

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ELECTIONS

+ + + + +

SPECIAL BOARD MEETING

+ + + + +

MONDAY

APRIL 18, 2022

+ + + + +

The District of Columbia Board of
Elections convened a Special Board Meeting via
Video-Teleconference, pursuant to notice at
10:30 a.m. EST, Gary Thompson, Chair, presiding.

BOARD OF ELECTIONS MEMBERS PRESENT:

GARY THOMPSON, Chair
MIKE GILL, Member
KARYN GREENFIELD, Member

BOARD OF ELECTIONS STAFF PRESENT:

MONICA HOLMAN EVANS, Director
TERRI STROUD, General Counsel

CONTENTS

Call to Order. 3

Ascertainment of Quorum. 3

Hearing on Challenge to Candidate
Qualifications: Bruce V. Spiva, Challenger,
v. Kenyan R. McDuffie, Candidate for the
office of Attorney General for the
District of Columbia in the June 21, 2022
Democratic Primary Election.10

Adjournment.67

1 P-R-O-C-E-E-D-I-N-G-S

2 (10:35 a.m.)

3 CHAIR THOMPSON: It's Monday, April
4 18, and this is a special meeting of the Board
5 of Elections. My name is Gary Thompson. I'm
6 the Chair and I am here today with the other two
7 Board members, Karyn Greenfield and Mike Gill.
8 If you could both please indicate your presence?

9 MEMBER GILL: Mike Gill is here.

10 MEMBER GREENFIELD: Karyn Greenfield
11 is here.

12 CHAIR THOMPSON: Okay, great, so we
13 have a quorum. We are in session and we are
14 here today to discuss a nominating petition
15 challenge for the Office of Attorney General for
16 the District of Columbia. The challenge was
17 filed by Bruce Spiva and, oh, and the candidate
18 being challenged is Councilmember Kenyan
19 McDuffie.

20 I also want to confirm from what it
21 looks like is the presence of a court reporter?

22 COURT REPORTER: Yes, hi, I'm here.

1 CHAIR THOMPSON: Okay, thank you so
2 much. I assume that's from a private party,
3 correct, the court reporter?

4 PARTICIPANT: It's Neal R. Gross
5 Reporting.

6 CHAIR THOMPSON: Okay, well,
7 welcome, Court Reporter, and welcome, everybody
8 else. We appreciate you being here. This is an
9 important issue, and there have been briefs
10 filed and a prehearing conference held, so I'll
11 just briefly explain where we are.

12 A prehearing conference was held on
13 April 13 between counsel for the parties. Both
14 parties are represented. That prehearing
15 conference was attended by General Counsel Terri
16 Stroud, oh, by Christine?

17 MS. STROUD: It was conducted by a
18 member of the Office of the General Counsel
19 staff, Christine Pembroke. She conducted the
20 prehearing conference on behalf of the General
21 Counsel's Office.

22 CHAIR THOMPSON: Thank you. And

1 most importantly with respect to that prehearing
2 conference, the two parties reached a
3 stipulation as to the facts, meaning there are
4 no facts in dispute.

5 During their presentations, counsel
6 can summarize those facts, but as I understand
7 it, everybody agrees on all of the material
8 facts, so we do not have to conduct a contested
9 hearing with witnesses and documents entered
10 into evidence, et cetera.

11 Instead, this hearing is essentially
12 an extension of the briefs that have already
13 been filed by the two sides. This is time for
14 counsel to present oral argument with respect to
15 their positions.

16 Just for the record, we received the
17 nominating petition challenge on March 29, 2022,
18 filed by Mr. Spiva through his counsel. We then
19 received on April 6 Councilmember McDuffie's
20 motion to dismiss filed by his counsel.

21 We then received an opposition to
22 that motion to dismiss on April 11, and the next

1 day on April 12, we received from Mr. McDuffie a
2 motion for leave to file a surreply with some
3 additional argument made. So, we have all of
4 that in the record. We've read all of those
5 briefs.

6 During the prehearing conference,
7 the parties also agreed to proceed today in two
8 steps. First, we're going to hear very briefly
9 some arguments about procedural points that were
10 brought up in the surreply for the first time.

11 Counsel for the candidate,
12 Councilmember McDuffie, will present four or
13 five minutes, the challenger's counsel will then
14 present for five minutes, and then the
15 candidate's counsel will have three minutes and
16 it will wrap up that discussion about procedural
17 points.

18 We'll then proceed to the main
19 substantive argument on the challenge with 20
20 minutes per side and then five minutes for
21 rebuttal.

22 We're not really going to keep

1 strict time limits. If somebody really needs
2 extra time and, you know, we're in the middle of
3 discussing things, we'll just keep going, but we
4 will be keeping time just to make sure we're,
5 you know, cognizant of how long this is taking,
6 you know, broadly, because we can talk a really
7 long time if you let us.

8 So, that's basically the setup for
9 today. Before we jump in, I'm just going to
10 make some opening comments, but anything else
11 from you, Terri, before we proceed?

12 MS. STROUD: No, I think that I'll
13 wait until after the Board members make their
14 opening comments, and if there's any discussion
15 that needs to be had about further information
16 about how we'll proceed, then I'll jump in.

17 CHAIR THOMPSON: Okay, so here is
18 what I wanted to say at the outset to both
19 parties, and the public, and members of the
20 media, and counsel.

21 We are a three-member board. We are
22 entirely fair and impartial on this issue.

1 We've had no ex parte communications. Nobody
2 has called us, lobbied us in any way. We've
3 received the briefs. We've read the statute, of
4 course. You know, we've read the reference case
5 law and regulations.

6 We understand the issue, and
7 speaking for myself, there's clearly two
8 reasonable perspectives on this issue that arise
9 from the statute in question.

10 And I wanted to say at the outset
11 that we have the utmost respect for
12 Councilmember McDuffie and Mr. Spiva. We
13 respect the right, obviously, of Councilmember
14 McDuffie to run for this office and file
15 nominating petitions.

16 We respect the right of Mr. Spiva,
17 like any candidate or elector, to challenge that
18 petition. So, the playing field is completely
19 level heading into this.

20 The positions have been masterfully
21 briefed by counsel for both sides. I happen to
22 be professionally acquainted with counsel on

1 both sides from previous work on nonprofit
2 boards and everything is neutral in that regard
3 as well.

4 And the parties have had a chance to
5 meet in the prehearing conference to enter
6 stipulations and tee this up in a manner that I
7 think is evidently fair.

8 So, you know, we are blank slates at
9 this point ready to hear argument from counsel.
10 I just wanted to make that clear at the outset,
11 especially to the press and members of the
12 public, that we're entirely neutral on this
13 point.

14 So, with that, I'll ask my fellow
15 Board members, Mike Gill, if you have any
16 opening comments before we proceed?

17 MEMBER GILL: No, I'm good. We can
18 start.

19 CHAIR THOMPSON: Okay, Karyn
20 Greenfield?

21 MEMBER GREENFIELD: I'm good. Thank
22 you.

1 CHAIR THOMPSON: Okay, with that,
2 we'll proceed with the motion for leave to file
3 a surreply and the procedural points that are
4 addressed therein, and the counsel for the
5 candidate, Councilmember McDuffie, is going to
6 go first, and among their counsel, I'm not sure
7 who is going to take the lead on that one, Mr.
8 Pozen, Mr. Hilgers, or somebody.

9 MR. POZEN: That would be me, Mr.
10 Chairman, Thorn Pozen.

11 CHAIR THOMPSON: Yeah, okay, great,
12 please proceed.

13 MS. STROUD: And Mr. Pozen, if you
14 could first just state your -- you did state
15 your name, but your address for the record, I
16 guess your professional address?

17 MR. POZEN: Yeah, 1432 K Street,
18 Suite 400. I'm with the firm of GMP.

19 Okay, well, good morning, Mr.
20 Chairman and members of the Board of Elections.
21 Once again, my name is Thorn Pozen, and as I
22 said, I'm with the firm of GMP.

1 I am counsel to the McDuffie 2022
2 campaign and I'm here this morning, as you know,
3 with my co-counsels, Joe Sandler and Kevin
4 Hilgers, in response to a challenge to Mr.
5 McDuffie's qualifications to hold the office of
6 attorney general.

7 I will first be arguing that the
8 Board should dismiss the complaint here on
9 procedural grounds, then if you choose to
10 proceed to the merits of the matter, first I and
11 then Mr. Sandler will argue that you should
12 dismiss the challenge because Mr. McDuffie, the
13 respondent, does meet those qualifications as a
14 matter of law.

15 We have three points on the
16 procedural side. Point number one is the Board
17 should dismiss this challenge to the nominating
18 petition because it is procedurally deficient
19 and not complete.

20 Number two, even if you agree with
21 complainant's argument that this should be
22 viewed as a challenge to respondent's

1 qualifications, his arguments fail procedurally
2 there as well.

3 And number three, as to the issue of
4 our timing and our ability to raise this
5 procedural challenge at this point, I'd say that
6 failure to comply with the requirements for a
7 proper challenge before the Board is akin to
8 jurisdiction, and of course it is well-settled
9 law that a jurisdictional challenge is always
10 ripe before the court or tribunal.

11 As to our first point, complainant
12 has styled his pleadings as a challenge to
13 nominating petition.

14 The rules for challenging a
15 candidate's nominating petitions are laid out in
16 D.C. law and in the DCMR at Title 3, Section 409
17 and 410.3, and they, in most pertinent point,
18 require the challenger to, with specificity,
19 actually challenge specific names, line numbers,
20 and signatures of particular petitions. The
21 complaint here does none of that.

22 The challenge before you is

1 therefore clearly on its face not a challenge to
2 respondent's petition, and the challenge does
3 not meet the regulatory requirements of the
4 challenge to nominating petition.

5 Further, DCMR Title 3, Section 409.2
6 states that any challenges received by the Board
7 that do not meet the requirements of this
8 section shall be considered improperly filed and
9 not adjudicated.

10 As to our second point, even if this
11 is to be viewed as a challenge to respondent's
12 qualifications, the regulatory requirements for
13 challenging the qualifications of a candidate
14 are spelled out in DCMR Title 3, Section 408.1
15 and 2 and 410.4, and they mandate that the
16 complaint be sworn and notarized, as well as
17 requiring that it include a resident address and
18 telephone number of the respondent. The
19 complaint here contains none of those either.

20 Where one could argue that addresses
21 and phone numbers are mere technicalities and
22 perhaps excusable under the Board's allowance

1 for non-technical pleadings, surely having to
2 swear to a qualifications complaint on the one
3 hand or to have to actually specify specific
4 defective petitions in a petition challenge on
5 the other are no mere technicality.

6 As to our third point, as stated,
7 failure to comply with the requirements for
8 proper challenge before the Board is akin to
9 jurisdiction in that under Board regulations,
10 when presented with a substantively incomplete
11 complaint, the Board is not empowered to
12 adjudicate the claim being brought, and as
13 noted, it is well-settled law that in a
14 jurisdictional challenge, it is always ripe to
15 come before the board or tribunal.

16 So, in conclusion, the complaint
17 here is facially incomplete both as a challenge
18 to a nominating petition as it is styled and as
19 a challenge to a candidate's qualifications, and
20 respondent's ability to raise these procedural
21 issues is ripe at this time.

22 For those reasons, the Board should

1 dismiss the complainant's challenge and dismiss
2 this case without the need to proceed further.

3 Thank you.

4 CHAIR THOMPSON: Okay, and now we'll
5 hear from counsel for the challenger.

6 MR. HOWARD: Good morning, Mr.
7 Chairman and members of the Board of Elections.
8 My name is Ted Howard. I am with Wiley Rein
9 LLP, 2050 M Street, NW, Washington, D.C.

10 The procedural issues that have been
11 raised by the respondent arise for the first
12 time in the context of the surreply brief in
13 regard to which there is, of course, no
14 provision in the Board's procedures.

15 That being said, we regard the
16 matter of the way in which the pleading was
17 designated as consistent with the ruling in
18 Lawrence v. Board of Elections, that the statute
19 pursuant to which the validity of a petition may
20 be challenged encompasses both technical
21 challenges of the sort to which Mr. Pozen made
22 reference, but also challenges to a prospective

1 candidate's qualifications.

2 That is the context in which we
3 characterized our filing as a nominating
4 petition challenge and we believe that to be
5 consistent with the court's analysis in
6 Lawrence.

7 That said, we do acknowledge that
8 the nominating petition challenge to Mr.
9 McDuffie's qualifications certainly may be
10 regarded as falling within the provisions of
11 DCMR Title 3, Section 408.1, and therefore,
12 although they were certainly signed, the
13 petition was certainly, the challenge was
14 certainly signed by Mr. Spiva, that it was not
15 sworn and it was not notarized.

16 Certainly, it's clear, we think,
17 that the respondent knew what it was, knew what
18 it was intended to be, made specific reference
19 to the complaint, quote-unquote, numerous times
20 in its motion to dismiss, so there was certainly
21 no surprise or prejudice associated with how the
22 document was designated.

