

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ELECTIONS

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SPECIAL BOARD MEETING

+ + + + +

WEDNESDAY

MARCH 25, 2020

+ + + + +

The District of Columbia Board of Elections convened a Special Board Meeting telephonically, pursuant to notice at 11:00 a.m., Michael Bennett, Chair, presiding.

BOARD OF ELECTIONS MEMBERS PRESENT:

MICHAEL BENNETT, Chair
KARYN GREENFIELD, Member

BOARD OF ELECTIONS STAFF PRESENT:

ALICE P. MILLER, Executive Director
TERRICA JENNINGS, Attorney Advisor
RANDY LEGETTE, IT Specialist
RUDOLPH MCGANN, Attorney Advisor
DEANNA SMITH, Assistant Registrar of

Voters

TERRI STROUD, General Counsel

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1. Challenge to the Nominating Petition
submitted by Eleanor Holmes Norton in
support of her candidacy for the Office
of Delegate to the U.S. House of
Representatives, filed by Tori Whitney . . . 3

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

2 11:12 a.m.

3 CHAIR BENNETT: This is an official
4 meeting of the D.C. Board of Elections to hear
5 the nominating petition challenging Eleanor
6 Holmes Norton, as was previously stated. I'm
7 Michael Bennett, chair of the Board. Also here
8 on this call is Karyn Greenfield.

9 (Simultaneous speaking.)

10 PARTICIPANT: -- cell phone.

11 CHAIR BENNETT: Can you hear me? Also
12 on this call is --

13 (Simultaneous speaking.)

14 CHAIR BENNETT: -- on this telecon is
15 Karyn Greenfield, who's a Board member. Michael
16 Gill, who is also a Board member, is not on this
17 call, but we have two Board members on this
18 telecon, so we have a quorum. I'd like to get a
19 motion to open the meeting for this matter from
20 Ms. Greenfield.

21 MEMBER GREENFIELD: Chairman, I move
22 to open the meeting.

1 CHAIR BENNETT: I second, so it's
2 unanimous. The meeting is open. Ms. Stroud, can
3 you set out the order. This is the only matter
4 for this particular meeting, and it's a special
5 meeting of the Board. Ms. Stroud, please set out
6 the order of the meeting today.

7 MS. STROUD: Absolutely. Today we're
8 hearing a challenge to the nominating petition
9 filed by Eleanor Holmes Norton, in support of her
10 candidacy for the office of delegate to the U.S.
11 House of Representative filed by Tori Whitney.

12 The format for today's hearing will be
13 as follows. The registrar of voters or her
14 designee will read into the record her
15 preliminary determination regarding the
16 challenge. The representative from the Office of
17 the General Counsel will present on what
18 transpired during a prehearing conference held in
19 the matter.

20 The challenger, who has the burden of
21 proof, will have five minutes to present, then
22 the candidate will have five minutes to respond,

1 and then each party will have two minutes to
2 present their closing arguments. Now, at this
3 time, the registrar of voters or her designee
4 will read into the record her preliminary
5 determination regarding the challenge.

6 CHAIR BENNETT: Thank you, Ms. Stroud.

7 REGISTRAR OF VOTERS PRELIMINARY DETERMINATION

8 MS. SMITH: Yes, thank you, Terri. On
9 February 10, 2020, Eleanor Holmes Norton
10 submitted a nominating petition to appear on the
11 ballot as a candidate in the June 2, 2020 primary
12 election for the office of delegate to the House
13 of Representatives from the District of Columbia.

14 That petition was posted for public
15 inspection for ten days, as required by law. The
16 petition was challenged on March 7, 2020, by Tori
17 Fernandez-Whitney, a registered voter in the
18 District of Columbia. My preliminary review of
19 the petition challenge indicates that Ms. Norton
20 submitted a total of 2,912 signatures.

21 The minimum requirement to obtain
22 ballot access for this office is 2,000

1 signatures. Challenger Tori Fernandez-Whitney
2 filed challenges to a total of 1,408 signatures,
3 enumerated by line and page number on individual
4 challenge sheets filed for each petition page.

5 Petition signatures were challenged
6 pursuant to Title 3 DCMR, Section 1607.1 of the
7 Board's regulations on the following grounds.
8 One, the circulator of the petition sheet was not
9 a qualified petition circulator at the time the
10 petition was signed. Two, the circulator of the
11 petition failed to complete all required
12 information in the circulator's affidavit.
13 Three, the signature is not made by the person
14 whose signature it purports to be.

