the petitioner, Dr. Hershey, who submitted affidavit as well.

MR. McGHIE: Okay, and these affidavits are -- oh. Can you just summarize what the affidavits are saying?

MR. DARK: Yes. They focus on the fact that the person that circulated the petition and made the representations was not the candidate. And that the candidate was not present at the time that the forms were signed.
MR. McGHIE: All right, now, you're going to have to explain this a little more for me. They're saying that the person who circulated the petition is not the person who signed the petition.

MR. DARK: Who signed the affidavit.

MR. McGHIE: Who signed the affidavit.

MR. DARK: Correct.

MR. McGHIE: Is that because it was a woman that approached him or was it a male that approached him? It was, why are they saying that?

MR. DARK: Well, because they've identified the person who circulated the petition, which they put in affidavit, Sharon Shankland Brown. And so they know who, they know it wasn't the candidate, and they've signed affidavits who it was.

MR. McGHIE: Okay, so they're saying that Sharon is the one that approached them to
get the signature, but Christopher Hershey is the one that signed. Is that right?

MR. DARK: No, that Sharon was not -- that the candidate signed it. They circulated the petition on the affidavit, when the affidavit from one of the signers, for example, Kenneth Ellerby, said that Sharon Shankland Brown was the person who circulated the petition that he signed.

MR. McGHIE: Okay, all right.

MS. LEWIS: I'm sorry, I just have a question. I don't know if I understand, maybe it's a question for the Registrar. We have in our packet petitions of Christopher Hershey. Is there a reason why his petitions are in this packet?

So we have one for Ms. Rasheed, and we have one for Mr. Hershey. So --

PARTICIPANT: That is part of his evidence. He included in his packet, that's why I said the only got his challenge it being B- he
PARTICIPANT: He included his own --

PARTICIPANT: Challenge, a copy of
his petition and a copy of Ms. Rasheed's
petition.

MS. LEWIS: Okay, can someone address
the relevance of this being included?

DR. HERSHEY: So ma'am, if I may, when
the circulator of petition approached me to sign
--

MS. LEWIS: I'm sorry, sir, would you
mind speaking into the mic? We have a court
reporter here.

MR. HERSHEY: So on the day mentioned
in the affidavits, when the circulator of the
petition approached me, I signed her petition.
And the circulator at the time signed my
petition. And the circulator at the time was
Sharon, and that is what you have in your packet,
which is evidence of Sharon's signature at the
same time I signed the other person's signature
showing that. If that person, that circulator, would have been Veda Rasheed, then I would have her signature. But I don't.

MS. LEWIS: I see, thank you for that clarification.

MR. HERSHEY: Yes, ma'am, thank you.

MR. McGHIE: Okay, Ms. Rasheed, you have your three minutes start now.

MS. RASHEED: So I would --

MR. BENNET: If you'd like to have someone join you at the podium, that's perfectly fine. If not, that's cool. Whatever works for you is okay with us.

MS. RASHEED: I would, because from my understanding, the issue is the, he's challenging the signature that were raised in petition number three?

MR. McGHIE: He's challenging the provision of the law that says you have to personally witness the signatures.
MS. RASHEED: But he's saying for those three signatures?

MR. McGHIE: You saying?

MS. RASHEED: Because from my understanding, this hearing is only addressing an issue that were raised in challenge, no issues outside of that. Isn't that correct?

MR. McGHIE: Yes.

MS. RASHEED: If that is the correct understanding of that, then I would just voluntarily withdraw those three signatures.

MS. LEWIS: I have just a point of maybe information. It may be a question, I'm not sure what's about to come out. But so I think the issue that I'm at least hearing is that you all are saying there are two issues here. One is that there's a challenge to three signatures, and I guess the authenticity of those.

And then you're saying separately and apart, there's also a challenge you all are raising as an issue that all the signatures
should be invalidated because Ms. Rasheed was not
the one who circulated that. Is that my
understand --

MR. DARK: Actually, it's, the second
point is the primary, that the, as we said here,
the wasn't circulated by the candidate, candidate
didn't verify that the petitioner was a valid
signer, and that she personally witnessed it.

The three signatures were the sampling
that we took to, along with the affidavits, to
show that the process wasn't followed, and that
the affidavit was incorrect.

MR. HERSHEY: And just to piggyback
on what Mr. Dark said, Ms. Lewis, you are correct
that that is the way the BOE staff wanted us to
submit it is, was not as two separate but as
combined. So the way it was scanned through was
one of one, one of two, and then two of two.

So it was to address the first issue,
which is the signatures, and then the second
issue, which is as you understand it, the
petition circulation.

MR. DARK: Because I'd just like to also note too, in the affidavits included in your packet, the affidavits speak to the process of what was represented, not the defects of the signature themselves.

MS. LEWIS: So I guess I have a follow-up then, and I'm not sure who can answer this. What was raised during the challenge period as an issue? And what was discussed at the pretrial conference, prehearing conference?

MS. JOINER: Amanda Joiner, Office of the General Counsel. I can answer that point of clarification. The original challenge as we understood it was for 25 signatures. And as the Registrar mentioned, they reviewed that and they found five valid challenges.

The challenger also, in that initial filing, challenged the petition circulator's affidavit. So the original issues were presented in the initial filing. The prehearing conference
we discussed the challenged signatures individually, which as the Registrar mentioned, said that five were valid challenges, and that left the candidate with 29 signatures.

In the prehearing conference we also issued or discussed the affidavit issue that was raised by the challenger.

MR. BENNET: But what you affidavit does, your affidavit, those three affidavits are focused on the fact that on those three signatures, Ms. Rasheed was not the circulator, right. But you don't, but is there any other evidence that you have that she was not the circulator of the other signatures?

MR. DARK: No, we pointed out the three signatures and got the three affidavits as a sampling of (Simultaneous speaking.) So to answer your question, no, we didn't go through all the signatures to see that.

MR. BENNET: So in essence you'd be asking us to take the sampling and say, well,
maybe she didn't get, maybe her affidavit is not valid with regard to the other signatures.

MR. DARK: Right, it puts into question, yeah.

DR. HERSHEY: Puts into question that the affidavit wasn't entirely true, that it was in part true. And that it was a misrepresentation, an omission of the truth, because she had certainly time to correct.

And the Board also allows many different mechanisms and many different forms to correct those things, and also to allow for a petition that's in part filed for those things to be witnessed by Mark -- by another person. So the Board makes very clear and provides many opportunities to do things correctly.

MR. DARK: And with the submission of the affidavits, I also just want to point out, we're not saying that's an exhaustive list of the signatures that aren't valid. We're saying that because it was brought to Petitioner's attention
that the process wasn't followed, these were the three that we readily identified. We can't say that that's the limit of the omissions of representation.

PARTICIPANT: Ms. Rasheed.