1 And in regards to the lack of it
2 being sworn or notarized, I think that those
3 requirements basically serve an important
4 purpose in making sure that the person filing
5 such a document engages in appropriate due
6 diligence to make sure that the factual
7 representations in the document are accurate.

8 There being no contest here with
9 regard to the factual accuracy of the
10 allegations in the petition, we don't think that
11 there's any harm associated with the fact that
12 the document was not sworn and not notarized,
13 and in any event, those are technical issues
14 that certainly can be cured if the Board deems
15 that necessary.

16 And I think that pretty much sums up
17 our position on these procedural issues. The
18 Board, certainly in its discretion under DCMR 3-
19 4005, may waive any of the procedural
20 formalities that the respondent has raised in
21 the absence of any prejudice.

22 And in any event, under Kabel v.

1 Board of Elections, 962 A 2nd 919, at pages 920-
2 921, the arguments that have been raised in the
3 challenge give rise to an obligation on the
4 Board to independently and affirmatively inquire
5 into the qualifications that have been
6 challenged, and so we don't regard any dismissal
7 of the challenge on these procedural grounds to
8 prevent the Board from conducting this inquiry
9 in any event. So, I think I'll stop there.
10 Thank you.

11 CHAIR THOMPSON: Thank you, Mr.
12 Howard. Mr. Pozen, in terms of rebuttal, maybe
13 you could take that as a question, the question
14 being that the nominating petition challenge was
15 signed. It was cosigned by a Board employee
16 whose signature appears on the challenge
17 document. I don't think there's any doubt as to
18 its authenticity.

19 And also, as pointed out, the
20 regulations at Title 3, Section 400.5 do recite
21 that the Board may, for good cause shown, waive
22 any of the provisions of this chapter if, in the

1 judgement of the Board, the waiver will not
2 prejudice the right of any party and is not
3 otherwise prohibited by law.

4 So, isn't it effectively in
5 substance an authentic challenge? And I guess
6 I'll just wrap into that question what prejudice
7 is there if we essentially deem the challenge to
8 have been, in substance, to have been signed,
9 and sworn, and notarized?

10 MR. POZEN: Mr. Chairman, I
11 appreciate the question. I will initially point
12 that there was no discussion here about the
13 ripeness of the challenge, so I appreciate that
14 point.

15 But to your question, I think the
16 issue of the notarization and the requirement
17 that the challenge be sworn is more than simply
18 to the accuracy of it. It goes to the fact that
19 the challenger is willing to fully and
20 completely stand by the complaint filed.

21 It, I think, is somewhat akin to the
22 statute and regulations regarding federal

1 campaigns where campaign, the candidate making
2 the political advertisement gets up at the end
3 and says I made this advertisement and I stand
4 by it.

5 I think there's an obligation for a
6 challenger making a serious challenge, as the
7 challenger here has done, that he or she stand
8 by his or her complaint in a formal way.

9 And although I recognize that yes,
10 the Board has both the right to waive technical
11 issues, as I said, I don't believe that this is
12 merely a technical issue on the one hand, and
13 has the right to waive other issues when there's
14 no prejudice.

15 Here, I think the fact that the
16 challenging candidate has chosen not to formally
17 either follow the rules on the one hand or to
18 formally stand by his challenge on the other, I
19 think that is something that the Board should
20 not, in this case, waive.

21 And I also would challenge the
22 assertion that the Lawrence case holds that this

1 proceeding can go forward.

2 I think a careful reading of the
3 Lawrence case shows that what it really stands
4 for, the proposition that for judicial
5 expediency and efficiency that challenges to
6 qualifications and the petitions can be heard
7 by, in that case, the court, at the same time,
8 but it does not excuse in any way the process
9 and procedure for doing so, or conflate the
10 processes and procedures for doing so, or excuse
11 the challenger from following those proper
12 processes and procedures, which they have not
13 done in this case, as so determined.

14 CHAIR THOMPSON: Quick question, the
15 challenge was filed on March 29, it looks like
16 at 11:51 a.m. I know you filed a motion to
17 dismiss on April 6. When did your client or
18 when did you, as counsel, receive a copy of the
19 petition challenge from March 29? Was it the
20 same day or the next day or --

21 MR. POZEN: It may have been either
22 the same day or the next day. I don't recall

1 the exact time we received the number of emails
2 and communications around that.

3 I don't think that there's any --
4 let me make it clear. We're not suggesting that
5 there's an issue with regard to service or
6 process.

7 We reference the term process in our
8 pleadings in our reference to the process that
9 was filed by the challenger in putting together
10 their complaint rather than service of process.
11 We don't have any issue with the method of
12 service of process to be clear.

13 CHAIR THOMPSON: Okay, well, thank
14 you so much. I mean, clearly the petition might
15 have been called a, quote, complaint, instead of
16 a challenge. It might not have referenced
17 408.2. It might have been notarized.

18 And we'll, as a Board, we'll have to
19 decide to what extent the absence of a
20 notarization could be prejudicial or
21 substantively disqualifying to the challenge,
22 and we'll take this under advisement and proceed

1 with the main argument on the qualification
2 issue.

3 Okay, well, then jumping into that
4 next phase, we've set aside 20 minutes each for
5 the challenger and then the candidate to present
6 their argument.

7 What I wanted to say at the outset
8 here is a lot of times, you know, in a court,
9 you'll hear a judge say counsel, I've read your
10 briefs. You don't have to repeat your main
11 argument. Let's just jump right into it.

12 I think, in this case, it would be
13 helpful, in fact, if both sides summarized their
14 position, read the statute out loud, you know,
15 walked us through how they read the statute as
16 applied to the candidate, including for the
17 benefit of those out there who haven't read the
18 briefs.

19 I think it would be helpful for
20 everybody to understand the two perspectives on
21 how you read this. So, with that, I would
22 invite counsel for Mr. Spiva to proceed.

1 MR. HOWARD: Thank you, Mr.
2 Chairman, and if I may, just because it's
3 possible that there may be some reporting of
4 what's going on here, my client's name is
5 pronounced Spiva rather than Spiva. I've made
6 the mistake myself, so I'm certainly not
7 admonishing you or anyone else, but in the
8 interests of accuracy, it is Spiva.

9 CHAIR THOMPSON: Thank you so much.
10 I apologize for that.

11 MR. HOWARD: It's quite all right
12 and I'm sure he would say so as well.

13 Turning to the merits, I believe
14 it's clear that the parties agree that the
15 respondent's eligibility to stand as a candidate
16 for Attorney General reduces to a single
17 question of statutory interpretation.

18 That question is in his position as
19 a member of the D.C. Council since 2012, has Mr.
20 McDuffie, for at least five of those last ten
21 years, been, quote, actively engaged as an
22 attorney employed in the District of Columbia by

1 the District of Columbia?

2 How do we get there? We get there
3 first because, as a matter of fact, and the
4 parties have stipulated that the facts are not
5 in dispute, Mr. McDuffie did practice law as an
6 attorney for several years after graduating from
7 law school.

8 He then was elected to the Council
9 in 2012 pursuant, I believe, to a special
10 election, and subsequently in the following
11 year, elected as part of the regular election
12 cycle and has served as a public servant on the
13 Council since then.

14 If I could, I had arranged to have a
15 single slide available to assist with the
16 argument, and if the Board's IT staff is capable
17 of posting that at this point, that would be
18 very helpful, I think. Thank you very much. We
19 appreciate that assistance.

20 So, this is the critical statute,
21 and we've tried to isolate the critical language
22 in the statute.

1 Given that Mr. McDuffie
2 unquestionably is a member in good standing of
3 the Bar of the District of Columbia and has
4 been, as the parties agree, the question is does
5 he also meet one of the additional eligibility
6 requirements that are set forth in Section 1-
7 301.83(a)(5) of the D.C. Code?

8 That statute, those statutory
9 provisions require that in addition to being a
10 member of the Bar, that the candidate have been,
11 quote, actively engaged for at least five of the
12 ten years immediately preceding assumption of
13 the position of Attorney General, and that
14 would, I believe, be as of January 1, 2023.

15 Has that person been actively
16 engaged as either an attorney in the practice of
17 law in the District of Columbia, a judge of a
18 court in the District of Columbia, a professor
19 of law in a law school in the District of
20 Columbia, or as an attorney employed in the
21 District of Columbia by the United States or the
22 District of Columbia?

1 It is our position that, and I
2 believe the parties are in agreement, that Mr.
3 McDuffie would not qualify under Part (a)(5) a,
4 b, or c, that being he is not an attorney in the
5 practice of law, he is not a judge, and he is
6 not a professor.

7 That is why the critical issue comes
8 down to the applicability or not of subpart or
9 Subsection (d). Has he been actively engaged as
10 an attorney employed in the District of Columbia
11 by the District of Columbia in his capacity as a
12 councilmember?

13 We submit, and believe we have shown
14 in our papers, both the initial challenge and
15 our reply/opposition to the motion to dismiss,
16 that only our interpretation of Subsection (d)
17 of Part 5 gives full meaning to all of the
18 relevant words of Section 1-301.83(a) in
19 accordance with the applicable tenets of
20 statutory construction and the Council's clear
21 intent.

22 The respondent contends that because

1 he is a licensed attorney, and a member of the
2 Bar, and is employed by D.C., that he therefore
3 qualifies under Subsection (d) as a matter of
4 law, but as one can see from looking at the
5 statute or the whole of the statute as relevant
6 to the dispute here, being a member in good
7 standing of the Bar of District of Columbia is a
8 separate freestanding precondition.

9 He must also be, quote, actively
10 engaged as an attorney employed by D.C., and in
11 order for those words to have meaning, it can't
12 just be that being a member of the Bar suffices.
13 Otherwise, actively engaged as an attorney is
14 deprived of any substantive content or meaning.

15 In order to give Subsection (d)
16 substantive content equivalent to the three
17 categories that precede it, we believe actively
18 engaged as an attorney must necessarily mean
19 employed in a position in which the person is
20 functioning or acting as an attorney.

21 These are objective criteria for
22 eligibility. Someone is either an attorney in

1 the practice of law in the District of Columbia
2 or they aren't. Someone is either a judge of a
3 court in the District of Columbia or they
4 aren't. Someone is either a professor of law in
5 a law school in D.C. or they aren't.

6 The only way that D can also be
7 applied simply and straightforwardly as an
8 objective criterion for eligibility, the person
9 has to be employed as an attorney, employed in a
10 position in which they're acting as an attorney.
11 That is, we believe, the straightforward plain
12 meaning of Subsection (d).

13 A councilmember is not, quote,
14 actively engaged as an attorney, because he or
15 she is serving in a position in the D.C.
16 government for which status as a licensed
17 attorney is not even required.

18 In addition, it's important to focus
19 on the fact that these criterion were intended
20 to serve as a minimum standard of experience.

21 An attorney in the practice of law,
22 a judge, a professor of law, all in their day-

1 to-day work, and responsibilities, and duties
2 develop experience and expertise with regard to
3 legal matters that puts them in a position to
4 have satisfied a minimum standard of experience.

5 If someone is an attorney employed
6 by the District but not actively engaged as
7 such, they do not presumptively develop that
8 same level of experience and expertise.

9 They are like the schoolteacher
10 identified in the reply brief that may have a
11 law degree and may have practiced law, but then
12 decides that they would rather be a public
13 schoolteacher in the District of Columbia public
14 school system. That person is not actively
15 engaged as an attorney even though they are an
16 attorney and even though they are employed by
17 the District of Columbia.

18 Respondent, in his surreply, says
19 that -- forgive me, I lost my train of thought
20 just briefly.

21 CHAIR THOMPSON: Can I jump in with
22 a question?

1 MR. HOWARD: Yes, please.

2 CHAIR THOMPSON: Yeah, thank you for
3 the schoolteacher example. I guess if you've
4 got that maybe one extreme of this hypothetical,
5 these hypothetical examples, and then on the
6 other extreme say as Assistant Attorney General
7 or, you know, General Counsel to the Executive
8 Office of the Mayor, somebody who is clearly
9 actively engaged as an attorney, with the title
10 attorney, employed by D.C.

11 Is there something -- I guess my
12 question is do you have to, in order to pass
13 this part of the test, do you have to literally
14 carry the title of attorney, like counsel in an
15 agency with the title counsel, you know, short
16 of being really outside of the active engagement
17 as an attorney like a schoolteacher? Is there
18 some in-between and how might we discern where
19 to draw the line?

20 MR. HOWARD: There certainly is an
21 in-between and we think it's important that the
22 Council recognized such in crafting this

1 statute, that there is a middle ground, if you
2 will, between being an attorney in the practice
3 of law in D.C. and being actively engaged as a
4 government attorney, and it's not necessary, in
5 our view, that attorney be part of the person's
6 title.

7 They might be hearing examiner, an
8 administrative law judge, conceivably even a
9 member of the Board of Elections, and still be
10 actively engaged as an attorney employed by the
11 District of Columbia even if attorney or counsel
12 isn't part of their formal title.