15 My review of the petition challenge
16 indicates that a total of 20 of the 1,408
17 signature challenges are valid. This leaves the
18 candidate's nominating petition with 2,892
19 signatures, 892 signatures over the number
20 required for ballot access. Thank you.

21 MS. STROUD: Thank you, Ms. Smith. On
22 this past Friday, the Office of General Counsel

1 held a prehearing conference into the matter. It
2 was attended by the parties. I would ask Rudolph
3 McGann, representative from the Office of General
4 Counsel, to give a summary of what transpired at
5 that prehearing conference.

6 GENERAL COUNSEL PREHEARING CONFERENCE SUMMARY

7 MR. MCGANN: Yes, directly from the
8 prehearing order, the challenger took issue with
9 the registrar's finding because it appeared on
10 her line by line examination that she only
11 reviewed whether each circulator signature was
12 authentic, while disregarding her other claims,
13 such as the circulator wasn't qualified, and the
14 circulator failed to complete all information.
15 The registrar explained that all challenges were
16 taken into consideration, but Ms. Zermeno did
17 fill out the non-resident circulator registration
18 form prior to circulating petitions for the
19 campaign.

20 Accordingly, the interrelated
21 challenges were all incumbent upon the
22 authenticity of the signatures on the circulator

1 affidavits. Ms. Whitney asserts clear and
2 convincing evidence of irregularities in the
3 process because multiple petition sheets
4 circulated by Ms. Zermeno, the circulator in
5 question, were started on the same day and
6 clustered the sheets, but had differing
7 completion dates.

8 She found it odd that a person would
9 not complete a full petition sheet prior to
10 beginning a new one. She also presented a
11 statement from a forensic expert that raised
12 inconsistencies in Ms. Zermeno's numerous
13 circulator affidavits. The report submitted
14 concluded, quote, over 20 signatures on the
15 documents given for examination do not bear an
16 authentic signature of Ms. Maritza Zermeno. Ms.
17 Whitney likened the irregularities to the
18 Williams campaign in '02 and asserts this should
19 be grounds for disallowing the entire petition.

20 Although the registrar disallowed the
21 challenges to Ms. Zermeno's petitions, the
22 registrar did agree with Ms. Whitney with respect

1 to another circulator challenged on this basis,
2 and she accordingly disallowed the 20 signatures
3 collected on that page.

4 Delegate Norton presented testimony
5 from the circulator in question, Ms. Zermeno.
6 Ms. Zermeno explained that her signature may have
7 looked different because she was signing the
8 affidavits in the cold, on a clipboard, with no
9 solid surface.

10 Ms. Zermeno testified that on
11 occasion, she collected signatures with her
12 husband, who is also a registered non-resident
13 circulator. When asked by me whether she
14 circulated all petition sheets bearing her
15 signature as the circulator, she testified that
16 she collected all the signatures attributed to
17 her as the circulator. Moreover, Ms. Zermeno
18 explained the reason multiple petition sheets
19 started on the same day was because she carried
20 multiple clipboards to procure as many signatures
21 as possible simultaneously when encountering
22 bigger crowds of potential signatories.

1 Accordingly, many of her pages start on the same
2 day in clusters, that was pointed out by Ms.
3 Whitney, but ended on different days, depending
4 upon when she collected enough signatures on each
5 sheet to complete the page.

6 MS. STROUD: Thank you, Mr. McGann.
7 Now, we'll hear from the challenger, Ms. Tori
8 Fernandez-Whitney. Ms. Fernandez-Whitney, you
9 have five minutes.

10 CHALLENGER PRESENTATION

11 MS. FERNANDEZ-WHITNEY: Good morning.

12 MR. MCGANN: Good morning.

13 CHAIR BENNETT: Good morning.

14 MS. FERNANDEZ-WHITNEY: Thank you for
15 scheduling this. The facts to be presented today
16 will demonstrate the following. Ms. Zermeno
17 fraudulently submitted signed circulator
18 affidavits that do not bear her signature. Ms.
19 Zermeno outsourced signature collection to an
20 unknown party (inaudible due to telephonic
21 interference) that do not bear her authentic
22 signature. Ms. Zermeno outsourced signature

1 collection to an unknown party or parties, as
2 evidenced by multiple persons handling multiple
3 petitions on the same date. The implausibility
4 that Ms. Zermeno collected nearly two and a half
5 times more signatures than her husband, who
6 reportedly accompanied her for most of her
7 signature collection efforts, more than two and a
8 half times than all District residents combined,
9 more than two and a half times more than any
10 other circulator of record.