MS. RASHEED: Yes. And just so the record is clear, the affidavit that was signed by Mr. Ellerby is not notarized. Mr. Ellerby is also 83 years old. I asked, was going to ask him to come to this hearing today so he could be called today. But at the end of the day, it was communicated that he was not aware of what it was that he was signing.

That second one that they're saying the affidavit is not signed by the Police Chief, it's just a statement taken from Kenneth Ellerby. And I just wanted to bring that to the Board's attention. And neither Kenneth Ellerby nor Mr. William Ellerby are present here to be cross-examined whether they knew what it was they were signing.
We don't know whether or not Mr. Kenneth Ellerby even knows his statement was submitted on the record or if he had. Mr. William Ellerby is 83 years old.

This affidavit that had been presented to the Board, we don't know whether or not he knew what it was that he signing. I was present at Mr. Ellerby's home. At the predetermination hearing, I did have other individuals that signed this petition that were present there, but they were not able to go into the predetermination conference.

But since it's limited to these three signatures that were previously challenged, that's why I, even though this statement isn't signed and Mr. Ellerby didn't know what he was signing, I just, for the efficiency of this proceeding, I just agreed to withdraw those. Because all it is I'm trying to do is just serve my community.

MR. DARK: Just a point of
clarification. If Mr. Ellerby is 83 and can't be trusted, then why would it make sense for him to be here to be cross-examined?

MS. RASHEED: I never said that he could not be trusted, I said that he did not know what it was that was presented to him. It's no witness that signed this notarized statement, I did not say that he could not be trusted and he was an incompetent individual.

DR. HERSHEY: And for the record, Kenneth Ellerby is not the Police Chief, he is a retired DC Fire Chief. And he certainly is of capable mind and body to sign said affidavit. I just.

MR. BENNET: Do you have any additional questions?

MS. LEWIS: Maybe, let me think.

MR. BENNET: Okay, with regard to the preliminary conference or the conference that you had, I guess where were you with regard to some of the other signatures? Was there, did you see
anything or discuss anything around the validity
of the other signatures or?

MS. JOINER: No, Mr. Chairman, we
didn't discuss the other signatures in this frame
of reference, we only discussed the Registrar's
report as to the other challenges.

MR. BENNET: Okay. Mr. Gill, do you
have any questions on this matter?

MR. GILL: No, I'm good, thanks.

MR. BENNET: Okay. Keep drinking
coffee, Mike. I don't have anything. Ms. Lewis,
you have some more?

MS. LEWIS: Ms. Rasheed, could you
address the accusation that you were not present
for the circulation of the petition?

MS. RASHEED: As far as?

MS. LEWIS: What they're saying. Can
you just speak to that?

MS. RASHEED: I was present for his -
-

MS. LEWIS: So they're saying that you
were not present, you were not the circulator of
the petitions.

MS. RASHEED: I was present on the
street.

MS. LEWIS: Okay.

MS. RASHEED: And I was the circulator
of the petition. The people that signed the
petition, some of them had came to the last
hearing whose names were on the sheet. they were
not able to come back to this hearing because we
didn't know whether or not we would be able to
bring those individuals into the hearing.

MR. BENNET: But I think Ms. Lewis --

MS. RASHEED: The names are on the
sheet.

MR. BENNET: No, I understand. But I
think her question is they allege that because
there's a question about those three, those three
that they challenged, that you were probably not
present at any of the --

MS. RASHEED: No, I was present. And
Mr. William Ellerby, I actually was at his door talking to him.

MR. BENNET: But all the other three, like you said --

MS. RASHEED: I was present on the street.

MR. BENNET: Were you present for all those other 27 or 29, you were?

MS. RASHEED: Yes, I was.

MR. BENNET: Were the circumstances that you had somebody helping you and you were --

MS. RASHEED: No, Ms. Brown is the President of the civic association. She lives around the corner from my house. I was walking up the street to her home. So we were out together, and some of those signatures, Ms. Brown wasn't even with me when I got.

MR. McGHIE: So did you have Ms. Brown help you? Was she helping you basically?

MS. RASHEED: No, me and Ms. Brown
were just walking up and down the street. Ms. Brown lives on Alabama Ave., she lives like three or four homes down from Mr. Hershey and two doors over from Mr. Ellerby.

We were walking in the community, because it's several people, they don't open their door up for people sometimes, for people that they don't know. So I was actually at some of these individuals' homes, I was talking to them. I didn't finish circulating the petition till late in the evening, so.

MR. McGHIE: So did you?

MS. LEWIS: Was there a question you wanted to address to the Board perhaps you can facilitate?

DR. HERSHEY: I'd be curious to know how I signed the petition that I received from the hand of Sharon Brown. Not until this day, and actually the day of the hearing, that was the first time I ever met Veda Rasheed, the very first time. I accepted the petition from Sharon Brown
on the street.

You had these bright yellow pieces of paper, you walk around. People know who you are. You can recognize a person a mile away, and if you're running for ANC, you can certainly recognize them farther.

I signed her petition and Sharon Brown signed my petition. If the candidate had been there, I'd gladly ask her to sign my petition as well, because one signature from a registered voter is a good signature, and she was not present.

MR. BENNET: Were you present when they --

MS. RASHEED: I was present on the street.

MR. BENNET: When Mr. --

MS. RASHEED: Yes, I was present on the street.

MR. BENNET: So you just weren't physically there with him, but you were --
MS. RASHEED: Yes.

MR. BENNET: Okay.

DR. HERSHEY: At the time, just for the record, sir, Kenneth Ellerby was engaged in a conversation with Sharon Brown. I walked across the street to Kenneth, and three of us had a conversation. Kenneth signed directly after me, saying sort of with some apprehension about signing two candidates' petitions, and said, after he'd already signed mine, Is it okay if I sign two petitions.

And I said absolutely, knowing that getting Kenneth's name on that petition would just be another person that would serve as a witness just to say that at this moment in time, Sharon was walking around with this petition.

And Kenneth, at the very same time I did, not separately, but at the very same time, the three of us were in front of his house, engaged in a conversation. Sharon signed my petition, which you have, and I signed her
petition, which I highlighted.

MR. DARK: Excuse me, and just a point of clarification, maybe you can find out.

MR. BENNET: We're way over our time, but go ahead.

MR. DARK: Okay, when Ms. Rasheed said that she was on the street, is she claiming that she personally witnessed the signatures inside the houses from the street, or how did that work? That was, just so we wanted to get the facts clear on that.

MR. BENNET: Well, I think that is real clear, Ms. Rasheed said she was there, she was in the vicinity, you're saying you didn't see her. So I mean, I'm not sure it's, the worth that report. I'll give Ms. Rasheed an opportunity to respond to that.

MS. RASHEED: I agree with the Chairman, I don't have anything further.

DR. HERSHEY: I note during the brown bag, which I went to, which again shows that the
Board of Elections really stretches itself to provide lots of information and education on how to do this properly, if you go to a farmers' market and you lay it down and you're not physically in control of that petition and you circle around, go ahead and sign my petition and I'll go back and pick it up, you have lost control of that petition.