13 However, we do think it's important,
14 from the experiential standpoint, that there be
15 a way to identify someone as actively engaged as
16 an attorney in order for Subsection (d) to meet
17 the same purpose as Subsections A, B, and C of
18 Section (a)(5).

19 The respondent has said that he's
20 distinguishable from the schoolteacher because
21 he, quote, performs attorney work while serving
22 as a councilmember, but that argument really, I

1 think, only begs the question rather than
2 answering it.

3 Because even assuming that serving
4 on the Council is more lawyerly, quote-unquote,
5 than working as a schoolteacher, that does
6 nothing to undercut the point, our point that
7 under respondent's reading of the statute, the
8 teacher with the law degree still fully
9 qualifies to be eligible for attorney general.
10 We don't believe that was the Council's intent.

11 And secondly, it puts the Board then
12 in a position of having to make ad hoc judgments
13 as to whether the Councilmember's, quote,
14 application of his knowledge and skills as an
15 attorney to his work on the Council is
16 sufficiently close to being actively engaged as
17 an attorney to satisfy the statute or not.

18 We don't believe that the Council
19 intended for the Board to be put in the position
20 of having to make subjective, ad hoc
21 determinations as to whether someone who has
22 legal training and applies that legal training

1 in the context of a job that is not an
2 attorney's job nevertheless qualifies or does
3 not qualify to be eligible to run for this
4 campaign.

5 An attorney who, anyone who has a
6 law license and is a member of the Bar who is
7 employed by D.C., irrespective of the nature of
8 their duties and responsibilities and whether
9 those duties and responsibilities could be
10 characterized as being actively engaged as an
11 attorney, basically just reads Subsection (d)
12 out of the statute, and for those reasons, we
13 believe that Councilmember McDuffie does not
14 qualify to run for attorney general.

15 CHAIR THOMPSON: Can you comment
16 briefly on this statute 1-301.83 having a
17 counterpart with respect to qualifications to
18 become a judge?

19 MR. HOWARD: Can you elaborate on
20 the question a little bit more, Mr. Chairman?

21 CHAIR THOMPSON: I believe there's
22 another statute, 11-1501, that sets forth the

1 qualifications to become a judge on the Superior
2 Court in D.C., that has pretty close to the same
3 language, including the same four subparts.

4 So, when I look at them both, they
5 both seem to indicate there's some degree of
6 qualification, experience and qualification to
7 become either a judge or the attorney general,
8 so is there any precedent or support you draw
9 from looking at the analogous statute with
10 respect to becoming a judge?

11 MR. HOWARD: I would say only in the
12 sense that we believe that it underscores the
13 extent to which the Council attached
14 significance to the subparts of 1-301.83(a)(5)
15 from the standpoint of experience and knowledge,
16 knowledge and expertise.

17 In other words, by adopting these
18 provisions which are very closely analogous to
19 the pre-existing statute for qualification to be
20 a judge, they definitely intended for these
21 provisions to serve a very important purpose,
22 and that purpose, we don't believe, is served by

1 merely being an attorney who is a member of the
2 Bar and employed by the District.

3 CHAIR THOMPSON: Okay, well, if that
4 concludes your opening argument, you've got some
5 time in rebuttal. Were you finished with your
6 opening presentation?

7 MR. HOWARD: That concludes my
8 opening remarks. Thank you, Mr. Chairman.

9 CHAIR THOMPSON: So, then we'll turn
10 to counsel for Councilmember McDuffie, I think
11 either Mr. Sandler or Mr. Pozen?

12 MR. POZEN: I'm prepared to go first
13 and then will be joined second by my colleague,
14 Mr. Sandler.

15 CHAIR THOMPSON: Okay.

16 MR. POZEN: If it pleases the Board,
17 again my name is Thorn Pozen of GMP representing
18 along with my co-counsels, Joe Sandler and Kevin
19 Hilgers, respondent Kenyan McDuffie. I'll be
20 presenting respondent's first legal argument on
21 the merits of the matter, and then my colleague,
22 as I just said, Mr. Sandler, will argue the

1 second point and will sum up for us.

2 I'm going to speak to a technical
3 point here. I think there were conflated within
4 the discussion that we just had a couple of
5 different issues of law that were represented
6 and discussed. I'm going to speak to more of a
7 technical side of this and then Mr. Sandler will
8 expand on the arguments a little bit more
9 broadly.

10 Our first point being that the Board
11 should dismiss this complaint for failure to
12 state a claim, should dismiss the complaint for
13 failure to state a claim because the respondent
14 has been actively engaged as an attorney
15 employed in the District by the District, and
16 therefore is qualified to hold the office of
17 attorney general under D.C. law.

18 As you've heard, there is no dispute
19 about the minimum requirements for a D.C.
20 Attorney General under the Code that's been
21 cited, D.C. Code 1-301.83(a)(5) and the
22 particular Subsections A through D.

1 And as noted, they require that the
2 candidate be, among other things, actively
3 engaged for the last five years, five of the
4 last ten years as one of the following, either
5 A, an attorney in the practice of law in the
6 District of Columbia, a judge in a court in the
7 District of Columbia, a law professor in a law
8 school in the District of Columbia, or, under
9 Subsection (d), an attorney employed in the
10 District and employed by either the United
11 States or here in the District of Columbia, and
12 we argue the respondent meets those
13 qualifications under Subsection (d).

14 In fact, complainant has conceded
15 and appears to have conceded today, but
16 certainly conceded in his complaint, that
17 respondent is an attorney and that he is
18 employed in the District of Columbia and
19 employed by the District of Columbia.

20 It is further undisputed that under
21 D.C. Bar rules, as a member of the D.C. Bar,
22 respondent may hold out as authorized or

1 competent to practice law in the District of
2 Columbia by indicating that he is an attorney.

3 The issue here, I think as stated
4 well, is then that the complainant, that the
5 issue comes down to what is Subsection (d), and
6 then the issue here then is the complainant
7 tries to conflate being actively engaged as an
8 attorney with being employed as an attorney.

9 And you heard complainant's counsel
10 make that statement at the very beginning,
11 indicating that somehow the statute, that the
12 respondent here needed to be employed as an
13 attorney.

14 The key point being that the
15 statutory requirement is not that respondent be
16 employed as an attorney, but simply that he be
17 actively engaged as an attorney and they are not
18 the same thing.

19 So, what does actively engaged mean?
20 I can say that it does not mean that respondent
21 must be actively engaged in the practice of law
22 because that would render the alternative

1 statutory requirement which specifically speaks
2 to the practice of law as superfluous.

3 Instead, actively engaged in this
4 context here simply means, under the plain
5 reading of the statute, a candidate must be an
6 active and engaged attorney, and it does not
7 require him or her to be a specific type of
8 attorney or even to hold a job that requires him
9 to be an attorney.

10 In that way, Subsection (d) serves
11 as a catchall provision allowing the D.C.
12 Attorney General to be an attorney from a wider
13 array of legal experiences and backgrounds other
14 than just an attorney from a firm, a law school,
15 or a courthouse.

16 A qualified, actively engaged
17 attorney in this case, however, is not, as the
18 complainant would have you believe, any D.C.
19 resident who happens to have a law degree or any
20 resident who happens to be a member of the D.C.
21 Bar.

22 Our clear reading of the statute

1 would exclude D.C. Bar members who are not in
2 active status, which is a step beyond simply
3 being in good standing, Bar members who are not
4 employed by the District of Columbia or the
5 federal government and Bar members who are not
6 employed in the District of Columbia.

7 Additionally, further to the
8 question of statutory interpretation, we know
9 that when interpreting election law language, it
10 is imperative to stress that when the Board
11 looks at the law, it does so with an eye which
12 views the franchise broadly.

13 For example, three cases that were
14 cited in the Lawrence case that was relied on as
15 noted earlier by complainant were Williams-
16 Godfrey v. District of Columbia Board of
17 Elections, quote, a meaningful part of the right
18 to vote is to vote for a candidate of one's
19 choice.

20 Gollin v. District of Columbia Board
21 of Elections states that a prime purpose in
22 formulating the original District of Columbia

1 election law was to keep the franchise open to
2 as many people as possible.

3 And Kamins v. Board of Elections
4 linked the right to vote with the need to find a
5 construction of the election's statute in favor
6 of the franchise.

7 Respondent, therefore, is undeniably
8 an attorney, and also undeniably, by virtue of
9 his employment as a D.C. Councilmember, he is
10 employed in the District and is employed by the
11 District, and especially when viewed, as it must
12 be, with an expansive eye, he is additionally
13 clearly actively engaged as an attorney, and
14 therefore, respondent satisfies the statutory
15 requirements to serve as Attorney General in the
16 District of Columbia by law.

17 At best then, with all of Mr.
18 McDuffie's legal qualifications and tremendous
19 legal experience, what complainant here is
20 really trying to argue is that, in complainant's
21 mind, respondent shouldn't be D.C. Attorney
22 General, not that he cannot be D.C. Attorney

1 General, and, of course, that is and must be a
2 matter for District voters to decide, not him.

3 With that, I say that this challenge
4 should be dismissed as a matter of law and I
5 turn to Mr. Sandler to argue our second broader
6 point. Mr. Sandler?

7 MR. SANDLER: Thank you. Thank you,
8 Thorn, and thank you, Mr. Chairman and members
9 of the Board. The essence of the challenger's
10 position as just stated by the challenger's
11 attorney is that in order to meet the test of
12 Subsection (5)(d), the individual must be
13 employed in a position in which the person is
14 acting or functioning as an attorney. That's
15 what he just said.

16 If that's the case, then clearly
17 Subsection (5)(d) would be superfluous because
18 that individual would meet the requirements of
19 Subsection (5)(a). They would be an attorney in
20 the practice of law in the District of Columbia.

21 More critically, that begs the
22 question of to what class, to what universe of

1 people does Subsection (5)(d) apply? Who would
2 be included in it?

3 Challenger's counsel has given, both
4 in their reply and today's arguments, suggests
5 that that class would consist of positions for
6 which D.C. Bar admission is required,
7 specifically D.C. administrative law judges or
8 hearing officers.

9 But that's a reading that makes no
10 sense because in what sense are D.C.
11 administrative law judges or hearing officers
12 employed in a position in which they're acting
13 or functioning as attorneys?

14 They don't have clients. Their
15 position is not one of an attorney. They're not
16 providing legal advice. They don't meet the
17 challenger's own criteria, and yet they're the
18 only ones in the universe in the class to which
19 he says was intended to be covered by Subsection
20 (5)(d). That cannot be the case. It's clear
21 that some broader class must have been intended.

22 In that regard, it's instructive

1 that challenger's counsel refer to the policy
2 behind, policy purpose behind the various
3 categories laid out in Subsection (5).

4 And he indicated that the purpose
5 was to ensure that the individual had experience
6 in which their day-to-day work would involve
7 developing experience and expertise with regard
8 to legal matters that would give them a minimal
9 level of experience that you would want or
10 expect in somebody running for the office of
11 attorney general.

12 If that's the case, then we would --
13 if what the challenger is really saying is it's
14 a position in which one needs the skills of an
15 attorney to do their job, or, in fact,
16 necessarily employs skills in their job that
17 only an attorney is trained to have and use,
18 it's clear that Councilmember McDuffie meets
19 that qualification.

20 To begin with, for at least three
21 years, the first three years of the applicable
22 ten-year period from 2015 to 2017, Councilmember

1 McDuffie served as Chair of the Council's
2 Judiciary Committee which oversees the D.C.
3 courts, court rules and procedures, judicial
4 nominations, the criminal justice system,
5 including the Metropolitan Police Department,
6 the Department of Corrections, the Sentencing
7 Commission, the juvenile justice system, and not
8 incidentally, the Office of Attorney General
9 itself.

10 In that capacity, Councilmember
11 McDuffie developed and moved to enact sweeping
12 reforms of D.C.'s criminal justice law, of the
13 juvenile justice system, regulation of police
14 practices, and laws governing the use of
15 criminal records, including the ban the box
16 legislation, the use of criminal records and
17 background checks for housing, employment, and
18 other matters.

19 I ask, as a matter of common sense,
20 to members of the Board, can you imagine that
21 job being performed by a non-attorney? Is that
22 any more feasible as a matter of reality, as a

1 matter of practicality, than a non-attorney
2 being a hearing officer or administrative law
3 judge?

4 You might say well, that's only
5 three of the ten years that's required. The
6 councilmember, of course, has served as Chair
7 since 2017 of the Committee on Business and
8 Economic Development, which he currently still
9 holds that position, in which he is overseeing
10 and continues to oversee complicated regulatory
11 issues in the areas of securities, insurance,
12 banking, and the Public Service Commission.

13 He developed and obtained passage of
14 the REACH Act that requires a racial equity
15 impact assessment for all Council legislation,
16 just by way of example.