11 The dates of the fraudulent signature
12 collection correspond with the high volume days
13 and dates that were identified by the forensic
14 document examiner as dates that did not bear Ms.
15 Zermeno's authentic signature. I'd like to just
16 go through a brief statement of some additional
17 facts, approximately --

18 CHAIR BENNETT: That's great. This is
19 Chairman Bennett. If someone is not speaking,
20 please put your device on mute. Thank you.

21 MS. FERNANDEZ-WHITNEY: Hello?

22 MS. STROUD: Yes, you may continue.

1 MS. FERNANDEZ-WHITNEY: Approximately
2 50 percent of the total signatures submitted by
3 Ms. Norton were collected by Ms. Zermeno. As
4 I've stated, that's an extraordinary number for
5 one person to collect alone during the period of
6 time allotted for circulation.

7 The basis for the challenge is that
8 the circulator violated the signature validity
9 rules defined by the Board or 1607.1(g), 1607
10 (inaudible due to telephonic interference) and
11 this is not an exhaustive list -- occurred on the
12 following days, March -- I'm sorry, February 8th,
13 February 9th, February 29th, March 1st, January
14 12th, February 26th, and so on.

15 The irregularities that accompany this
16 is most documented by the conclusion of the
17 forensic documents examiner, which concluded that
18 on the dates mentioned, Ms. Zermeno did not
19 complete the circulator affidavits that are this
20 challenge. As such, it raises the following
21 questions (inaudible due to telephonic
22 interference) and were those petitions circulated

1 in accordance --

2 (Simultaneous speaking.)

3 PARTICIPANT: -- you don't have a
4 meeting a day after.

5 MS. FERNANDEZ-WHITNEY: Excuse me?
6 Hello?

7 CHAIR BENNETT: Hello. I'm not sure
8 who that was.

9 MS. FERNANDEZ-WHITNEY: I have no
10 idea. But this is Tori Fernandez-Whitney.

11 CHAIR BENNETT: This is Michael
12 Bennett please continue. If not, we're going to
13 start this over. This is --

14 MR. LEGETTE: What I'm going to do is
15 mute everyone except the speaker. The speaker, I
16 need you to say something, so I know I can
17 identify you.

18 MS. FERNANDEZ-WHITNEY: Yes, this is
19 Tori Fernandez --

20 MR. LEGETTE: Ms. Whitney, could --
21 (Simultaneous speaking.)

22 MS. FERNANDEZ-WHITNEY: Sorry, I could

1 not hear you.

2 CHAIR BENNETT: Okay, you can --

3 MR. LEGETTE: Ms. Whitney, they were
4 trying to identify your voice on the call, so
5 they can mute everyone else except you, so that
6 you can give -- provide your testimony. We'll
7 give you the additional time.

8 MS. FERNANDEZ-WHITNEY: Okay, this is
9 Tori Fernandez-Whitney.

10 CHAIR BENNETT: Okay, go ahead and
11 proceed. Okay, Ms. Whitney, I believe you can
12 proceed now.

13 MS. FERNANDEZ-WHITNEY: How much time
14 do I have?

15 MS. STROUD: Ms. Fernandez-Whitney,
16 you can take three minutes.

17 MS. FERNANDEZ-WHITNEY: Okay, thank
18 you. The facts to be presented today will
19 demonstrate the following. Maritza Zermeno
20 fraudulently submitted signed circulator
21 affidavits that do not bear her authentic
22 signature.

1 Maritza Zermeno outsourced the
2 collection to an unknown party or parties, as
3 evidenced by her fraudulent submission of signed
4 circulator affidavits that do not bear her
5 authentic signature.

6 Maritza Zermeno outsourced signature
7 collections to an unknown party or parties, as
8 evidenced by multiple persons handling multiple
9 petitions. The improbability of Maritza Zermeno
10 collected nearly two and a half times more
11 signatures than her husband, who reportedly
12 accompanied her for most of her signature
13 collection effort, and for emphasis, two and a
14 half times more signatures than any other
15 registered circulator on behalf of Ms. Norton.
16 The dates of fraudulent signature collections
17 correspond the high volume days and suspected
18 outsourced signature collection dates. Those
19 dates are February 8th, February 9th, February
20 29th, March 1.