You are no longer in control of it, you are no longer witness to people who signed that petition. And that's what happened on that day. I don't know where she was. If I saw her, I'd gladly ask her to sign my petition.

MR. BENNET: Okay. I think we're clear on that. You want to take a vote on that?

MR. McGHIE: Yeah, sure. I think there's no need for rebuttal. So we just go straight to the closing argument. If either party wants to make a closing argument, they'll have one minute, beginning with the candidate. Do you, would you like to make a closing argument?
MS. RASHEED: I'm sorry?

MR. McGHIE: Would you like to make a closing argument?

MS. RASHEED: No, I don't have anything to say. I would just, no, I don't have anything to say.

MR. McGHIE: Okay, the challenger?

MR. DARK: Yeah, our closing statement is just that --

MR. BENNET: You want to take the mic.

MR. DARK: Oh, I'm sorry. You know, we just wanted a hearing for what we put in that, what was put in the affidavit about not personally witnessing, not personally circulating and not personally inquiring of all the signatures. We submitted three affidavits which do cast doubt on the other signatures.

And we think that it sets a bad precedent when the process isn't followed and then affidavits are signed that aren't true. And as we've had the burden of proof and we went
through and brought at least three examples, like
I said, at least three of where the process wasn't
followed and the affidavit is inaccurate.

MR. McGHIE: Okay, as I indicated
earlier, the Board has until Monday, September 10
to resolve this matter. And either party,
depending on the results, can appeal it directly
to the Board of Appeals within three days. Any
questions?

PARTICIPANT: No, thank you.

MR. McGHIE: The next matter is Joseph
Johnson versus Shaquita McBroom. Could you state
your -- are you the challenger or the candidate?

MR. JOHNSON: The challenger.

MR. McGHIE: Okay, would you state
your full name and address for the record.

MR. JOHNSON: Joseph Johnson, 1729
Alabama Ave., SE, Washington, DC, zip code 20020.

MR. McGHIE: Okay, the candidate is
not present. Ms. Joiner, was the candidate
properly notified of this hearing?
MS. JOINER: Yes, Mr. McGhie, I called her every day since I set the hearing. I called her this morning, and we also served her notice via email.

MR. McGHIE: Okay, the Board's regulations allow us to proceed ex parte if one of the parties is not present. Actually, the Board at this time will entertain a motion to proceed ex parte without the candidate present.

MS. LEWIS: So moved.

MR. BENNET: Mr. Gill? Move to Ms. -

- MR. GILL: Second.

MR. BENNET: Second, okay, great. I vote yes as well, so we have unanimous, we'll move forward.

MR. McGHIE: Okay, I recognize that you were here while I explained the procedures earlier. Do you have any questions?

MR. JOHNSON: I, no.

MR. McGHIE: Okay, would the
Registrar of Voters give her preliminary report?

MS. SMITH: Yes, thank you. On August 8, Shaquita McBroom submitted a nominating petition to appear on the ballot as a candidate in the November 6, 2018 general contest for the office of ANC SMD 8E-01. The petition was posted for public inspection for ten days, as required by law, and challenged on August 20, 2018 by Joseph Johnson, a registered voter in the District of Columbia.

My preliminary review of the petition challenged indicates that Ms. McBroom submitted a total of 39 signatures. The minimum requirement for this office is 25 signatures of District voters who are duly registered in the same SMD as the candidate.

Challenger Joseph Johnson filed a total of 31 challenges of signatures enumerated by line and page number on individual challenge sheets filed for each petition page. The petitions signatures were challenged pursuant to
Title 3 DCMR 1607.1 of the Board's regulations.

My review of the challenge indicates that a total of 18 out of the 31 challenges are valid. This leaves the candidate's nominating petition with 21 signatures, four signatures below the number required for a ballot access.

Thank you.

MR. McGHIE: Mr. Johnson, do you accept the recommendation of the Registrar of Voters?

MR. JOHNSON: Yes.

MR. McGHIE: And Ms. Joiner, do you concur in that recommendation?

MS. JOINER: Yes.

MR. McGHIE: Okay, then there is nothing further.

MR. BENNET: Would you like to make any additional comments to the Board?

MR. JOHNSON: No, I would not.

MR. BENNET: Okay.

MR. JOHNSON: Thank you.
MR. BENNET: Thank you.

MR. McGHIE: That concludes this matter. Okay, the next matter is Elissa Silverman, Challenger, versus Candidate Kathryn Allen. Can the parties come forward.

And this is not a, this is not a petition challenge here. We're here for the motion from Ms. Silverman to subpoena witnesses. So would both parties please state your full name and address for the record, beginning with the challenger.

MR. GONZALES: Good morning, Joseph Gonzales on behalf of Council member Silverman. My address is 322 Emerson St., Washington, DC.

MS. LINDENBAUM: Dara Lindenbaum on behalf of the candidate, Kathryn Allen. My address is 1090 Vermont Ave., Suite 750, Washington, DC 20005.

MR. McGHIE: Okay, we have a copy of the motion for the requesting a subpoena. Did you file any written response?
MS. LINDENBAUM: No, we received the motion last night at 11 p.m., so we were not able to do it in half an hour this morning.

MR. BENNET: You are Ms. Allen, is that correct?

MS. LINDENBAUM: No, I am her counsel.

MR. BENNET: Sorry?

MS. LINDENBAUM: I am her counsel.

MR. BENNET: Okay, and your name is?

MS. LINDENBAUM: Dara Lindenbaum.

MR. BENNET: Dara Lindenbaum, okay.

MR. McGHIE: Okay, state your motions.

MR. JOHNSON: We request the issuance of subpoenas of five witnesses critical to the challenge of nominating petitions by Kathryn S. Allen, which will be before this board on Friday. As set forth in our written pleadings, three of the four circulators have disclaimed that they signed the petitions.

In addition to that, we provided a
sample of affidavits from purported signers establishing that they did not in fact sign those petitions. In fact, the Registrar determined that almost 1,000 of the challenged petitions were not valid signatures.

We want to bring these circulators in and provide evidence before this tribunal that they in fact did not sign, or the circulator petition itself was invalid in total, and preserve that in the record with our initial challenge and stated explicitly in our memorandum accompanying the challenge.

If there's any questions, I'd be happy to answer them.

MR. BENNET: Why don't we hear from Ms. Allen, then I've got a bunch.

MS. LINDENBAUM: Sure. So the motion should be denied for two main reasons. First, the subpoenas are unnecessary and could prolong this process. The Registrar has done a careful and exhaustive review of the signatures and has
made her determination. Issuing these subpoenas will simply prolong the inevitable and disenfranchise the will of the voters.

Number two is timing. The challenger is asking this board to issue subpoenas for a hearing that is two days away. The first issue here is really a practical one. The earliest these folks could possibly be served is late this afternoon. That gives them one day to clear their schedule for a Friday hearing. I certainly couldn't do that with one day notice, and I doubt any of these folks could either.