17 And again, there's no law that says,
18 as the challenger points out, that you have to
19 be an attorney to be a D.C. councilmember, but
20 it's difficult to imagine this job being done,
21 that Councilmember McDuffie would not bring and
22 doesn't necessarily being his background and

1 experience from being a state and federal
2 prosecutor, a legal policy advisor, and an
3 attorney to the interpretation, and
4 understanding of, and crafting the amendments of
5 the complex statutes overseen by this committee,
6 Business and Economic Development.

7 I ask, again, the members of the
8 Board, just as a practical matter, could a non-
9 attorney bring a sufficient depth of
10 understanding of the structure of the D.C.
11 charter or code to design something like the
12 REACH Act that touches every aspect of the
13 entire legal cannon of the District of Columbia
14 in terms of racial equity impact --

15 CHAIR THOMPSON: Mr. Sandler?

16 MR. SANDLER: Yes?

17 CHAIR THOMPSON: I mean, obviously
18 there are councilmembers who do all of these
19 things or similar things who are not attorneys.
20 There are also councilmembers current and in the
21 past who are attorneys, but also happen to
22 maintain a law practice separately, or I'm

1 thinking of Jack Evans, or also concurrently a
2 professor of law like Councilmember Cheh.

3 How do you compare those two
4 scenarios where there are lawyers that do these
5 other things, but also plenty of non-lawyers on
6 the Council?

7 MR. SANDLER: Yes, there are
8 certainly non-lawyers on the Council and they
9 obviously would be disqualified from running by
10 virtue of the fact that, you know, they're not
11 members of the Bar.

12 I think the question is where do you
13 draw the line in this and who is included in
14 this class that's intended to be in Subsection
15 (d)?

16 And I think that it is, although the
17 challenger suggested that the Board be called on
18 to make ad hoc judgments, I think there has to
19 be some --

20 If you're going to talk about ALJs
21 and hearing officers because they -- yeah,
22 they're required to be attorneys by statute, but

1 that's not what this says, and the Council could
2 have said that if they meant it.

3 They're talking about that you're
4 functioning as an attorney. In the words of the
5 challenger, including a position -- I'm sorry,
6 that the day-to-day work involves developing
7 expertise and experience with regard to legal
8 matters. I think it's fair to take that into
9 account.

10 Yes, and there are non-legal
11 councilmembers automatically treated, but the
12 ones who, like Councilmember McDuffie,
13 necessarily every day and over this period of
14 years, applied their legal skills, and in many
15 cases, couldn't really do the job without it,
16 they're not schoolteachers. It's not the same.

17 CHAIR THOMPSON: Yeah, what about
18 the schoolteacher scenario where a person is an
19 attorney in good standing with the Bar of the
20 District of Columbia, remains an attorney in
21 good standing, has switched careers and is now a
22 schoolteacher with DCPS employed by the District

1 of Columbia?

2 In other words, are those two sort
3 of raw facts enough to qualify you're, A, an
4 attorney in good standing with the Bar, and B,
5 you're employed by the District of Columbia?

6 MR. SANDLER: We would argue they
7 are as a technical matter, but to the extent
8 that there's a thought that there's something
9 more involved, there's something more required
10 by the language actively engaged as opposed to
11 employed as attorney, actively engaged as an
12 attorney employed by the District of Columbia.

13 I think Councilmember McDuffie meets
14 that, you know, that something more standard as
15 well.

16 CHAIR THOMPSON: You asked the
17 question where do you draw the line? So, if the
18 Board has to get into the realm of deciding on a
19 case by case basis is somebody, quote, actively
20 engaged, you know, now you're on a spectrum from
21 schoolteacher to, you know, assistant attorney
22 general.

1 And if you get into the realm of
2 positions that don't require the title of
3 attorney, how do you start to -- what sort of
4 test would you employ to sort of decide what is
5 enough engagement? When does engagement become
6 active enough to qualify? How would you define
7 that test?

8 MR. SANDLER: I think if they're an
9 active member of the Bar and their work
10 inherently involves, as in the words of the
11 challenger, expertise and experience, you know,
12 as part of their role with regard to legal
13 issues, legal matters, that that, you know, that
14 that would be sufficient.

15 And there will always be, you know,
16 some great cases. I mean, you can look at other
17 positions where you have to be an attorney in
18 order to take it, but then the question is
19 suppose you're still a member of the Bar, but
20 you haven't actively practiced in years?

21 For example, look at the Register of
22 Wills, the qualifications for which are set

1 forth in Section 11-2102. Suppose that person,
2 they had to be an attorney to get the job and
3 they have to be actively engaged to get it, but
4 suppose it's been ten years since then?

5 They've been Register of Wills for
6 ten years and now they want to run for Attorney
7 General, not qualified because, you know? It
8 doesn't make sense.

9 Sure, they are, because it makes
10 sense just in the same way as a hearing officer
11 or administrative law judge. It's inherently
12 part of the job and we suggest the same is true
13 in this case, and for that reason also, we
14 believe Councilmember McDuffie clearly meets the
15 qualifications of Subsection (5)(d).

16 CHAIR THOMPSON: To be, quote,
17 actively engaged as an attorney, do you have to
18 have a client?

19 MR. SANDLER: No, clearly not,
20 otherwise what about Mr. Howard's administrative
21 law judges and hearing examiners? They don't
22 have clients.

1 CHAIR THOMPSON: Okay, any other
2 questions from other Board members? All right,
3 Mr. Sandler --

4 MEMBER GILL: I don't. Gary, you
5 ask the questions. I'm good.

6 CHAIR THOMPSON: Okay. All right,
7 well, thank you so much, Mr. Sandler. We've got
8 five minutes of rebuttal time from Mr. Howard.

9 MR. HOWARD: Thank you, Mr.
10 Chairman. I think it's clear that we are not
11 suggesting that every attorney, every person
12 actively engaged as an attorney within the
13 meaning of Subsection (d) is engaged in the
14 practice of law as Mr. Sandler suggested.

15 The practice of law is, we would
16 submit, a term of art as defined by Rule 49 of
17 the D.C. Court of Appeals Rules, and it clearly
18 contemplates representation of clients in an
19 attorney-client relationship.

20 There are plenty of government
21 lawyers who are actively engaged as attorneys
22 who do not fit that definition. So, there is no

1 way in which our view of Subsection (d)
2 basically makes Subsection (a) superfluous.

3 But what we are saying is that
4 whatever position the person is filling and
5 performing in his or her employment by the
6 federal government or the District, they have to
7 be acting in a way that contemplates and allows
8 the development of a certain knowledge and
9 expertise to allow them to be eligible for
10 either serving as a judge or as attorney
11 general, and --

12 CHAIR THOMPSON: But how do you
13 answer the point made that, you know, this isn't
14 like being a schoolteacher, being a
15 councilmember, even though technically you don't
16 have to be a lawyer, you very much are engaged
17 in reading laws, and drafting laws, holding
18 committee hearings about laws?

19 Is that a level of active engagement
20 as an attorney that, at least in the case of a
21 councilmember like Mr. McDuffie, would qualify?

22 MR. HOWARD: We don't believe so

1 because the position doesn't require you to be
2 an attorney, and then it's really just a
3 subjective judgment as to whether or not the
4 person conducts him or herself on a day-to-day
5 basis in a way that an attorney would, and we
6 don't see how the Board is in a position to make
7 that kind of judgment.

8 If they aren't actively engaged as
9 an attorney, the fact that they may have legal
10 training and the fact that they may rely on that
11 legal training as one way in which they do their
12 jobs does not satisfy the requirements of
13 Subsection (d).

14 And we believe that the statute was
15 crafted in a way to allow for objective
16 judgments, and by placing the Board in the
17 position of having to determine whether -- I
18 believe the current Chair of the Judiciary
19 Committee on the Council is Charles Allen. He,
20 I believe, is not an attorney.

21 So, you know, whether or not the way
22 he does his job as compared to the way

1 Councilmember McDuffie did that job from the
2 standpoint of, you know, applying legal
3 knowledge or legal training, it all gets really,
4 really fuzzy.

5 You know, respectfully, and I hope
6 without being too colloquial, I think that folks
7 who are in this legal community know what is
8 meant when someone says he or she is a
9 government lawyer, and that does not contemplate
10 a councilmember, or a congressman, or a senator,
11 even though many of those folks have law
12 degrees.

13 It's the way of functioning in such
14 a way as to draw on and develop experience that
15 the Council regarded as imperative in order to
16 be a judge or run for attorney general. I don't
17 think I can add anything more to that.

18 CHAIR THOMPSON: Okay, thank you,
19 counsel. Thank you to all of the attorneys and
20 everybody that helped with the briefs that were
21 submitted. It's been really clarifying for us
22 to review this issue from both sides.

1 Believe me, I have, and I think we
2 all have, parsed, and re-parsed, and underlined,
3 and re-underlined this statute 1-301.83, which
4 incidentally is incorporated by reference into
5 the charter itself at D.C. Code 1-204.35.

6 So, with that, what we're going to
7 do now, and I'll make a motion to this effect,
8 is go into executive session, which the
9 regulations allow us to do as a three-member
10 board.

11 So, I would make a motion that we do
12 that, the Board go into executive session
13 pursuant to D.C. Official Code 2-575(b) to
14 deliberate upon a decision in this matter of
15 Spiva v. McDuffie, thank you, regarding the
16 qualifications of Mr. McDuffie to hold the
17 office of attorney general.

18 A majority of the Board members
19 present must vote in favor of closure to enter
20 into executive session, so, and what this allows
21 us to do is basically deliberate the way a
22 three-member, you know, appellate panel would

1 deliberate privately to exchange our views of
2 what we just heard.

3 We've not discussed this, the Board,
4 before, the three of us together, this issue, so
5 this will be our first time hashing it out with
6 each other.

7 So, and then we'll come back. When
8 we're done deliberating, we'll come back on the
9 record for a motion, potentially a second, and
10 the passing of a motion to decide the matter one
11 way or the other.

12 It's kind of hard to guess how long
13 we'll be in executive session, probably an hour,
14 so 1:00 p.m. I'll say 1:00 p.m. that we'll come
15 back on the record to deliver our decision.

16 And then we intend to follow that
17 ruling, whatever it is, by the end of the day
18 with a written decision, if we can with our
19 help, to finalize the written opinion and issue
20 it by midnight, so we'll get to work on that as
21 soon as we know what the decision is.

22 So, that's what's ahead of us, so

1 with that, I'll tee up my motion to go into
2 executive session and ask for a second.

3 MEMBER GILL: Second.

4 CHAIR THOMPSON: All in favor?

5 (Chorus of aye.)

6 CHAIR THOMPSON: All right, well,
7 thank you, everybody, for joining us. We'll be
8 back at 1:00 p.m. and let you know what we
9 think.

10 (Whereupon, the above-entitled
11 matter went off the record at 11:47 a.m. and
12 resumed at 1:06 p.m.)

13 CHAIR THOMPSON: We've been in
14 executive session and step one is to move to
15 resume the public meeting. Our counsel advises
16 me to so move. Do I have a second?

17 MEMBER GILL: Second.

18 CHAIR THOMPSON: All in favor?

19 (Chorus of aye.)

20 CHAIR THOMPSON: And, as the record
21 obviously reflects, my fellow Board members,
22 Karyn Greenfield and Mike Gill, are here as

1 well, so we have a quorum to resume this public
2 meeting following our executive session.

3 Thank you, everybody, for joining us
4 again. I'm just going to repeat what I started,
5 which is, you know, we have really tried and
6 succeeded in being fair and impartial as we
7 approached this issue.

8 We, you know, continue to have the
9 utmost respect for the challenger and candidate,
10 Councilmember McDuffie and Mr. Spiva. You know,
11 we thank them both and their counsel for
12 participating.

13 With that, I have a motion to make,
14 and my motion is to grant the challenge made by
15 Mr. Spiva and deny the corresponding motion to
16 dismiss by the challenger, which would include
17 denial of the procedural arguments made in the
18 surreply, and before I ask for a second, I'll
19 provide some comment.

20 My main comment is that when I read
21 the statute and question at 1-301.83, which is
22 incorporated in the charter itself, I read it to

1 require more than a candidate being a member in
2 good standing of the Bar and an employee of the
3 District of Columbia. It's got to include
4 something more than that, namely that person
5 must be actively engaged as an attorney.

6 And this, I think, is set forth
7 rather succinctly in the reply in opposition to
8 the respondent's motion to dismiss that the
9 challenger filed on April 11, and I'll just read
10 the language there that really is kind of at the
11 core of my own reasoning.

12 Reading the current statute to cover
13 all D.C. Bar members who are employed by the
14 District of Columbia government in any role
15 whatsoever renders the phrase, quote, actively
16 engaged as an attorney, unquote, superfluous.

17 I'm skipping ahead a little bit.
18 While an attorney in practice, a judge, or a
19 professor of law all must hold law degrees and
20 apply their legal skills and experience to
21 perform their daily work out of necessity, the
22 same is not true for all District of Columbia

1 government employees, unless, of course, they
2 are employed as attorneys in positions where
3 active D.C. Bar membership is a prerequisite.