21 In addition, the fraudulent signatures
22 are identified on the following dates: February

1 8th, February 9th, February 12th, February 23rd,
2 February 29th, and March 1st. The fraudulent
3 signatures were documented by Forensic Document
4 Examiner Beverley East, who is a court qualified
5 forensic document examiner and internationally
6 renowned for her expertise.

7 The basis for the challenge that I
8 filed on March 7th is in violation of the
9 signature validity rules set forth in the Board's
10 rules and regulations, 1607.1(g), 1607.1(h),
11 1607.1(i).

12 Ms. Zermeno collected 50 percent of
13 all signatures submitted on behalf of Ms. Norton,
14 which is an extraordinary amount for one person,
15 alone, to collect during the time period
16 allotted. The evidence of outsourced signature
17 collection, in addition to the dates that I have
18 already mentioned, I highlighted. You can see
19 this on Slide 7 in a presentation that was put
20 forth to the Board -- January 12th, evidence of
21 five circulators, February 8th, evidence of three
22 circulators, February 26th, evidence of three

1 circulators, March 1, evidence of five
2 circulators.

3 It requires the Board to ask who
4 circulated the nominating petitions in question,
5 the extent to which the nominating petitions were
6 or were not completed in accordance with District
7 laws and regulations. The forensic document
8 examiner examined more than 65 nominating
9 petitions reportedly signed by Ms. Zermeno.

10 More than 20 of those signatures were
11 found not to be the authentic signature of Ms.
12 Zermeno. The registrar's findings to validate
13 one page of my challenge is under the signature
14 of another circulator, Paul Strauss.

15 My second challenge, which was filed
16 on March 15th, speaks to the full pattern of
17 irregularities of not just Ms. Zermeno's
18 signature, but the signatures of other registered
19 circulators, in addition to other fraudulent
20 activities, clear and convincing evidence of
21 (inaudible due to telephonic interference).

22 MS. STROUD: Ms. Fernandez-Whitney, I

1 just want to stop you right there. That matter
2 is not before the Board at this time, so if you
3 could just limit your testimony to the current
4 challenge that's before the Board. Thank you.

5 CHAIR BENNETT: Further, this is
6 Chairman Bennett. Because the coms are so poor
7 -- and I really apologize for this -- it seems
8 like the Octo system is just overburdened because
9 of all the efforts to do call-in meetings now.

10 Because the sound is so poor, the
11 communications are so poor, please take the
12 additional time that you need to present your
13 case. We'll give the time, as well, to Ms.
14 Norton's group. My apologies, again, for the
15 communications issues.

16 This is a really tough time to try and
17 get through, but we are going to get through
18 this. We can hear you fine. I can hear you
19 fine. I believe Member Greenfield can hear you
20 fine, as well. Please continue.

21 MEMBER GREENFIELD: Yes.

22 MS. FERNANDEZ-WHITNEY: Thank you.

1 The facts presented compel the Board to strongly
2 consider the propriety of nominating petitions
3 (inaudible due to telephonic interference)
4 Maritza Zermeno. The irregularities outlined
5 above affect approximately 73 or 1,491 of the
6 2,978 signatures filed by Ms. Norton on March 4,
7 2020.

8 Eliminating the tainted petitions
9 submitted by Ms. Zermeno would leave Eleanor
10 Holmes Norton with only 1,487 signatures, well
11 below the 2,000 signature threshold needed for
12 ballot access. The Board's application of the
13 clean hands doctrine for all nominating petitions
14 submitted by Ms. Zermeno would, in fact, follow
15 its own precedent established in Dorothy Brizill,
16 et al., Challengers, versus Anthony Williams.
17 Thank you.

18 CHAIR BENNETT: Thank you. Ms.
19 Stroud, do you want to continue with the next?

20 MS. STROUD: Sure. Delegate Norton,
21 you have five minutes, we hope the sound is
22 better. The last two speakers we heard sounded

1 okay, so if you could present your case, and if
2 you need additional time to do so, just take the
3 time. Thank you.