The second issue is process and fairness. Pursuant to 3DCMR 430.5, a person may request that the Board quash or modify the subpoena prior to the time specified for compliance. One day is simply not enough time to give an individual to seek counsel and file an application to quash.

Therefore, we respectfully request that you deny this motion.
MR. GONZALES: May I respond?

MR. BENNET: Sure.

MR. GONZALES: As set forth in our pleadings, this is an important case. It goes to the integrity of the process and the nominating process in the District of Columbia. It's critical that these witnesses appear. We have people signing over here, we have people signing over there. Live testimony is the preference before any tribunal in this country.

We need to get these people in here and see what they have to say. The evidence so far supports the challenge that there was widespread fraud. And so it's critical that we get them in here and put them under oath and get to the bottom of what happened.

In terms of timing, we just got yesterday the decision from the Registrar. Immediately when we got that, and I got it after the actual defect list and its explicit determinations around 5:15 yesterday, we went to
work identifying who we wanted to subpoena and getting a motion to this tribunal to set forth our reasons for doing so.

There's no other way we could have done it, and we worked our fastest to get it done.

MR. BENNET: During the time that you were meeting with and discussing with Counsel, did you try to get these persons in to be in those meetings to discuss what they did or didn't do, particularly the circulators?

MR. GONZALES: So, I have had some communication. My concern is this, that having done a number of hearings both in DC Superior Court, federal court, and throughout this city, there's a big difference between people talking to you in person and then coming and being put under oath.

Sometimes that testimony isn't the same thing they told you then. And especially when that's the case, there's a concern that they may not show up at all.
And so from our perspective, it's irresponsible not to do that, not to get these subpoenas. Because this is an important issue, and we want to ensure that they are here to give that testimony.

MR. BENNET: I appreciate your response, but it's not to my question. My question is during the time that you were meeting with Mr. McGann last time he was here, was the, he's the attorney that was working through the issue, did you make an effort to get those persons into those meetings so that you guys would have an opportunity and Mr. McGann could have an opportunity to have some direct conversation with them during that time frame?

MR. GONZALES: My first meeting with Mr. McGann was yesterday. We did not bring anybody except the parties, and it was our understanding that it was a prehearing meeting.

MR. BENNET: So you hadn't had any other, they hadn't had any preliminary
discussions prior to yesterday?

MR. GONZALES: We had some communications over the phone about witnesses, yes.

MR. BENNET: Okay, all righty. Any, Ms. Lewis? Let me just kind of give you, and we want to try to make a decision pretty quickly after we adjourn here today. Big concern that I have is just the timing.

I mean, I appreciate your position and how you, you know, kind of came to where you are. I also appreciate the, I won't say the desire and maybe the necessity, to have those circulators particularly, testify in this matter.

Friday is just too short of a time. However, we have until Monday to close this matter legally. And so what I will recommend, I'll say it now, if we do subpoena anybody, it would be for a Monday hearing, not for a Friday hearing. It's just, I'm, now my two Board members could vote differently than the Chair,
but that's where I, that's kind of just to give you a heads up, that's kind of where I'm coming from.

I do agree, though, that it's important that we hear from the persons that, at least the circulators, like with regard to what they did and didn't do. And unfortunately, and I'm not blaming anybody for the timing, but the timing is such that two days would be a real challenge. And I'm concerned about this board doing something that ends up creating some really bad precedent.

So that's where I'm leaning, just to give you a heads up.

MR. GONZALES: I appreciate that, and I think Counsel --

MS. LINDENBAUM: Yeah, can I just say one quick thing?

MR. BENNET: Sure.

MS. LINDENBAUM: Monday is Rosh Hashanah, which is the holiest Jewish holiday.
So I do not know the circumstance of these circulators and what their religion is. I certainly know that I do not plan to be here, I'm planning to be in temple on Rosh Hashanah. And I believe the challenger has raised that as well.

So I think setting Monday as a day for a possible hearing is problematic for a number of people involved.

MR. BENNET: I appreciate that. And unfortunately, you know, we have to conduct the city's business, and the city's not closed on that day. While I respect, certainly respect the religious practices of every religion, but the city's not closed that day.

And that puts us in a bit a quagmire. So while I appreciate it, I'm not sure that Monday won't be, if we do have hearings, I'm not sure that Monday won't be the day.

MS. LINDENBAUM: Okay, I certainly understand that. And one more point is that I think on timing, while unfortunately we did only
have the premeeting yesterday, this challenge was filed 15 days ago, something like along those lines.

    MR. BENNET: Yeah.

    MS. LINDENBAUM: So the motion for subpoenas could have been filed at any time after or during that date range. Yesterday was simply not the first day that that was possible. They knew about these canvassers from the beginning, they were the center of their challenge here. And this was all information that they had at that point.

    MR. GONZALES: And one response to that, your honor. We didn't get the decision by the Registrar --

    MR. BENNET: I'm not your honor.

    MR. GONZALES: I'm sorry.

    MR. BENNET: Chairman.

    MR. GONZALES: Chairman. We didn't get the response until yesterday. Immediately we went to work. But part of it is, and if you
look at the evidence that we submitted, tremendously strong evidence that there was fraud rife throughout the circulators that were challenged.

And so we did not know until yesterday that not all of them would be discounted. In fact, we had a very strong belief that they would, given the abundance of evidence that we suggested. And so that's why we didn't do it at that point.

MR. BENNET: I appreciate that. Ms. Lewis, I see you're still pondering here. Mr. Gill, do you have any questions? Mr. Gill, you may be on mute. Or you may not have taken the last sip of coffee.

MR. GILL: I'm sorry, I'm just having trouble pushing mute.

MR. BENNET: Do you have any, no questions?

MR. GILL: No, just, I mean I, you said it all. This is, unfortunately the timing
is not, you know, we just, we are at the mercy of
the election calendar, and there's just not a
whole heck of a lot we can do about that.

MR. BENNET: Yeah.

MS. LEWIS: In terms of either party,
have you all had the opportunity to reach out to
anyone to see if anyone can be available, you
know, whether it's for your side or your side on
Friday?

MR. GONZALES: So, I have had the
opportunity to reach out to people. I will
represent now that Mr. Howard seemed open to the
possibility of appearing. Specific to Friday, I
haven't had that conversation with him, but we
have spoken about this and that representation -
-

MR. BENNET: Mr. Howard is the
circulator?

MR. GONZALES: One, yes, he's one of
the circulators and the one with the most
signatures at issue.
MR. BENNET: That's the one that has
the 2,000 signatures?

MR. GONZALES: Yeah.

MR. BENNET: Okay. Is he local?

MR. GONZALES: Yes.

MR. BENNET: Of the five people, I
think there are five, right?

MR. GONZALES: Yes.

MR. BENNET: Which ones do you believe
are most essential in order? If you were to rank
the five, how would you rank them relative to the
ones that are most important to your claim or to
your challenge?