4 The only interpretation that gives
5 meaning to all of the words of the statute and
6 reads them as a cohesive whole is to read
7 Subsection (d) as applying only to attorneys
8 employed as attorneys in roles where D.C. Bar
9 membership is a prerequisite.

10 The position of D.C. Councilmember,
11 while it certainly helps to be an attorney, is
12 not one that one is necessarily an attorney,
13 does not have to be an attorney.

14 And for the reasons expressed in the
15 arguments made by the challenger, I'm persuaded
16 that the candidate does not meet the qualifying
17 language of the statute, specifically Subsection
18 (5)(d).

19 And with that, I'd ask for a second
20 to the motion itself?

21 MEMBER GILL: Second.

22 CHAIR THOMPSON: And, Mike Gill, do

1 you have any comments you would like to make
2 yourself?

3 MEMBER GILL: I agree with the
4 rationale as is stated, that it gets -- it could
5 not have been the case that we were expected to
6 get into every gray area imaginable in terms of
7 what actively engaged means. I read it just as
8 its face, actively engaged as an attorney.

9 CHAIR THOMPSON: Okay, and Karyn
10 Greenfield, any comments on your end?

11 MEMBER GREENFIELD: No, I don't have
12 any comments. I concur with your rationale and
13 what Mike said.

14 CHAIR THOMPSON: Okay, before I call
15 the vote, anything, Terri, else we need to put
16 in the record?

17 MS. STROUD: I do not think that
18 there's anything else we need to put in the
19 record. I would just ask when -- so I just want
20 to, you know, to confirm for the public that the
21 Board is today announcing its determination on
22 the record and the order will issue at your --

1 CHAIR THOMPSON: Okay.

2 MS. STROUD: -- at your --

3 CHAIR THOMPSON: Well, let me call
4 the vote first. The motion is made and seconded
5 to grant the challenge made by Mr. Spiva to deny
6 the motion to dismiss, including denial of the
7 procedural arguments made in the surreply brief.
8 Having been seconded, all in favor of the
9 motion?

10 (Chorus of aye.)

11 CHAIR THOMPSON: Okay, for the
12 record, that's three of the three Board members
13 in favor of the motion. What we're going to do
14 with the rest of the day and probably into the
15 evening is draft and work on a written opinion.

16 We'd like to get that out today, and
17 I don't think we're required to get it out
18 today. We've issued a ruling within the time
19 frame required by the statute. The public now
20 knows that ruling.

21 We plan to issue a written ruling
22 that will set forth our reasoning, and I would

1 say when that written ruling comes out, it is
2 our ruling notwithstanding, you know, comments
3 or questions that were posed during this oral
4 argument period, that that written ruling will
5 supersede and stand as the opinion of the Board.

6 And we're going to work on it
7 throughout the afternoon, probably into the
8 evening, and hopefully we get it out this
9 evening because we'd like everyone to see it --

10 (Audio interference.)

11 CHAIR THOMPSON: -- and that's our
12 plan, and the minutes will reflect our ruling,
13 and I think, with that, I would move we adjourn.
14 All right, second to adjourn?

15 MS. STROUD: They're muted.

16 CHAIR THOMPSON: Oh, we go -- oh,
17 hold on. We got to -- they were force-muted.

18 MEMBER GREENFIELD: Yeah, I was
19 force-muted. Yeah, I think Terri was explaining
20 something, but maybe not. That's already been
21 done? You were starting to say something,
22 Terri, before we took a vote?

1 MS. STROUD: I just wanted to make
2 it clear that the Board was, during this
3 hearing, announcing its determination with
4 respect to the matter on the record --

5 MEMBER GREENFIELD: Okay.

6 MS. STROUD: -- and that the written
7 order will follow, but this means that we have
8 timely resolved the matter --

9 CHAIR THOMPSON: Okay.

10 MS. STROUD: -- on the record.

11 MEMBER GILL: I second the motion
12 for adjournment.

13 CHAIR THOMPSON: All right, all in
14 favor?

15 (Chorus of aye.)

16 CHAIR THOMPSON: All right, thank
17 you, everybody.

18 (Whereupon, the above-entitled
19 matter went off the record at 1:14 p.m.)
20
21
22

A

a.m. 1:12 3:2 21:16
60:11
ability 12:4 14:20
above-entitled 60:10
67:18
absence 17:21 22:19
account 50:9
accuracy 17:9 19:18
24:8
accurate 17:7
acknowledge 16:7
acquainted 8:22
Act 47:14 48:12
acting 28:20 29:10
43:14 44:12 55:7
active 31:16 40:6 41:2
52:6,9 55:19 63:3
actively 24:21 26:11,15
27:9 28:9,13,17 29:14
30:6,14 31:9 32:3,10
32:15 33:16 34:10
37:14 38:2 39:7,17,19
39:21 40:3,16 42:13
51:10,11,19 52:20
53:3,17 54:12,21 56:8
62:5,15 64:7,8
ad 33:12,20 49:18
add 57:17
addition 26:9 29:18
additional 6:3 26:5
additionally 41:7 42:12
address 10:15,16 13:17
addressed 10:4
addresses 13:20
adjourn 66:13,14
adjournment 2:13
67:12
adjudicate 14:12
adjudicated 13:9
administrative 32:8
44:7,11 47:2 53:11,20
admission 44:6
admonishing 24:7
adopting 35:17
advertisement 20:2,3
advice 44:16
advisement 22:22
advises 60:15
advisor 48:2
affirmatively 18:4
afternoon 66:7
agency 31:15
agree 11:20 24:14 26:4
64:3
agreed 6:7
agreement 27:2
agrees 5:7

ahead 59:22 62:17
akin 12:7 14:8 19:21
ALJs 49:20
allegations 17:10
Allen 56:19
allow 55:9 56:15 58:9
allowance 13:22
allowing 40:11
allows 55:7 58:20
alternative 39:22
amendments 48:4
analogous 35:9,18
analysis 16:5
announcing 64:21 67:3
answer 55:13
answering 33:2
apologize 24:10
Appeals 54:17
appears 18:16 38:15
appellate 58:22
applicability 27:8
applicable 27:19 45:21
application 33:14
applied 23:16 29:7
50:14
applies 33:22
apply 44:1 62:20
applying 57:2 63:7
appreciate 4:8 19:11,13
25:19
approached 61:7
appropriate 17:5
April 1:9 3:3 4:13 5:19
5:22 6:1 21:17 62:9
area 64:6
areas 47:11
argue 11:11 13:20
36:22 38:12 42:20
43:5 51:6
arguing 11:7
argument 5:14 6:3,19
9:9 11:21 23:1,6,11
25:16 32:22 36:4,20
66:4
arguments 6:9 12:1
18:2 37:8 44:4 61:17
63:15 65:7
arranged 25:14
array 40:13
art 54:16
Ascertainment 2:4
aside 23:4
asked 51:16
aspect 48:12
assertion 20:22
assessment 47:15
assist 25:15
assistance 25:19

assistant 31:6 51:21
associated 16:21 17:11
assume 4:2
assuming 33:3
assumption 26:12
attached 35:13
attended 4:15
attorney's 34:2
attorney-client 54:19
attorneys 44:13 48:19
48:21 49:22 54:21
57:19 63:2,7,8
Audio 66:10
authenticity 19:5
authenticity 18:18
authorized 38:22
automatically 50:11
available 25:15
aye 60:5,19 65:10 67:15

B

b 27:4 32:17 51:4
back 59:7,8,15 60:8
background 46:17
47:22
backgrounds 40:13
ban 46:15
banking 47:12
Bar 26:3,10 28:2,7,12
34:6 36:2 38:21,21
40:21 41:1,3,5 44:6
49:11 50:19 51:4 52:9
52:19 62:2,13 63:3,8
basically 7:8 17:3 34:11
55:2 58:21
basis 51:19 56:5
becoming 35:10
beginning 39:10
begs 33:1 43:21
behalf 4:20
believe 16:4 20:11
24:13 25:9 26:14 27:2
27:13 28:17 29:11
33:10,18 34:13,21
35:12,22 40:18 53:14
55:22 56:14,18,20
58:1
benefit 23:17
best 42:17
beyond 41:2
bit 34:20 37:8 62:17
blank 9:8
board 1:4,6,11,11,13,17
3:4,7 7:13,21 9:15
10:20 11:8,16 12:7
13:6 14:8,9,11,15,22
15:7,18 17:14,18 18:1
18:4,8,15,21 19:1

20:10,19 22:18 32:9
33:11,19 36:16 37:10
41:10,16,20 42:3 43:9
46:20 48:8 49:17
51:18 54:2 56:6,16
58:10,12,18 59:3
60:21 64:21 65:12
66:5 67:2
Board's 13:22 15:14
25:16
boards 9:2
box 46:15
brief 15:12 30:10 65:7
briefed 8:21
briefly 4:11 6:8 30:20
34:16
briefs 4:9 5:12 6:5 8:3
23:10,18 57:20
bring 47:21 48:9
broader 43:5 44:21
broadly 7:6 37:9 41:12
brought 6:10 14:12
Bruce 2:7 3:17
Business 47:7 48:6

C

c 27:4 32:17
call 2:2 64:14 65:3
called 8:2 22:15 49:17
campaign 11:2 20:1
34:4
campaigns 20:1
candidate 2:6,8 3:17
6:11 8:17 10:5 13:13
20:1,16 23:5,16 24:15
26:10 38:2 40:5 41:18
61:9 62:1 63:16
candidate's 6:15 12:15
14:19 16:1
cannon 48:13
capable 25:16
capacity 27:11 46:10
careers 50:21
careful 21:2
carry 31:14
case 8:4 15:2 20:20,22
21:3,7,13 23:12 40:17
41:14 43:16 44:20
45:12 51:19,19 53:13
55:20 64:5
cases 41:13 50:15
52:16
catchall 40:11
categories 28:17 45:3
cause 18:21
certain 55:8
certainly 16:9,12,13,14
16:16,20 17:14,18

24:6 31:20 38:16 49:8
63:11
cetera 5:10
Chair 1:12,14 3:3,6,12
4:1,6,22 7:17 9:19
10:1,11 15:4 18:11
21:14 22:13 24:9
30:21 31:2 34:15,21
36:3,9,15 46:1 47:6
48:15,17 50:17 51:16
53:16 54:1,6 55:12
56:18 57:18 60:4,6,13
60:18,20 63:22 64:9
64:14 65:1,3,11 66:11
66:16 67:9,13,16
Chairman 10:10,20
15:7 19:10 24:2 34:20
36:8 43:8 54:10
challenge 2:6 3:15,16
5:17 6:19 8:17 11:4
11:12,17,22 12:5,7,9
12:12,19,22 13:1,2,4
13:11 14:4,8,14,17,19
15:1 16:4,8,13 18:3,7
18:14,16 19:5,7,13,17
20:6,18,21 21:15,19
22:16,21 27:14 43:3
61:14 65:5
challenged 3:18 15:20
18:6
challenger 2:7 12:18
15:5 19:19 20:6,7
21:11 22:9 23:5 45:13
47:18 49:17 50:5
52:11 61:9,16 62:9
63:15
challenger's 6:13 43:9
43:10 44:3,17 45:1
challenges 13:6 15:21
15:22 21:5
challenging 12:14
13:13 20:16
chance 9:4
chapter 18:22
characterized 16:3
34:10
Charles 56:19
charter 48:11 58:5
61:22
checks 46:17
Cheh 49:2
choice 41:19
choose 11:9
Chorus 60:5,19 65:10
67:15
chosen 20:16
Christine 4:16,19
cited 37:21 41:14

claim 14:12 37:12,13
clarifying 57:21
class 43:22 44:5,18,21
49:14
clear 9:10 16:16 22:4
22:12 24:14 27:20
40:22 44:20 45:18
54:10 67:2
clearly 8:7 13:1 22:14
31:8 42:13 43:16
53:14,19 54:17
client 21:17 53:18
client's 24:4
clients 44:14 53:22
54:18
close 33:16 35:2
closely 35:18
closure 58:19
co-counsels 11:3 36:18
code 26:7 37:20,21
48:11 58:5,13
cognizant 7:5
cohesive 63:6
colleague 36:13,21
colloquial 57:6
Columbia 1:2,11 2:10
3:16 24:22 25:1 26:3
26:17,18,20,21,22
27:10,11 28:7 29:1,3
30:13,17 32:11 38:6,7
38:8,11,18,19 39:2
41:4,6,16,20,22 42:16
43:20 48:13 50:20
51:1,5,12 62:3,14,22
come 14:15 59:7,8,14
comes 27:7 39:5 66:1
comment 34:15 61:19
61:20
comments 7:10,14 9:16
64:1,10,12 66:2
Commission 46:7
47:12
committee 46:2 47:7
48:5 55:18 56:19
common 46:19
communications 8:1
22:2
community 57:7
compare 49:3
compared 56:22
competent 39:1
complainant 12:11
38:14 39:4,6 40:18
41:15 42:19
complainant's 11:21
15:1 39:9 42:20
complaint 11:8 12:21
13:16,19 14:2,11,16