4 CANDIDATE RESPONSE

5 DELEGATE NORTON: I appreciate the
6 opportunity that the Board has given us and the
7 way you have set up this hearing. I note that in
8 the memorandum filed by the registrar of voters,
9 it says, and I quote, my review of these
10 challenges indicates that even if every one of
11 the 858 challenges were valid, Ms. Norton would
12 still meet the requisite number to qualify for
13 ballot access.

14 I have listened and tried to take
15 notes as to what the challenger has said. Two
16 challenges were presented on different days.
17 They were essentially redundant of one another.
18 Some of the content was frivolous, for example
19 that some of the signatures were collected even
20 before the date that the registrar made petitions
21 available.

22 I have outlined those in my response.

1 The gravamen of what the challenger has presented
2 today is -- does nothing to refute the initial
3 finding of the registrar of voters. It seems to
4 be that Ms. Zermeno collected two and a half
5 times more than her husband or any other of those
6 who collected signatures. I would invite this
7 challenger to go back to the decades in which I
8 have been running for Congress. During that
9 time, there have been some who collected
10 signatures for me that were many more than the --
11 than Ms. Zermeno collected. I do not find it
12 unreasonable, nor is there anything illegal or
13 fraudulent -- collecting two and a half times
14 more signatures than her husband.

15 The only question before the Board is
16 are those signatures valid? The burden is on the
17 challenger to show that those signatures are
18 valid or not valid. She has failed to meet that
19 burden.

20 The fact that Eleanor Holmes Norton's
21 signature does not look exactly as it did when
22 she signed it at one time before does not mean

1 that the signature is -- and she uses the word
2 fraudulent. To be fraudulent would mean that
3 someone else was using the name of that person to
4 sign for the -- to sign the petition.

5 The only evidence, if you can call it
6 evidence, that has been submitted is the number
7 that were retrieved, the number that Ms. Zermeno
8 was able to, in fact, procure. She had some time
9 to procure them. She explained, in our last
10 meeting, that she used several clipboards. That
11 is a tried and true way to collect lots of
12 signatures at one time, going not door to door,
13 but going to meetings where there would be a
14 number of people who are Norton supporters, who
15 would willingly sign her petition and passing
16 them out and witnessing them.

17 Not only is it not unusual for a
18 person, and I'm quoting, to get two and a half
19 times more than her husband, I am not sure how
20 her husband got to be some kind of standard. He
21 is not held to a certain number, while she must
22 collect another number.

1 That she was more active than he says
2 nothing about the signatures or the veracity of
3 those signatures. The use of the word fraudulent
4 is misplaced. A signature is fraudulent if you
5 sign someone's name that is not that name. The
6 burden is on this challenger to show that, in
7 fact, occurred.

8 Again, I was trying to take notes here
9 as to what was said, but having heard what was
10 said, I do not find that anything was said -- and
11 remember where the burden lies. It certainly
12 does not lie with me -- anything that was said to
13 overcome what the registrar has already found. I
14 thank you.

15 MS. STROUD: Thank you, Delegate
16 Norton.

17 BOARD QUESTIONS

18 CHAIR BENNETT: This is a time where
19 the Board would have -- if we have any questions,
20 we would ask questions of -- in this case, we'll
21 just ask questions of either party. I have one.
22 That's with the challenger.

1 Can you tell me again your basis that
2 -- regarding the point that the husband collected
3 more signatures than the wife did? Can you
4 explain to me again the issues that, from your
5 perspective, show that there's some kind of fraud
6 or something that says the signatures may not be
7 valid based on that?

8 MS. FERNANDEZ-WHITNEY: Ms. Zermeno
9 testified, on Friday, March 20th, that her
10 husband accompanied her and they gathered
11 signatures as a team.

12 CHAIR BENNETT: So the premise is that
13 since they were gathering signatures as a team,
14 they should have been -- they should have roughly
15 gathered about the same number.

16 MS. FERNANDEZ-WHITNEY: Correct.

17 DELEGATE NORTON: There's no evidence
18 of that. I thought she said two and a half more
19 times -- that Ms. Zermeno collected two and a
20 half more times than her husband.

21 CHAIR BENNETT: Ms. Norton, I was just
22 asking the question to get an answer. I'm sorry

1 for interrupting you. The other -- that's the
2 only question I think I have for the challenger.
3 Ms. Greenfield, do you have any questions for the
4 challenger?

5 MEMBER GREENFIELD: No, I don't. I
6 think you asked the one that I was wondering
7 about.

8 CHAIR BENNETT: Okay. Ms. Norton, I
9 don't have any questions for you with regard to
10 your presentation. I think it's time for
11 closing. Is that correct, Ms. Stroud?