MR. GONZALES: So --

MR. BENNET: I don't mind if you take
a minute to take a look. And I'll be happy to
sit here and wait.

MR. GONZALES: So the three people
that we absolutely can't do without are Howard,
Parker, and Lewter.

MR. BENNET: And who?
MR. GONZALEZ: And Lewter, L-E-W-T-E-R. I think the other people are very important as well, but with respect to Harris, most of hers have been invalidated. But it's still important getting to the bottom of this. When, you know, more than 90% of your signatures have been invalidated, that's something that we should all take quite seriously.

And with respect to Thompson, he was not a circulator. However, it's clear that he was critically involved with a lot of this. To the extent we're not sure, but we know that Ms. Allen has already conceded that there was some connection with malfeasance and him involving obtaining signatures.

MR. BENNET: But he didn't have that many though, as I recall.

MR. McGHIE: So Thompson was not a circulator.

MR. BENNET: Yeah, Thompson was not, okay. So anything you want to conclude?
MS. LEWIS: In terms of your motion, your citing quotations, are these actual direct quotes from the Washington Post article?
MR. GONZALES: Yes.
MS. LINDENBAUM: And we object to any evidence that's coming from the Washington Post article.
MR. GONZALES: From our position, this is simply proffered as to the relevance of subpoenas, it's not in lieu of testimony.
MR. BENNET: Yeah, we get it, we get it. Yeah, we are, we'll temper our view based on that information.
MS. LEWIS: Would affidavits, notarized and signed affidavits, be able to get to the heart of what we're hoping to get to?
MR. GONZALES: With respect to the circulators themselves, live testimony is always the preference.
MS. LEWIS: Absolutely. I'm a trial lawyer, I completely get that. But just in terms
of the conundrum we're in right here, we're just, I think, trying to think creatively and efficiently of how to kind of try and be as accommodating to all parties as possible.

MR. GONZALES: I think they would be inferior. Whether they would be adequate, that would be up to the Board. And I think with at least some people, we need to get some people in here to testify.

MR. BENNET: How would you feel about, I'm going to let you take that, do it later. How would you feel about a mixture? If, I'm struggling with a Friday date. And I do, I really do, I mean, this is, I'm a religious person myself, and I struggle with the issue around Monday. But the calendar is what it is.

But if persons were not, and I'm also struggling with the Board having precedents of subpoenaing people who can't come and also putting out subpoenas. So then what do we do? You know, do I refer that person to the Attorney
General for prosecution, for, you know, ignoring a Board Subpoena of less than 48 hours? I mean, that's, I struggle with that.

But, so part of what I'm, part of what Ms. Lewis kind of started down the road, and maybe I'll add to that, is what about a mixture of live testimony or, you know, testimony, a person appearing and affidavits? I mean, how do you feel about those kinds of, you know, kind of having a mix?

MS. LINDENBAUM: I can say --

MR. BENNET: Yeah, please.

MS. LINDENBAUM: We would have a problem with affidavits on this because we wouldn't have the ability to cross-examine them on these issues.

MR. BENNET: Yeah.

MS. LINDENBAUM: And I think the statements that have been made in the Washington Post that are discussed that are circumstantial evidence are quite wishy-washy, and I think that
there could be a number of different things drawn
from their statements that can help or hurt both
sides.

And when we're talking about an oath
that they've already signed, that we believe that
they've already signed, that's on these
petitions, I think having an affidavit just
equally matches that. And the evidence there, I
don't think that could outweigh the evidence of
the oath that they have signed on their petition.

MR. BENNET: I think that's a no.

MS. LINDENBAUM: That is a no, sir.

MS. LEWIS: And I don't have --

MR. BENNET: Wait, wait, wait.

MS. LEWIS: Oh, I apologize.

MR. BENNET: Let me let you respond
to a mixture of affidavits and in-person
testimony.

MR. GONZALES: As long as the right
people were on the side of testifying, I think we
could agree to that.
MS. LEWIS: Does anyone have the article, and I'm assuming it's just one article, because I've not yet seen it. So I'd be interested if anyone has a printout.

MR. McGHIE: I have it.

MS. LEWIS: You do have it? Okay.

MS. LINDENBAUM: And again, we're objecting for the record.

MR. BENNET: Mr. McGann, can I get your thoughts on this matter? Although I'm sure I'll get plenty of it later.

MR. McGANN: Yes, sir. There's, Rudolph McGann, Staff Attorney for the Board of Elections. There's precedent for subpoenaing circulators. However, we've never subpoenaed a circulator to come within two days.

And so I don't even know how you would really enforce that in court because the period is such a short amount of time. As Ms. Lindenbaum asserted, they wouldn't even have an opportunity to quash the subpoena before the
deadline would pass.

So subpoenas are difficult. During our prehearing conference, I did ask if the challengers wished to get cooperative witnesses who seemed to be on their side with respect to the initial statements that we heard from the newspaper publications to just come on their own volition.

But as was already stated today, it would be difficult to know what their actions would be without the subpoena. So we're kind of in a catch-22 at this point in time.

MR. McGHIE: One suggestion I guess I could throw out. I guess the fact that the news article threw into question the validity of the signatures of your circulator, it would behoove you to see if you can get some type of voluntary compliance for your circulators to come in and defend what they did.

But as for that, what I would suggest is that the Board consider issuing subpoenas
returnable on Monday and still schedule a hearing on Friday. And then at the hearing on Friday, we could entertain affidavits if any affidavits are submitted. And of course, affidavits will, the weight of the affidavit, you know, is the weight of the affidavit.

And if we can get voluntary compliance with any of the circulators, either you contacting them or you contacting them, and they voluntarily come in, we could hear the testimony of the witnesses on Friday. And the subpoenas are still out there for Monday. And if you can get somebody on Monday If we -- assuming we might be able to resolve the whole matter on Friday.

If we can't resolve it on Friday, then we'll still have our hearing on Monday. And if you can get somebody to represent you on Monday, or our regulations also allow us to proceed ex parte. So one way or another, the Board will hear the matter if one of the parties cannot make it.
MS. LEWIS: Just another suggestion.

I'm not sure if anyone has vacation plans for this weekend, but, you know, I think that it's possible that we could potentially consider to hear this matter on a Saturday or Sunday. I know that it is a--

MR. BENNET: Not Saturday.

MS. LEWIS: Okay, apparently a Sunday then. I know it's a little challenging with weekends and peoples' varying schedules, but I think this matter is extremely important, and I think that we have to figure out some sort of creative solution to try and make sure that it's fair to all parties.

And so, you know, I can certainly make myself available, you know, at some point that we could perhaps agree on, you know, for the betterment of all parties for a Sunday.

MR. BENNET: Let me ask you this. I really want to get there. This is a big deal. Could you guys check with at least Howard,
Parker, and Lewter and see what their availability is Friday to Monday? I would actually rather not issue subpoenas. I appreciate the motion. If I have to issue a subpoena to get to talk to people, I will. Well, I'll talk to my two Board members about agreeing to that.