16:19 19:20 20:8
22:10,15 37:11,12
38:16
complete 11:19
completely 8:18 19:20
complex 48:5
complicated 47:10
comply 12:6 14:7
conceded 38:14,15,16
conceivably 32:8
concludes 36:4,7
conclusion 14:16
concur 64:12
concurrently 49:1
conduct 5:8
conducted 4:17,19
conducting 18:8
conducts 56:4
conference 4:10,12,15
4:20 5:2 6:6 9:5
confirm 3:20 64:20
conflate 21:9 39:7
conflated 37:3
congressman 57:10
considered 13:8
consist 44:5
consistent 15:17 16:5
construction 27:20
42:5
contains 13:19
contemplate 57:9
contemplates 54:18
55:7
contends 27:22
content 28:14,16
CONTENTS 2:1
contest 17:8
contested 5:8
context 15:12 16:2 34:1
40:4
continue 61:8
continues 47:10
convened 1:11
copy 21:18
core 62:11
correct 4:3
Corrections 46:6
corresponding 61:15
cosigned 18:15
Council 24:19 25:8,13
31:22 33:4,15,18
35:13 47:15 49:6,8
50:1 56:19 57:15
Council's 27:20 33:10
46:1
councilmember 3:18
5:19 6:12 8:12,13
10:5 27:12 29:13

32:22 34:13 36:10
42:9 45:18,22 46:10
47:6,19,21 49:2 50:12
51:13 53:14 55:15,21
57:1,10 61:10 63:10
Councilmember's
33:13
councilmembers 48:18
48:20 50:11
counsel 1:20 4:13,15
4:18 5:5,14,18,20
6:11,13,15 7:20 8:21
8:22 9:9 10:4,6 11:1
15:5 21:18 23:9,22
31:7,14,15 32:11
36:10 39:9 44:3 45:1
57:19 60:15 61:11
Counsel's 4:21
counterpart 34:17
couple 37:4
course 8:4 12:8 15:13
43:1 47:6 63:1
court 3:21,22 4:3,7
12:10 21:7 23:8 26:18
29:3 35:2 38:6 46:3
54:17
court's 16:5
courthouse 40:15
courts 46:3
cover 62:12
covered 44:19
crafted 56:15
crafting 31:22 48:4
criminal 46:4,12,15,16
criteria 28:21 44:17
criterion 29:8,19
critical 25:20,21 27:7
critically 43:21
cured 17:14
current 48:20 56:18
62:12
currently 47:8
cycle 25:12

D

d 27:9,16 28:3,15 29:6
29:12 32:16 34:11
37:22 38:9,13 39:5
40:10 43:12,17 44:1
44:20 49:15 53:15
54:13 55:1 56:13 63:7
63:18
D.C 12:16 15:9 24:19
26:7 28:2,10 29:5,15
31:10 32:3 34:7 35:2
37:17,19,21 38:21,21
40:11,18,20 41:1 42:9
42:21,22 44:6,7,10

46:2 47:19 48:10
 54:17 58:5,13 62:13
 63:3,8,10
D.C.'s 46:12
daily 62:21
day 6:1 21:20,20,22,22
 50:13 59:17 65:14
day- 29:22
day-to-day 45:6 50:6
 56:4
DCMR 12:16 13:5,14
 16:11 17:18
DCPS 50:22
decide 22:19 43:2 52:4
 59:10
decides 30:12
deciding 51:18
decision 58:14 59:15
 59:18,21
deem 19:7
deems 17:14
defective 14:4
deficient 11:18
define 52:6
defined 54:16
definitely 35:20
definition 54:22
degree 30:11 33:8 35:5
 40:19
degrees 57:12 62:19
deliberate 58:14,21
 59:1
deliberating 59:8
deliver 59:15
Democratic 2:11
denial 61:17 65:6
deny 61:15 65:5
Department 46:5,6
deprived 28:14
depth 48:9
design 48:11
designated 15:17 16:22
determination 64:21
 67:3
determinations 33:21
determine 56:17
determined 21:13
develop 30:2,7 57:14
developed 46:11 47:13
developing 45:7 50:6
development 47:8 48:6
 55:8
different 37:5
difficult 47:20
diligence 17:6
Director 1:19
discern 31:18
discretion 17:18

discuss 3:14
discussed 37:6 59:3
discussing 7:3
discussion 6:16 7:14
 19:12 37:4
dismiss 5:20,22 11:8
 11:12,17 15:1,1 16:20
 21:17 27:15 37:11,12
 61:16 62:8 65:6
dismissal 18:6
dismissed 43:4
dispute 5:4 25:5 28:6
 37:18
disqualified 49:9
disqualifying 22:21
distinguishable 32:20
District 1:2,11 2:10
 3:16 24:22 25:1 26:3
 26:17,18,19,21,22
 27:10,11 28:7 29:1,3
 30:6,13,17 32:11 36:2
 37:15,15 38:6,7,8,10
 38:11,18,19 39:1 41:4
 41:6,16,20,22 42:10
 42:11,16 43:2,20
 48:13 50:20,22 51:5
 51:12 55:6 62:3,14,22
document 16:22 17:5,7
 17:12 18:17
documents 5:9
doing 21:9,10
doubt 18:17
draft 65:15
drafting 55:17
draw 31:19 35:8 49:13
 51:17 57:14
due 17:5
duties 30:1 34:8,9

E

earlier 41:15
Economic 47:8 48:6
effect 58:7
effectively 19:4
efficiency 21:5
either 13:19 20:17
 21:21 26:16 28:22
 29:2,4 35:7 36:11
 38:4,10 55:10
elaborate 34:19
elected 25:8,11
election 2:11 25:10,11
 41:9 42:1
election's 42:5
Elections 1:4,11,13,17
 3:5 10:20 15:7,18
 18:1 32:9 41:17,21
 42:3

elector 8:17
eligibility 24:15 26:5
 28:22 29:8
eligible 33:9 34:3 55:9
emails 22:1
employ 52:4
employed 24:22 26:20
 27:10 28:2,10,19 29:9
 29:9 30:5,16 31:10
 32:10 34:7 36:2 37:15
 38:9,10,18,19 39:8,12
 39:16 41:4,6 42:10,10
 43:13 44:12 50:22
 51:5,11,12 62:13 63:2
 63:8
employee 18:15 62:2
employees 63:1
employment 42:9 46:17
 55:5
employs 45:16
empowered 14:11
enact 46:11
encompasses 15:20
engaged 24:21 26:11
 26:16 27:9 28:10,13
 28:18 29:14 30:6,15
 31:9 32:3,10,15 33:16
 34:10 37:14 38:3 39:7
 39:17,19,21 40:3,6,16
 42:13 51:10,11,20
 53:3,17 54:12,13,21
 55:16 56:8 62:5,16
 64:7,8
engagement 31:16 52:5
 52:5 55:19
engages 17:5
ensure 45:5
enter 9:5 58:19
entered 5:9
entire 48:13
entirely 7:22 9:12
equity 47:14 48:14
equivalent 28:16
especially 9:11 42:11
essence 43:9
essentially 5:11 19:7
EST 1:12
et 5:10
Evans 1:19 49:1
evening 65:15 66:8,9
event 17:13,22 18:9
everybody 4:7 5:7
 23:20 57:20 60:7 61:3
 67:17
evidence 5:10
evidently 9:7
ex 8:1
exact 22:1

examiner 32:7
examiners 53:21
example 31:3 41:13
 47:16 52:21
examples 31:5
exchange 59:1
exclude 41:1
excusable 13:22
excuse 21:8,10
executive 31:7 58:8,12
 58:20 59:13 60:2,14
 61:2
expand 37:8
expansive 42:12
expect 45:10
expected 64:5
expediency 21:5
experience 29:20 30:2
 30:4,8 35:6,15 42:19
 45:5,7,9 48:1 50:7
 52:11 57:14 62:20
experiences 40:13
experiential 32:14
expertise 30:2,8 35:16
 45:7 50:7 52:11 55:9
explain 4:11
explaining 66:19
expressed 63:14
extension 5:12
extent 22:19 35:13 51:7
extra 7:2
extreme 31:4,6
eye 41:11 42:12

F

face 13:1 64:8
facially 14:17
fact 17:11 19:18 20:15
 23:13 25:3 29:19
 38:14 45:15 49:10
 56:9,10
facts 5:3,4,6,8 25:4
 51:3
factual 17:6,9
fail 12:1
failure 12:6 14:7 37:11
 37:13
fair 7:22 9:7 50:8 61:6
falling 16:10
favor 42:5 58:19 60:4
 60:18 65:8,13 67:14
feasible 46:22
federal 19:22 41:5 48:1
 55:6
fellow 9:14 60:21
field 8:18
file 6:2 8:14 10:2
filed 3:17 4:10 5:13,18

5:20 13:8 19:20 21:15
21:16 22:9 62:9
filing 16:3 17:4
filling 55:4
finalize 59:19
find 42:4
finished 36:5
firm 10:18,22 40:14
first 6:8,10 10:6,14 11:7
11:10 12:11 15:11
25:3 36:12,20 37:10
45:21 59:5 65:4
fit 54:22
five 6:13,14,20 24:20
26:11 38:3,3 54:8
focus 29:18
folks 57:6,11
follow 20:17 59:16 67:7
following 21:11 25:10
38:4 61:2
force-muted 66:17,19
forgive 30:19
formal 20:8 32:12
formalities 17:20
formally 20:16,18
formulating 41:22
forth 26:6 34:22 53:1
62:6 65:22
forward 21:1
four 6:12 35:3
frame 65:19
franchise 41:12 42:1,6
freestanding 28:8
full 27:17
fully 19:19 33:8
functioning 28:20
43:14 44:13 50:4
57:13
further 7:15 13:5 15:2
38:20 41:7
fuzzy 57:4

G

Gary 1:12,14 3:5 54:4
general 1:20 2:9 3:15
4:15,18,20 11:6 24:16
26:13 31:6,7 33:9
34:14 35:7 37:17,20
40:12 42:15,22 43:1
45:11 46:8 51:22 53:7
55:11 57:16 58:17
Gill 1:15 3:7,9,9 9:15,17
54:4 60:3,17,22 63:21
63:22 64:3 67:11
give 18:3 28:15 45:8
given 26:1 44:3
gives 27:17 63:4
GMP 10:18,22 36:17

Godfrey 41:16
Gollin 41:20
governing 46:14
government 1:1 29:16
32:4 41:5 54:20 55:6
57:9 62:14 63:1
graduating 25:6
grant 61:14 65:5
gray 64:6
Greenfield 1:15 3:7,10
3:10 9:20,21 60:22
64:10,11 66:18 67:5
Gross 4:4
ground 32:1
grounds 11:9 18:7
guess 10:16 19:5 31:3
31:11 59:12

H

hand 14:3 20:12,17
happen 8:21 48:21
happens 40:19,20
hard 59:12
harm 17:11
hashing 59:5
heading 8:19
hear 6:8 9:9 15:5 23:9
heard 21:6 37:18 39:9
59:2
hearing 2:6 5:9,11 32:7
44:8,11 47:2 49:21
53:10,21 67:3
hearings 55:18
held 4:10,12
help 59:19
helped 57:20
helpful 23:13,19 25:18
helps 63:11
hi 3:22
Hilgers 10:8 11:4 36:19
hoc 33:12,20 49:18
hold 11:5 37:16 38:22
40:8 58:16 62:19
66:17
holding 55:17
holds 20:22 47:9
HOLMAN 1:19
hope 57:5
hopefully 66:8
hour 59:13
housing 46:17
Howard 15:6,8 18:12
24:1,11 31:1,20 34:19
35:11 36:7 54:8,9
55:22
Howard's 53:20
hypothetical 31:4,5

I

identified 30:10
identify 32:15
imaginable 64:6
imagine 46:20 47:20
immediately 26:12
impact 47:15 48:14
impartial 7:22 61:6
imperative 41:10 57:15
important 4:9 17:3
29:18 31:21 32:13
35:21
importantly 5:1
improperly 13:8
in-between 31:18,21
incidentally 46:8 58:4
include 13:17 61:16
62:3
included 44:2 49:13
including 23:16 35:3
46:5,15 50:5 65:6
incomplete 14:10,17
incorporated 58:4
61:22
independently 18:4
indicate 3:8 35:5
indicated 45:4
indicating 39:2,11
individual 43:12,18
45:5
information 7:15
inherently 52:10 53:11
initial 27:14
initially 19:11
inquire 18:4
inquiry 18:8
instructive 44:22
insurance 47:11
intend 59:16
intended 16:18 29:19
33:19 35:20 44:19,21
49:14
intent 27:21 33:10
interests 24:8
interference 66:10
interpretation 24:17
27:16 41:8 48:3 63:4
interpreting 41:9
invite 23:22
involve 45:6
involved 51:9
involves 50:6 52:10
irrespective 34:7
isolate 25:21
issue 4:9 7:22 8:6,8
12:3 19:16 20:12 22:5
22:11 23:2 27:7 39:3
39:5,6 57:22 59:4,19