12 MS. STROUD: That is correct. Ms. --

13 CHAIR BENNETT: I'm sorry. Ms.
14 Greenfield, do you have any questions for Ms.
15 Norton? I'm sorry.

16 MEMBER GREENFIELD: No, I don't, thank
17 you.

18 CHAIR BENNETT: Okay, thanks.
19 Closing, then, thank you.

20 WITNESS STATEMENT

21 MS. STROUD: Before we get to that,
22 Mr. Chair, I would just ask if Ms. Zermeno, who

1 was present during the prehearing conference, is
2 present on the line, as well?

3 Hello? Ms. Zermeno, are you there?

4 MS. ZERMENO: This is Ms. Zermeno.

5 MS. STROUD: Hi, Ms. Zermeno. You
6 testified during the prehearing conference as to
7 your signatures. Could you present what you said
8 during the prehearing conference for the record
9 regarding the circumstances under which you
10 collected your signatures?

11 MS. ZERMENO: I collected most
12 people's signatures (inaudible due to telephonic
13 interference) because sometimes I had (inaudible
14 due to telephonic interference) clipboards, or
15 sometimes three clipboards, but I do not --

16 (Simultaneous speaking.)

17 MS. STROUD: First, could you -- Ms.
18 Zermeno, first, could you -- I'm sorry, Ms.
19 Zermeno, to stop you. First, could you state
20 your name and address for the record?

21 MS. ZERMENO: My name is Maritza
22 Zermeno, and my address is 9233 Forest Haven

1 Drive, Alexandria, Virginia 22309.

2 MS. STROUD: Thank you, Ms. Zermeno.
3 This is Ms. Stroud. Again, if everyone that is
4 not speaking, and the only person that should be
5 speaking at this time is Ms. Zermeno, could you
6 mute your phone, please?

7 MS. FERNANDEZ-WHITNEY: Question, Ms.
8 Stroud, question.

9 MS. STROUD: Yes.

10 MS. FERNANDEZ-WHITNEY: Will be Ms.
11 Zermeno be sworn in before you take her
12 testimony?

13 MS. STROUD: Yes.

14 MS. FERNANDEZ-WHITNEY: Thank you.

15 MS. STROUD: Ms. Zermeno, will you
16 swear or affirm that the testimony that you're
17 about to present is the truth, the whole truth,
18 and nothing but the truth?

19 MS. ZERMENO: I do.

20 MS. STROUD: Please continue, Ms.
21 Zermeno.

22 MS. ZERMENO: The names I collected

1 signatures is about two or three (inaudible due
2 to telephonic interference) I am the only one who
3 signed the petition on my name. My signatures
4 may not always be exactly the same because when
5 you sign more than ten petitions at the same
6 (inaudible due to telephonic interference) you
7 know, in the cold, my signature might be
8 different, but I think of all the signatures are
9 from my handwriting, and I'm not competing with
10 my husband, and my husband is not competing with
11 me.

12 I tend to call more than my husband.
13 Sometimes I'm just collecting signatures myself,
14 and sometimes he's just collecting signatures
15 himself. We're not competing. I don't
16 understand why I need to have the same exactly
17 signature as he has or he has to have same
18 signatures that I have.

19 MS. STROUD: Ms. Zermeno, I have a few
20 questions for you for the record. Did you
21 personally circulate each of the petitions that
22 you signed?

1 MS. ZERMENO: Yes.

2 MS. STROUD: Did you personally
3 witness each person sign the petition for which
4 you signed circulator affidavits?

5 MS. ZERMENO: I did.

6 MS. STROUD: Thank you, Ms. Zermeno.
7 Ms. Fernandez-Whitney, do you have any questions
8 for the witness?

9 MS. FERNANDEZ-WHITNEY: Yes. Ms.
10 Zermeno, it's true (inaudible due to telephonic
11 interference) others signing complete the
12 circulator affidavits on February 8th, February
13 9th, February 12th, February 23rd, February 29th,
14 and March 1.

15 MS. ZERMENO: I could not understand
16 the first part of your question.

17 MS. FERNANDEZ-WHITNEY: It's true, Ms.
18 Zermeno, is it not, that you allowed others,
19 other people, to sign and complete the circulator
20 affidavits on February 8th, February 9th,
21 February 12th, February 23rd, February 29th, and
22 March 1?