However, I'd rather not, I'd really rather not do that. We have always been able, we are generally able to function in an environment where we're able to get testimony back and forth and kind of get a complete record.

And so if I can get people to voluntarily come in, I'd rather do that. Because the question is what happens if indeed they don't respond. And then I've got a whole other process to go through, and we still don't solve the problem. We still don't have a decision for you, other than without that testimony.

And then those people, who may or may not have been corrupt in their activities, end up
dealing with a matter that could, you know, that
involves the Attorney General and all that, and
they'd have to probably get their own counsel.
And it could just really be a real challenge, and
I think it defeats the purpose of why we're here.
I'll do it if I have to.

MS. LEWIS: I do -- I'm sorry.

MR. BENNET: So what I'd like, unless
my two Board members are, what I'd like for you
guys to do is to get on the phone now, see if you
can convince folks to come in and see us, either
Friday afternoon or Sunday afternoon. And we
will be, or Sunday evening. We'll be, or
something between now and Monday.

I'd love to accommodate the holiday,
religious holiday, Jewish holiday on Monday. May
not be able to, but I would like for you guys to
try and figure out a way for us to get to at least
live testimony from at least those, from at least
two of the three that you believe are critical to
your matter. Give you an opportunity to cross-
examine and for us to hear that.

So I'd like to do that. I'd like for my Board member to give me her thoughts, and also my General Counsel on that.

MS. LEWIS: Can I give you separate thoughts, and then --

MR. BENNET: Sure, you're more than welcome.

MS. LEWIS: The one thing I have not heard, and forgive me if I've just missed this piece, but what is the motivation behind the request for the subpoena? Is there some concern that people will not appear voluntarily?

MR. GONZALES: So yes, there's that concern. And I'd also note, Mr. Chairman has indicated that that's not the practice in this court. But Mr. Chairman's also noted this is kind of an exceptional circumstance, and there may be reverberations beyond just this hearing because of what goes on here.

And if we look at precedent that is
similar to that, to this, that occurred. And so it's our position that maybe exceptional things need to be done, given the importance of this, that I think this board has already acknowledged.

But yes, there is a concern, and I'm comfortable representing that I think there may be a concern on some of their parts as well. And therefore I think it would be --

MR. BENNET: You mean the potential witnesses?

MR. GONZALES: The potential witnesses. And therefore I think it would be irresponsible on my part if I didn't take every step to try to make sure that these witnesses were here to testify on this critically important matter.

MS. LINDENBAUM: Can I jump in?

MR. BENNET: Sure.

MS. LINDENBAUM: I believe this is an important matter, but I do, with all due respect to all the candidates, I don't think this is
necessarily an exceptional matter. We've been
through these petition fights for years, and
there are always allegations that there are
fraudulent signatures. There's always some
batch of them, there are the signatures don't
match the other.

I simply don't see this as a truly
exceptional situation that requires subpoenaing
people with two days' notice.

MR. BENNET: I appreciate that. Any
other thoughts, Ms. Lewis?

MS. LEWIS: Why is this an exceptional
matter from your perspective?

MR. GONZALES: The level of alleged
fraud is exceptional. Even the Registrar's
Office, who didn't look at, as they're not
required to, all of the issues that we
identified, found significant, almost I think 50%
of the signatures were invalid. And that's not
even counting the rest that we also think are
invalid.
So I'm, from my review of the case law and the decisions rendered by this court, that's pretty significant. And I think anybody saying that look, we may have up to 30, 40% fraud here, that's significant.

MS. LINDENBAUM: I do need to say that those numbers, the numbers, the fact that half may not have been found valid, that's not because they were found not valid because of fraud. It was a number of reasons, because the voter wasn't registered to vote, it was because the circulator hadn't registered as a non-resident circulator.

There was just a small number of these signatures that were thrown out because the signature did not match the voter's signature on file, which is fraud. It is simply not fraud if a voter has, is registered by signed the petition at a different address, or is not registered and believes they should be.

MR. BENNET: Definitely. We can work on that and I appreciate that.
MS. LINDENBAUM: Thank you all.

MR. BENNET: Mr. McGhie, let me before I give them direction, do you want to?

MR. MCGHIE: No, the only thing I was going to say, well, I thought it was exceptional and not just a plain vanilla fraudulent signatures that we normally see. I have never really had somebody quoted in the newspaper as saying I did not circulate these signatures. And even though it's hearsay, I think it's something that we've got to look into.

MR. BENNET: Okay, anybody else have anything else to say before I give some direction? I'm going to ask you guys -

MR. BENNET: You good, Mr. Gill?

MR. GILL: Yeah.

MR. BENNET: Okay. I'm going to ask you guys this -- it's 12:38 now. I'm going to ask you guys to, at 1:05, to meet me back here. In the meantime, I'd like for you both and Mr. McGann to get on the phone, call the folks that
you can get in contact with, and ask them about their availability for Friday.

And get some sense, I need Mr. McGann to be on all those calls so he can tell me, to get some sense of whether people will come voluntarily or not. If they will not, we're going to consider issuing subpoenas. The actual date will not likely be Friday. But we've still got to meet the calendar.

So I'm going to ask you guys, we're going to adjourn this meeting, or we're going to suspend this challenge hearing and suspend this hearing on this motion and give you guys about 30 minutes to figure out who can get here and when.

MS. LINDENBAUM: Just, I don't have access to these folks. There were our circulators so --

MR. BENNET: If somebody has telephone numbers, if you've got email addresses.

MR. GONZALES: I think we could, we'll all call together.
MS. LINDENBAUM: Yeah.

MR. BENNET: Yeah, I mean give it a try. I'm trying to you know, to accommodate. And we have to hear these people and they got to be here. And we have to conclude by Monday. And so let's go try to work this, okay. And Mr. McGann, I'm going to count on you to give us, to give the Board some direction as to what your belief is in terms of what we can do. If --

MS. LINDENBAUM: Can -- I'm sorry, I'm so sorry.

MR. BENNET: No, no, you're fine.

MS. LINDENBAUM: But before you shut it down, I did want to give one other option here.

MR. BENNET: Sure.

MS. LINDENBAUM: And one thing that we haven't discussed.

MR. BENNET: Great.

MS. LINDENBAUM: Since this is just a motions hearing and we weren't going to raise any of the issues on the merits, but one thing that
we did raise in the preconference meeting and
that I put on the record as one of our issues is
the challenges to a circulator named David
Office.

And the challenge was that he was a
non-registered, out-of-state circulator. And
Mr. Office collected a significant number of
signatures, I believe it was around 650 or 700 of
them. Mr. Office did register as a non-resident
petition circulator.