61:7 64:22 65:21
issued 65:18
issues 14:21 15:10
17:13,17 20:11,13
37:5 47:11 52:13

J

Jack 49:1
January 26:14
job 34:1,2 40:8 45:15
45:16 46:21 47:20
50:15 53:2,12 56:22
57:1
jobs 56:12
Joe 11:3 36:18
joined 36:13
joining 60:7 61:3
judge 23:9 26:17 27:5
29:2,22 32:8 34:18
35:1,7,10,20 38:6
47:3 53:11 55:10
57:16 62:18
judgement 19:1
judges 44:7,11 53:21
judgment 56:3,7
judgments 33:12 49:18
56:16
judicial 21:4 46:3
Judiciary 46:2 56:18
jump 7:9,16 23:11
30:21
jumping 23:3
June 2:10
jurisdiction 12:8 14:9
jurisdictional 12:9
14:14
justice 46:4,7,12,13
juvenile 46:7,13

K

K 10:17
Kabel 17:22
Kamins 42:3
Karyn 1:15 3:7,10 9:19
60:22 64:9
keep 6:22 7:3 42:1
keeping 7:4
Kenyan 2:8 3:18 36:19
Kevin 11:3 36:18
key 39:14
knew 16:17,17
knowledge 33:14 35:15
35:16 55:8 57:3
knows 65:20

L

lack 17:1
laid 12:15 45:3

language 25:21 35:3
41:9 51:10 62:10
63:17
law 8:5 11:14 12:9,16
14:13 19:3 25:5,7
26:17,19,19 27:5 28:4
29:1,4,5,21,22 30:11
30:11 32:3,8 33:8
34:6 37:5,17 38:5,7,7
39:1,21 40:2,14,19
41:9,11 42:1,16 43:4
43:20 44:7,11 46:12
47:2,17 48:22 49:2
53:11,21 54:14,15
57:11 62:19,19
Lawrence 15:18 16:6
20:22 21:3 41:14
laws 46:14 55:17,17,18
lawyer 55:16 57:9
lawyerly 33:4
lawyers 49:4 54:21
lead 10:7
leave 6:2 10:2
legal 30:3 33:22,22
36:20 40:13 42:18,19
44:16 45:8 48:2,13
50:7,14 52:12,13 56:9
56:11 57:2,3,7 62:20
legislation 46:16 47:15
Let's 23:11
level 8:19 30:8 45:9
55:19
license 34:6
licensed 28:1 29:16
limits 7:1
line 12:19 31:19 49:13
51:17
linked 42:4
literally 31:13
little 34:20 37:8 62:17
LLP 15:9
lobbied 8:2
long 7:5,7 59:12
look 35:4 52:16,21
looking 28:4 35:9
looks 3:21 21:15 41:11
lost 30:19
lot 23:8
loud 23:14

M

M 15:9
main 6:18 23:1,10
61:20
maintain 48:22
majority 58:18
making 17:4 20:1,6
mandate 13:15

manner 9:6
March 5:17 21:15,19
masterfully 8:20
material 5:7
matter 11:10,14 15:16
25:3 28:3 36:21 43:2
43:4 46:19,22 47:1
48:8 51:7 58:14 59:10
60:11 67:4,8,19
matters 30:3 45:8 46:18
50:8 52:13
Mayor 31:8
McDuffie 2:8 3:19 6:1
6:12 8:12,14 10:5
11:1,12 24:20 25:5
26:1 27:3 34:13 36:10
36:19 45:18 46:1,11
47:21 50:12 51:13
53:14 55:21 57:1
58:15,16 61:10
McDuffie's 5:19 11:5
16:9 42:18
mean 22:14 28:18
39:19,20 48:17 52:16
meaning 5:3 27:17
28:11,14 29:12 54:13
63:5
meaningful 41:17
means 40:4 64:7 67:7
meant 50:2 57:8
media 7:20
meet 9:5 11:13 13:3,7
26:5 32:16 43:11,18
44:16 63:16
meeting 1:6,11 3:4
60:15 61:2
meets 38:12 45:18
51:13 53:14
member 1:15,15 3:9,10
4:18 9:17,21 24:19
26:2,10 28:1,6,12
32:9 34:6 36:1 38:21
40:20 52:9,19 54:4
60:3,17 62:1 63:21
64:3,11 66:18 67:5,11
members 1:13 3:7 7:13
7:19 9:11,15 10:20
15:7 41:1,3,5 43:8
46:20 48:7 49:11 54:2
58:18 60:21 62:13
65:12
membership 63:3,9
mere 13:21 14:5
merely 20:12 36:1
merits 11:10 24:13
36:21
method 22:11
Metropolitan 46:5

middle 7:2 32:1
midnight 59:20
Mike 1:15 3:7,9 9:15
60:22 63:22 64:13
mind 42:21
minimal 45:8
minimum 29:20 30:4
37:19
minutes 6:13,14,15,20
6:20 23:4 54:8 66:12
mistake 24:6
Monday 1:8 3:3
MONICA 1:19
morning 10:19 11:2
15:6
motion 5:20,22 6:2 10:2
16:20 21:16 27:15
58:7,11 59:9,10 60:1
61:13,14,15 62:8
63:20 65:4,6,9,13
67:11
move 60:14,16 66:13
moved 46:11
muted 66:15

N

name 3:5 10:15,21 15:8
24:4 36:17
names 12:19
nature 34:7
Neal 4:4
necessarily 28:18
45:16 47:22 50:13
63:12
necessary 17:15 32:4
necessity 62:21
need 15:2 42:4 64:15
64:18
needed 39:12
needs 7:1,15 45:14
neutral 9:2,12
nevertheless 34:2
nominating 3:14 5:17
8:15 11:17 12:13,15
13:4 14:18 16:3,8
18:14
nominations 46:4
non- 48:8
non-attorney 46:21
47:1
non-lawyers 49:5,8
non-legal 50:10
non-technical 14:1
nonprofit 9:1
notarization 19:16
22:20
notarized 13:16 16:15
17:2,12 19:9 22:17

noted 14:13 38:1 41:15
notice 1:12
notwithstanding 66:2
number 11:16,20 12:3
13:18 22:1
numbers 12:19 13:21
numerous 16:19
NW 15:9

O

objective 28:21 29:8
56:15
obligation 18:3 20:5
obtained 47:13
obviously 8:13 48:17
49:9 60:21
office 2:9 3:15 4:18,21
8:14 11:5 31:8 37:16
45:10 46:8 58:17
officer 47:2 53:10
officers 44:8,11 49:21
Official 58:13
Once 10:21
one's 41:18
ones 44:18 50:12
open 42:1
opening 7:10,14 9:16
36:4,6,8
opinion 59:19 65:15
66:5
opposed 51:10
opposition 5:21 62:7
oral 5:14 66:3
order 2:2 28:11,15
31:12 32:16 43:11
52:18 57:15 64:22
67:7
original 41:22
outset 7:18 8:10 9:10
23:7
outside 31:16
oversee 47:10
overseeing 47:9
overseen 48:5
oversees 46:2

P

P-R-O-C-E-E-D-I-N-G-S
3:1
p.m 59:14,14 60:8,12
67:19
pages 18:1
panel 58:22
papers 27:14
parsed 58:2
part 25:11 27:3,17
31:13 32:5,12 41:17
52:12 53:12

parte 8:1
PARTICIPANT 4:4
participating 61:12
particular 12:20 37:22
parties 4:13,14 5:2 6:7
 7:19 9:4 24:14 25:4
 26:4 27:2
party 4:2 19:2
pass 31:12
passage 47:13
passing 59:10
Pembroke 4:19
people 42:2 44:1
perform 62:21
performed 46:21
performing 55:5
performs 32:21
period 45:22 50:13 66:4
person 17:4 26:15
 28:19 29:8 30:14
 43:13 50:18 53:1
 54:11 55:4 56:4 62:4
person's 32:5
perspectives 8:8 23:20
persuaded 63:15
pertinent 12:17
petition 3:14 5:17 8:18
 11:18 12:13 13:2,4
 14:4,18 15:19 16:4,8
 16:13 17:10 18:14
 21:19 22:14
petitions 8:15 12:15,20
 14:4 21:6
phase 23:4
phone 13:21
phrase 62:15
placing 56:16
plain 29:11 40:4
plan 65:21 66:12
playing 8:18
pleading 15:16
pleadings 12:12 14:1
 22:8
please 3:8 10:12 31:1
pleases 36:16
plenty 49:5 54:20
point 9:9,13 11:16 12:5
 12:11,17 13:10 14:6
 19:11,14 25:17 33:6,6
 37:1,3,10 39:14 43:6
 55:13
pointed 18:19
points 6:9,17 10:3
 11:15 47:18
police 46:5,13
policy 45:1,2 48:2
political 20:2
posed 66:3

position 17:17 23:14
 24:18 26:13 27:1
 28:19 29:10,15 30:3
 33:12,19 43:10,13
 44:12,15 45:14 47:9
 50:5 55:4 56:1,6,17
 63:10
positions 5:15 8:20
 44:5 52:2,17 63:2
possible 24:3 42:2
posting 25:17
potentially 59:9
Pozen 10:8,9,10,13,17
 10:21 15:21 18:12
 19:10 21:21 36:11,12
 36:16,17
practical 48:8
practicality 47:1
practice 25:5 26:16
 27:5 29:1,21 32:2
 38:5 39:1,21 40:2
 43:20 48:22 54:14,15
 62:18
practiced 30:11 52:20
practices 46:14
pre-existing 35:19
precede 28:17
precedent 35:8
preceding 26:12
precondition 28:8
prehearing 4:10,12,14
 4:20 5:1 6:6 9:5
prejudice 16:21 17:21
 19:2,6 20:14
prejudicial 22:20
prepared 36:12
prerequisite 63:3,9
presence 3:8,21
present 1:13,17 5:14
 6:12,14 23:5 58:19
presentation 36:6
presentations 5:5
presented 14:10
presenting 36:20
presiding 1:12
press 9:11
presumptively 30:7
pretty 17:16 35:2
prevent 18:8
previous 9:1
Primary 2:11
prime 41:21
private 4:2
privately 59:1
probably 59:13 65:14
 66:7
procedural 6:9,16 10:3
 11:9,16 12:5 14:20

15:10 17:17,19 18:7
 61:17 65:7
procedurally 11:18
 12:1
procedure 21:9
procedures 15:14
 21:10,12 46:3
proceed 6:7,18 7:11,16
 9:16 10:2,12 11:10
 15:2 22:22 23:22
proceeding 21:1
process 21:8 22:6,7,8
 22:10,12
processes 21:10,12
professional 10:16
professionally 8:22
professor 26:18 27:6
 29:4,22 38:7 49:2
 62:19
prohibited 19:3
pronounced 24:5
proper 12:7 14:8 21:11
proposition 21:4
prosecutor 48:2
prospective 15:22
provide 61:19
providing 44:16
provision 15:14 40:11
provisions 16:10 18:22
 26:9 35:18,21
public 7:19 9:12 25:12
 30:12,13 47:12 60:15
 61:1 64:20 65:19
purpose 17:4 32:17
 35:21,22 41:21 45:2,4
pursuant 1:12 15:19
 25:9 58:13
put 33:19 64:15,18
puts 30:3 33:11
putting 22:9

Q

qualification 23:1 35:6
 35:6,19 45:19
qualifications 2:7 11:5
 11:13 12:1 13:12,13
 14:2,19 16:1,9 18:5
 21:6 34:17 35:1 38:13
 42:18 52:22 53:15
 58:16
qualified 37:16 40:16
 53:7
qualifies 28:3 33:9 34:2
qualify 27:3 34:3,14
 51:3 52:6 55:21
qualifying 63:16
question 8:9 18:13,13
 19:6,11,15 21:14

24:17,18 26:4 30:22
 31:12 33:1 34:20 41:8
 43:22 49:12 51:17
 52:18 61:21
questions 54:2,5 66:3
Quick 21:14
quite 24:11
quorum 2:4 3:13 61:1
quote 22:15 24:21
 26:11 28:9 29:13
 32:21 33:13 41:17
 51:19 53:16 62:15
quote-unquote 16:19
 33:4

R

R 2:8 4:4
racial 47:14 48:14
raise 12:4 14:20
raised 15:11 17:20 18:2
rationale 64:4,12
raw 51:3
re-parsed 58:2
re-underlined 58:3
REACH 47:14 48:12
reached 5:2
read 6:4 8:3,4 23:9,14
 23:15,17,21 61:20,22
 62:9 63:6 64:7
reading 21:2 33:7 40:5
 40:22 44:9 55:17
 62:12
reads 34:11 63:6
ready 9:9
reality 46:22
realm 51:18 52:1
reason 53:13
reasonable 8:8
reasoning 62:11 65:22
reasons 14:22 34:12
 63:14
rebuttal 6:21 18:12 36:5
 54:8
recall 21:22
receive 21:18
received 5:16,19,21 6:1
 8:3 13:6 22:1
recite 18:20
recognize 20:9
recognized 31:22
record 5:16 6:4 10:15
 59:9,15 60:11,20
 64:16,19,22 65:12
 67:4,10,19
records 46:15,16
reduces 24:16
refer 45:1
reference 8:4 15:22