1 MS. ZERMENO: Are you asking me if I
2 had other people to collect signatures for me?

3 MS. FERNANDEZ-WHITNEY: Did you, yes
4 or no?

5 MS. ZERMENO: No, I did not. All the
6 signatures that I have my name, I collect the
7 signatures.

8 MS. FERNANDEZ-WHITNEY: The forensic
9 document examiner concluded that the signatures
10 of the petition signed by you on that date were
11 not, in fact, your authentic signature.

12 MS. ZERMENO: I cannot answer that.
13 I don't see the documents that you're referring
14 to, but if I said it under oath that those are my
15 signatures, they're my signatures.

16 MS. FERNANDEZ-WHITNEY: I'm just
17 pointing to the record that the evidence
18 submitted document the opposite. Thank you.

19 MS. ZERMENO: Are you suggesting that
20 I asked somebody to forge my signature?

21 MS. STROUD: Ms. Fernandez-Whitney,
22 Ms. Zermeno, I'm sorry to interrupt you, but I

1 have a question as to whether or not the forensic
2 examiner that was brought by Ms.
3 Fernandez-Whitney is on the line, Beverley East.
4 Is Beverley East on the line?

5 MS. FERNANDEZ-WHITNEY: Beverley East
6 is not on the line because the communication from
7 Mr. McGann said that the Board only intended to
8 hear from Maritza Zermeno. If the Board would
9 like Ms. East on the line, they should subpoena
10 her, and we can get her on the line.

11 MS. STROUD: Okay so she's not present
12 on the line. Thank you.

13 CHAIR BENNETT: The written response
14 by the handwriting expert is sufficient. I would
15 assume they would say the same thing that they
16 noted earlier. I'm fine that they're not on the
17 line. Thank you. This is Chairman Bennett.
18 I'll take that into account.

19 MS. STROUD: At this point, I think we
20 can move ahead, unless the Board members have any
21 questions for Ms. Zermeno, we can move forward
22 with the closing arguments.

1 CHAIR BENNETT: No, none for me, thank
2 you. Ms. Greenfield?

3 MEMBER GREENFIELD: None for me. No,
4 none for me.

5 CLOSING ARGUMENTS

6 MS. STROUD: Ms. Tori
7 Fernandez-Whitney, if you could give your closing
8 testimony. You have three minutes.

9 MS. FERNANDEZ-WHITNEY: Thank you.
10 This challenge was filed to ensure the integrity
11 of the nominating petition process. The evidence
12 of forgery and showing an appearance of fraud
13 related to petition circulator Maritza Zermeno
14 effectively pollutes her role in the nominating
15 petition process.

16 In addition, the facts presented
17 compel the Board to strongly consider the
18 propriety of all nominating petitions submitted
19 by Maritza Zermeno. The irregularities outlined
20 in the evidence presented affect approximately
21 1,491 signatures of the 2,098 signatures -- I'm
22 sorry, 2,978 signatures filed by Ms. Norton.

1 Eliminating the tainted petitions submitted by
2 Ms. Zermeno would leave Eleanor Holmes Norton
3 with only 1,487 signatures, well below the 2,000
4 signature threshold needed.

5 The Board's application of the Clean
6 Hands doctrine for all nominating petitions
7 submitted by Ms. Zermeno (inaudible due to
8 telephonic interference) follow its own
9 (inaudible due to telephonic interference) in
10 Dorothy Brizill, et al., Challengers, versus
11 Anthony Williams.

12 In addition, because Ms. Norton has
13 now opened the door, my second challenge, I will
14 say, at this time, that the second challenge
15 encapsulates the widespread fraudulent activity
16 that is present in all of Ms. Norton's nominating
17 petitions. I would urge the Board to take all of
18 those factors into consideration as they consider
19 the seriousness of the evidence presented. Thank
20 you.

21 MS. STROUD: Delegate Norton, you have
22 three minutes to present your closing argument.

1 Delegate Norton, are you still on the line? Are
2 you muted? If you are on mute, if you could
3 please unmute yourself.

4 MR. LEGETTE: Terri, this is Randy.
5 She is not on the call listed as a participant.

6 MS. STROUD: Well, we have her
7 testimony. I think that should be sufficient.
8 She can opt not to present a closing argument in
9 this matter.