However, he did put a different name
other than Kathryn Lewis's down, Kathryn Allen's
down on his non-resident circulator affidavit.
So it is an open question on if those signatures
are valid that he collected. If they are, I
believe that we could withdraw all of these
signatures and still make ballot access, which
would negate the need to subpoena these folks.

MR. BENNET: My suggestion is that if
that's a matter that we will, that has already
been raised as a part of the challenge, and it's
a matter that we will ultimately end up having to hear outside of this motion, I suggest that I give you another ten minutes and you discuss that and make some assessment as to how you want to move forward accordingly.

MR. GONZALES: So we are -- so it's not Counsel's fault, but this is the first time that this issue was raised yesterday. We're presently researching it. And to the extent that it was going to be raised at the formal hearing, which was tentatively scheduled for Friday, we're in the process of preparing a fulsome response. We do oppose that.

MR. BENNET: That's fine. If you, so if you can't deal with it in those ten minutes, fine, I take it back. So, but if you happen to have a couple spare minutes in the next half hour to kind of deal with it, great.

MS. LEWIS: I do have a question.

MR. BENNET: Please.

MS. LEWIS: Not to get to the merits,
I completely understand where we are right now. But you did raise that, so --

MR. BENNET: That but started the violence (Laughter.)

MS. LEWIS: Sorry. But, so if the issue that he, Mr. Office, registered in perhaps another matter or for another candidate as a circulator, and you're essentially saying that this defect was cured, and you can use this as corroboration of the fact that he was an out-of-state circulator, but he just did not follow the protocol in this particular matter?

MS. LINDENBAUM: Yes, I wasn't sure if I brought that at all in my stuff, right. So he registered in June, so right when he started circulating petitions for Ms. Allen, he also registered for Rustin Lewis. So in this same time frame that he registered as a non-resident circulator.

And the non-resident circulator form and the regs say that really the purpose of this
is so that you can get the information for this person so they agree to be subject to the District of Columbia law and process laws. And by signing this, even though it was for a different candidate, he's done that.

So the necessity of this non-resident petition circulator form has been met. It's a technical and minor error for him not to have filled out, in addition to Rustin Lewis, who's running in the same race here, to also put Kathryn Allen's name as another person whose signatures he was circulating for.

So to be absolutely clear, I think we may have a different, we would have had a different situation is maybe it was people running for different position, or in of course different election cycles.

But here it was the same election cycle, same position for this at-large City Council race, and he's accepting all the service of process and other things that come with the
non-resident petition circulator.

I view this as a technical error, and that about 700 signatures shouldn't be thrown out and voters shouldn't be disenfranchised because this circulator erred by not writing in another name on here.

MR. GONZALES: So --

MR. BENNET: But we're not hearing that.

MR. GONZALES: We're not hearing that, but let me just say this: That argument is in direct contravention of the existing municipal regulation. That's not all, but that's one of our primary points. But we're still working on our response.

MR. BENNET: We obviously can't resolve that today. So okay, you have rules. We will see you at 1:15. Mr. McGann.

MR. McGANN: Yes, sir.

MR. BENNET: Work, okay, thank you.

(Whereupon, the above-entitled matter
went off the record at 12:41 p.m. and resumed at 1:36 p.m.)

MR. BENNET: We're back on the record now. Let me kind of start off by thanking you for trying to work through this, work it out. It is really important for us, and we do see this as an exceptional circumstance where we really need to make sure that we do everything we can to accommodate the parties.

So first, what we'd like, and this is in response to your motion. So we want to modify your motion in terms of what we agree to. What we'd like to do is, since we have, I understand you've spoken with Mr. Howard. Of the five people, it appears that he's the most critical of the five, that he's voluntarily, he's willing to voluntarily come in on Friday.

So we'd like to, what we'd like to do, what we're going to do is to schedule the hearing for Friday morning at ten o'clock with Mr. Howard. We haven't been able to have any contact
with, I understand if you were not able to informally contact anybody else other than Mr. Howard. Let me get through, okay, and I'll let you.

So, and we will also issue to Mr. Howard a subpoena for Friday. Part of what we're trying to do, everybody, all the parties seem to have really big issues with Monday, and I really appreciate it. So we want to try and accommodate that as best possible.

Anybody else that you were able to get in contact with of the five people and are able to come on Friday voluntarily, we will certainly hear their testimony on Friday. We are issuing a subpoena to Mr. Howard, one, since he's volunteered, since he's indicated verbally that he's able to come in and he volunteers to do so.

I have an issue with regard to issuing subpoenas for somebody to come in two days. So, but since he's said he's open, he's voluntary, and so we're going to do that and issue the
subpoena and have the hearing at Friday at ten o'clock.

I will not issue subpoenas for Friday for anybody else, unless those persons are, you are able to get in contact with them and they're willing and volunteer to come in on Friday. We will also, we are also open, and I will schedule the hearing for Sunday afternoon for anyone else who is able to come in voluntarily.

While we will issue subpoenas, we are not able to require that somebody appear on Sunday with a subpoena. So, but if they're able and willing to come in on Sunday, we will hold a hearing Sunday afternoon to hear those persons to accommodate the unavailability or potential unavailability on Monday of the parties.

And let's see. Any other things that we? Oh, yeah. If you want us to issue subpoenas for the, anybody else that's available Friday, then we need to know by tomorrow by noon so we can issue subpoenas for those persons as well.
And let me just go back and repeat.

If we issue a subpoena today for someone to appear on Friday, and they haven't volunteered to appear on Friday, the time frame is so short we just don't believe that the validity of the subpoena would be upheld. And it just would end up creating even more minutiae in the process, and I think would not allow us to get to the issues that are really critical here.

The other thing with regard to Friday, and I promise I'm going to let you speak, the other thing with regard to Friday is we will also hear on Friday the other issue that appears to have been brought up regarding, I don't remember the exact matters around that. Do you remember?

MS. LEWIS: Yeah, as it relates to the out-of-state registration of the petition circulator. We will hear that issue as well.

MR. BENNET: Okay. And so that's our response to your subpoena, I mean, sorry, to your motion. And I believe that that addresses the
major issues, at least that I heard in the earlier part of the discussion. So I will let you respond to that initially.

MR. GONZALES: Thank you, Mr. Chairman.

So to simplify things, I think we'll withdraw our request with respect to Ms. Harris. We will be seeking an affidavit from her, and I understand that they will challenge the affidavit. And if that indeed occurs, we'll address it at the time. But I think that simplifies things.

MR. BENNET: Okay.

MR. GONZALES: In terms of the other three, we're going to try to get in touch with them. Let me talk about Thompson and Parker first.

MR. BENNET: Okay.

MR. GONZALES: Thompson and Parker. Mr. Parker is or was, I guess I just learned that for certain that he is not the Campaign Manager for Ms. Allen anymore. But he was. And so the reason that's important is because he's
professionally involved in this.

In fact, he's given statements and he knows that this challenge was going forward. And his proximity to the candidate and to the issue is incredibly close. It's immediate. And so the type of concerns that your honor, I'm sorry, Mr. Chairman raised earlier that, look, this may not be fair, I think they're lessened to some degree with someone like him.