16:18 22:7,8 58:4
referenced 22:16
reflect 66:12
reflects 60:21
reforms 46:12
regard 9:2 15:13,15
 17:9 18:6 22:5 30:2
 44:22 45:7 50:7 52:12
regarded 16:10 57:15
regarding 19:22 58:15
regards 17:1
Register 52:21 53:5
regular 25:11
regulation 46:13
regulations 8:5 14:9
 18:20 19:22 58:9
regulatory 13:3,12
 47:10
Rein 15:8
relationship 54:19
relevant 27:18 28:5
relied 41:14
rely 56:10
remains 50:20
remarks 36:8
render 39:22
renders 62:15
repeat 23:10 61:4
reply 30:10 44:4 62:7
reply/opposition 27:15
reporter 3:21,22 4:3,7
reporting 4:5 24:3
representation 54:18
representations 17:7
represented 4:14 37:5
representing 36:17
require 12:18 26:9 38:1
 40:7 52:2 56:1 62:1
required 29:17 44:6
 47:5 49:22 51:9 65:17
 65:19
requirement 19:16
 39:15 40:1
requirements 12:6 13:3
 13:7,12 14:7 17:3
 26:6 37:19 42:15
 43:18 56:12
requires 40:8 47:14
requiring 13:17
resident 13:17 40:19,20
resolved 67:8
respect 5:1,14 8:11,13
 8:16 34:17 35:10 61:9
 67:4
respectfully 57:5
respondent 11:13
 13:18 15:11 16:17
 17:20 27:22 30:18

32:19 36:19 37:13
 38:12,17,22 39:12,15
 39:20 42:7,14,21
respondent's 11:22
 13:2,11 14:20 24:15
 33:7 36:20 62:8
response 11:4
responsibilities 30:1
 34:8,9
rest 65:14
resume 60:15 61:1
resumed 60:12
review 57:22
ripe 12:10 14:14,21
ripeness 19:13
rise 18:3
role 52:12 62:14
roles 63:8
Rule 54:16
rules 12:14 20:17 38:21
 46:3 54:17
ruling 15:17 59:17
 65:18,20,21 66:1,2,4
 66:12
run 8:14 34:3,14 53:6
 57:16
running 45:10 49:9

S

Sandler 11:3,11 36:11
 36:14,18,22 37:7 43:5
 43:6,7 48:15,16 49:7
 51:6 52:8 53:19 54:3
 54:7,14
satisfied 30:4
satisfies 42:14
satisfy 33:17 56:12
saying 45:13 55:3
says 20:3 30:18 44:19
 47:17 50:1 57:8
scenario 50:18
scenarios 49:4
school 25:7 26:19 29:5
 30:14 38:8 40:14
schoolteacher 30:9,13
 31:3,17 32:20 33:5
 50:18,22 51:21 55:14
schoolteachers 50:16
second 13:10 36:13
 37:1 43:5 59:9 60:2,3
 60:16,17 61:18 63:19
 63:21 66:14 67:11
seconded 65:4,8
secondly 33:11
section 12:16 13:5,8,14
 16:11 18:20 26:6
 27:18 32:18 53:1
securities 47:11

senator 57:10
sense 35:12 44:10,10
 46:19 53:8,10
Sentencing 46:6
separate 28:8
separately 48:22
serious 20:6
servant 25:12
serve 17:3 29:20 35:21
 42:15
served 25:12 35:22
 46:1 47:6
serves 40:10
service 22:5,10,12
 47:12
serving 29:15 32:21
 33:3 55:10
session 3:13 58:8,12
 58:20 59:13 60:2,14
 61:2
set 23:4 26:6 52:22 62:6
 65:22
sets 34:22
setup 7:8
short 31:15
shown 18:21 27:13
shows 21:3
side 6:20 11:16 37:7
sides 5:13 8:21 9:1
 23:13 57:22
signature 18:16
signatures 12:20
signed 16:12,14 18:15
 19:8
significance 35:14
similar 48:19
simply 19:17 29:7
 39:16 40:4 41:2
single 24:16 25:15
skills 33:14 45:14,16
 50:14 62:20
skipping 62:17
slates 9:8
slide 25:15
somebody 7:1 10:8
 31:8 45:10 51:19
somewhat 19:21
soon 59:21
sorry 50:5
sort 15:21 51:2 52:3,4
speak 37:2,6
speaking 8:7
speaks 40:1
special 1:6,11 3:4 25:9
specific 12:19 14:3
 16:18 40:7
specifically 40:1 44:7
 63:17

specificity 12:18
specify 14:3
spectrum 51:20
spelled 13:14
Spiva 2:7 3:17 5:18
 8:12,16 16:14 23:22
 24:5,5,8 58:15 61:10
 61:15 65:5
staff 1:17 4:19 25:16
stand 19:20 20:3,7,18
 24:15 66:5
standard 29:20 30:4
 51:14
standing 26:2 28:7 41:3
 50:19,21 51:4 62:2
standpoint 32:14 35:15
 57:2
stands 21:3
start 9:18 52:3
started 61:4
starting 66:21
state 10:14,14 37:12,13
 48:1
stated 14:6 39:3 43:10
 64:4
statement 39:10
states 13:6 26:21 38:11
 41:21
status 29:16 41:2
statute 8:3,9 15:18
 19:22 23:14,15 25:20
 25:22 26:8 28:5,5
 32:1 33:7,17 34:12,16
 34:22 35:9,19 39:11
 40:5,22 42:5 49:22
 56:14 58:3 61:21
 62:12 63:5,17 65:19
statutes 48:5
statutory 24:17 26:8
 27:20 39:15 40:1 41:8
 42:14
step 41:2 60:14
steps 6:8
stipulated 25:4
stipulation 5:3
stipulations 9:6
stop 18:9
straightforward 29:11
straightforwardly 29:7
Street 10:17 15:9
stress 41:10
strict 7:1
Stroud 1:20 4:16,17
 7:12 10:13 64:17 65:2
 66:15 67:1,6,10
structure 48:10
styled 12:12 14:18
subjective 33:20 56:3

submit 27:13 54:16
submitted 57:21
subpart 27:8
subparts 35:3,14
Subsection 27:9,16
 28:3,15 29:12 32:16
 34:11 38:9,13 39:5
 40:10 43:12,17,19
 44:1,19 45:3 49:14
 53:15 54:13 55:1,2
 56:13 63:7,17
Subsections 32:17
 37:22
subsequently 25:10
substance 19:5,8
substantive 6:19 28:14
 28:16
substantively 14:10
 22:21
succeeded 61:6
succinctly 62:7
suffices 28:12
sufficient 48:9 52:14
sufficiently 33:16
suggest 53:12
suggested 49:17 54:14
suggesting 22:4 54:11
suggests 44:4
Suite 10:18
sum 37:1
summarize 5:6
summarized 23:13
sums 17:16
superfluous 40:2 43:17
 55:2 62:16
Superior 35:1
supersede 66:5
support 35:8
suppose 52:19 53:1,4
surely 14:1
surprise 16:21
surreply 6:2,10 10:3
 15:12 30:18 61:18
 65:7
swear 14:2
sweeping 46:11
switched 50:21
sworn 13:16 16:15 17:2
 17:12 19:9,17
system 30:14 46:4,7,13

T

talk 7:6 49:20
talking 50:3
teacher 33:8
technical 15:20 17:13
 20:10,12 37:2,7 51:7
technicalities 13:21

technicality 14:5
technically 55:15
Ted 15:8
tee 9:6 60:1
telephone 13:18
ten 24:20 26:12 38:4
 47:5 53:4,6
ten-year 45:22
tenets 27:19
term 22:7 54:16
terms 18:12 48:14 64:6
Terri 1:20 4:15 7:11
 64:15 66:19,22
test 31:13 43:11 52:4,7
thank 4:1,22 9:21 15:3
 18:10,11 22:13 24:1,9
 25:18 31:2 36:8 43:7
 43:7,8 54:7,9 57:18
 57:19 58:15 60:7 61:3
 61:11 67:16
things 7:3 38:2 48:19
 48:19 49:5
third 14:6
Thompson 1:12,14 3:3
 3:5,12 4:1,6,22 7:17
 9:19 10:1,11 15:4
 18:11 21:14 22:13
 24:9 30:21 31:2 34:15
 34:21 36:3,9,15 48:15
 48:17 50:17 51:16
 53:16 54:1,6 55:12
 57:18 60:4,6,13,18,20
 63:22 64:9,14 65:1,3
 65:11 66:11,16 67:9
 67:13,16
Thorn 10:10,21 36:17
 43:8
thought 30:19 51:8
three 6:15 11:15 12:3
 28:16 41:13 45:20,21
 47:5 59:4 65:12,12
three-member 7:21
 58:9,22
timely 67:8
times 16:19 23:8
timing 12:4
title 12:16 13:5,14
 16:11 18:20 31:9,14
 31:15 32:6,12 52:2
to-day 30:1
today 3:6,14 6:7 7:9
 38:15 64:21 65:16,18
today's 44:4
touches 48:12
train 30:19
trained 45:17
training 33:22,22 56:10
 56:11 57:3

treated 50:11
tremendous 42:18
tribunal 12:10 14:15
tried 25:21 61:5
tries 39:7
true 53:12 62:22
trying 42:20
turn 36:9 43:5
Turning 24:13
two 3:6 5:2,13 6:7 8:7
 11:20 23:20 49:3 51:2
type 40:7

U

undeniably 42:7,8
undercut 33:6
underlined 58:2
underscores 35:12
understand 5:6 8:6
 23:20
understanding 48:4,10
undisputed 38:20
United 26:21 38:10
universe 43:22 44:18
unquestionably 26:2
unquote 62:16
use 45:17 46:14,16
utmost 8:11 61:9

V

v 2:7,8 15:18 17:22
 41:16,20 42:3 58:15
validity 15:19
various 45:2
Video-Teleconference
 1:12
view 32:5 55:1
viewed 11:22 13:11
 42:11
views 41:12 59:1
virtue 42:8 49:10
vote 41:18,18 42:4
 58:19 64:15 65:4
 66:22
voters 43:2

W

wait 7:13
waive 17:19 18:21
 20:10,13,20
waiver 19:1
walked 23:15
wanted 7:18 8:10 9:10
 23:7 67:1
Washington 15:9
way 8:2 15:16 20:8 21:8
 29:6 32:15 40:10
 47:16 53:10 55:1,7

56:5,11,15,21,22
 57:13,14 58:21 59:11
welcome 4:7,7
well-settled 12:8 14:13
went 60:11 67:19
whatsoever 62:15
wider 40:12
Wiley 15:8
Williams- 41:15
willing 19:19
Wills 52:22 53:5
witnesses 5:9
words 27:18 28:11
 35:17 50:4 51:2 52:10
 63:5
work 9:1 30:1 32:21
 33:15 45:6 50:6 52:9
 59:20 62:21 65:15
 66:6
working 33:5
wrap 6:16 19:6
written 59:18,19 65:15
 65:21 66:1,4 67:6

X

Y

year 25:11
years 24:21 25:6 26:12
 38:3,4 45:21,21 47:5
 50:14 52:20 53:4,6

Z

0

1

1- 26:6
1-204.35 58:5
1-301.83 34:16 58:3
 61:21
1-301.83(a) 27:18
1-301.83(a)(5) 35:14
 37:21
1:00 59:14,14 60:8
1:06 60:12
1:14 67:19
10 2:11
10:30 1:12
10:35 3:2
11 5:22 62:9
11-1501 34:22
11-2102 53:1
11:47 60:11
11:51 21:16
12 6:1
13 4:13
1432 10:17

18 1:9 3:4

2

2 13:15
2-575(b) 58:13
20 6:19 23:4
2012 24:19 25:9
2015 45:22
2017 45:22 47:7
2022 1:9 2:10 5:17 11:1
2023 26:14
2050 15:9
21 2:10
29 5:17 21:15,19
2nd 18:1

3

3 2:2,4 12:16 13:5,14
16:11 18:20
3- 17:18
301.83(a)(5) 26:7

4

400 10:18
400.5 18:20
4005 17:19
408.1 13:14 16:11
408.2 22:17
409 12:16
409.2 13:5
410.3 12:17
410.4 13:15
49 54:16

5

5 27:3,17 32:18 43:12
43:17,19 44:1,20 45:3
53:15 63:18

6

6 5:19 21:17
67 2:13

7

8

9

919 18:1
920- 18:1
921 18:2
962 18:1

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Special Board Meeting

Before: DCBOE

Date: 04-18-22

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



Court Reporter

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701