With Mr. Thompson, to a lesser extent, it's the same reasoning. He's clearly involved in this, he knows that this is going on, he's made public statements regarding it. And apparently he was hired by Ms. Allen's campaign. And so those same concerns aren't applicable, those same concerns that Mr. Chairman identified earlier are not applicable to him as well.

Final one's Ms. Lewter, and the concerns that Mr. Chairman raised are applicable. Indeed, it looks like she may have been a victim all along here. Why inconvenience her with two
days? So we're going to try to get in touch with her. And I guess then if we get in touch with her by noon tomorrow, we'll ask for the subpoena.

The one thing that I would suggest is it is possible that you could issue the subpoena today with respect to her. And if indeed she doesn't appear, we'd withdraw the request. We would withdraw the request so she would face no sanction associated with that, and so that we wouldn't have any concerns with non-compliance with the subpoena.

MR. BENNET: This is Ms. Lewter?

MR. GONZALES: Yes, with Ms. Lewter. And I think that would be fair to her, I think it would address the concerns that the Board has identified. But that's our position, and I understand that the Board has already, the Board has laid out a framework here, but that's just a suggestion.

MR. BENNET: Yeah, before I respond to you, do you want to address anything?
MS. LINDENBAUM: I think that any subpoenas issued here, except for when somebody says they're going to come voluntarily, you still face the same problems, it's a due process problem I believe, that it does not give them time to quash or to move to have it modified. And that's a fundamental matter of fairness that simply cannot, they can't get over within one day. Be it Friday or Sunday.

MS. LEWIS: So just from both parties' perspective, are you all thinking that you may want us to be available on Sunday? Just so we can make sure for our own planning purposes that we hold that time frame open?

MR. GONZALES: Yes.

MS. LINDENBAUM: I don't have any witnesses that I would bring in, so not for me.

MS. LEWIS: Okay.

MR. BENNET: Okay, so potentially Sunday afternoon. One of the things that I did not say is that whatever affidavits that you can
get that you commented about earlier, we'd
certainly be happy to have those and to consider
those as well, either as, you know, either in
lieu of someone testifying or in addition to
someone testifying, quite honestly, but --

MS. LEWIS: And that's the same for
you, Ms. Lindenbaum. We're not just directing
that to one particular party.

MS. LINDENBAUM: To be clear, you
would need those Friday, not Sunday, right?

MS. LEWIS: We would need affidavits
by Monday.

MR. BENNET: To consider. We have to
have a decision out by Monday. So it'd be great
to have those affidavits Friday. We, you know,
Sunday, whatever. But we have to have a decision
out. And we will consider them any time prior
to issuing the decision.

MS. LINDENBAUM: My point is more that
if they were to submit an affidavit on Sunday or
Monday, and we don't have a hearing, I wouldn't
have the opportunity to refuse the affidavit.

MR. BENNET: That's correct.

MS. LINDENBAUM: Or, and so I think that that could be a problem.

MR. BENNET: That's correct.

MR. McGHIE: If they submit an affidavit on Sunday, you can respond Sunday evening. I mean, because we check our email. So in the --

MR. BENNET: And we're actually all weekend.

MR. McGHIE: Yeah, so if you have any objections to the affidavit --

MR. BENNET: This weekend.

MR. McGHIE: Respond by, state your objections by email or whatever, and we'll address that so we can make a decision on Monday.

MR. BENNET: But I think your points though in terms of fairness is not a bad one relative to when we should have affidavits. So if we get an affidavit, it should be by Sunday.
MS. LINDENBAUM: Yeah, I just think especially in this case where there are now conflicting statement going on all over --

MR. BENNET: Very different.

MS. LINDENBAUM: Without cross-examining, we have a problem.

MR. BENNET: No, I get it. No, I think affidavits should be in by Sunday.

MR. MCGHIE: And one more thing with respect to the new issue, if we're going to address it on Friday. I know you said you would only work in our response to the new issue. Is it possible that you could submit whatever you have in writing Thursday morning, like by ten o'clock, and then you respond Thursday by close of business?

MR. GONZALES: Yes.

MR. BENNET: Okay, all right. So this is how we're going to respond to your motion, and that is that we'll subpoena, we will, since Mr. Howard has volunteered, we will confirm that
by email and also submit a subpoena to him. We will have a hearing on the matter of those petitions on Friday.

We will also hear and consider affidavits from any of the other five persons on Friday. If there's someone who's able to come in and they volunteer, if you let us know today, we'll get them a subpoena out too. And we will hear them.

We will accept affidavits until Sunday relative to anybody that we have not had an opportunity to appear before us. And we will hold Sunday afternoon open, probably in the three o'clock time frame, to have a hearing for any person on Sunday afternoon that would voluntarily come in and do that.

We will, the deadline for that, though, has to be by Friday morning, by the hearing Friday morning. I don't, don't call us Saturday and say, hey, we got somebody to come in and we'll be there Friday, that's a Sunday
afternoon. So by the end of the hearing on Friday, we need to know if you've got others that are willing and volunteering to come in for us to be heard on Sunday afternoon.

   MR. GONZALES: And until tomorrow noon we can still request subpoenas for people that we are able to get in contact with, correct?

   MR. BENNET: Yes, that's correct.

   MR. GONZALES: Thank you.

   MR. BENNET: So we have that down on the record. Are there any other things we need to make clear? Ms. Lewis?

   (Off-mic comments.)

   MS. LEWIS: So in terms of the suggestion about, I think it was as it relates to Ms. Harris?

   MR. BENNET: No, Lewter.

   MS. LEWIS: Oh, Ms. Harris or Lewter? Who was the one where you said you withdraw the?

   MR. GONZALES: Yes. So we would withdraw Ms. Harris, yes.
MS. LEWIS: Withdrawing Ms. Harris.

MR. GONZALES: Yes.

MS. LEWIS: But for Lewter, you were indicating?

MR. GONZALES: For Lewter, our request is that the Board issue a subpoena, which we would try to get served immediately, we have the resources already in place to get that done by personal service. And then if she did not in fact appear, we would withdraw the subpoena. And the reason we would withdraw it is to protect her from any consequences that she would have if she didn't appear.

MR. BENNET: No, I don't want to do that. And I'm not going to. But I think you're going to work to try and get her to voluntarily appear. And if indeed she agrees to that, we'll issue a subpoena by tomorrow.

MR. GONZALES: And then we'll personally serve it on her.

MR. BENNET: Perfect, okay.
MS. LEWIS: Okay.

MR. BENNET: I think we've struck a way forward. Great work. Thank you so much. And we appreciate the opportunity to move this forward. So with that, I think we're adjourned.

MS. LEWIS: Thank you.

MR. BENNET: Thank you so much, we'll see you Friday.

(Whereupon, the above-entitled matter went off the record at 1:51 p.m.)