10 CHAIR BENNETT: Does someone have a
11 telephone number or email for her --

12 (Simultaneous speaking.)

13 MS. STROUD: Yes, Rudy's going to go
14 and call her.

15 (Simultaneous speaking.)

16 MS. STROUD: We will call her
17 representative.

18 CHAIR BENNETT: Let's put this on
19 pause until we can get her back on the line, or
20 whoever's going to make her closing.

21 MS. STROUD: Okay.

22 MR. TOURE: Okay, question.

1 MS. FERNANDEZ-WHITNEY: Point in
2 question, please.

3 CHAIR BENNETT: Yes.

4 MR. TOURE: This is Sekou Toure.

5 MS. PELT: Ms. Norton got connected.
6 I'm trying to get her back on the line now. We
7 got connected -- disconnected.

8 MS. STROUD: Okay, thank you. Your
9 point in question, Mr. Toure?

10 MR. TOURE: Because she was knocked
11 out inadvertently and didn't hear what -- and
12 would not be able to respond to Ms.
13 Fernandez-Whitney's closing, or Ms. Zermeno's
14 testimony, would it be prudent or wise to just
15 continue this -- suspend now, and then continue,
16 and then also consolidate this first and second
17 challenge as to not waste any more time on
18 (inaudible due to telephonic interference) issue
19 and -- for consistency purposes. That's just a
20 point, question in the form of a conciliatory
21 motion to the body.

22 CHAIR BENNETT: What I'd like to do is

1 to get Ms. Norton back on the line, see what she
2 did hear and didn't hear. I don't want to
3 prejudice any party. I'd like to see if she
4 feels prejudiced by simply making a closing
5 statement based on what she has been a part of or
6 what she did hear in the proceedings.

7 MR. TOURE: My assumption is that
8 you're concerned about trying to make sure that
9 she's not prejudiced. I wouldn't want either
10 party to be prejudiced. This communication is
11 bad enough as it is.

12 MS. PELT: I'm trying to get the
13 congresswoman back on the phone.

14 CHAIR BENNETT: Okay, we'll wait.

15 (Simultaneous speaking.)

16 MR. TOURE: Much appreciated. That is
17 my concern, prejudice. Thank you.

18 CHAIR BENNETT: Yes, thanks. We'll
19 try and keep that in mind. We'll just hold until
20 we can get Ms. Norton back on the phone.

21 (Simultaneous speaking.)

22 CHAIR BENNETT: Ms. Norton.

1 DELEGATE NORTON: Yes, I'm on.

2 CHAIR BENNETT: This is Michael
3 Bennett, the chair. What you may have missed is
4 we had testimony from -- sorry, the --

5 (Simultaneous speaking.)

6 MS. STROUD: Ms. Maritza Zermeno.

7 CHAIR BENNETT: We had testimony from
8 Ms. Zermeno, where she supported her -- gathering
9 the signatures herself. We also had a closing
10 argument from the challenger that indicated that
11 -- she focused primarily on the forensic report
12 that challenged the signatures. She concluded
13 her closing argument. Now, it's time for your
14 closing argument in the matter. The question
15 that we had was whether or not you're comfortable
16 moving forward with not having heard those or --

17 DELEGATE NORTON: I did hear that.

18 CHAIR BENNETT: I'm not sure what you
19 heard.

20 DELEGATE NORTON: I heard all of that,
21 and then I was cut off --

22 (Simultaneous speaking.)

1 CHAIR BENNETT: You're comfortable
2 moving forward with your closing as is.

3 DELEGATE NORTON: I am because I heard
4 most of what she said. I'm ready to move
5 forward. Again, I thank the Board for your
6 forbearance. There were two challenges, one
7 redundant -- the second redundant of the first.
8 You've heard what the challenger has said this
9 morning.

10 The burden is on the challenger. She
11 has not met that burden. She alleged that Ms.
12 Zermeno's petitions were not circulated by her,
13 offered no evidence except what she submitted
14 from a forensic examiner. However, Ms. Zermeno
15 has explained today and explained at our last
16 hearing the circumstances under which her
17 signature and, for that matter, the signatures of
18 others, were collected, sometimes standing,
19 sometimes in weather and the rest. There is
20 nothing that suggests that someone's signature
21 has to be photographically the same from time to
22 time.

1 In fact, this challenger has gone so
2 far as to suggest fraud, as if the challenger had
3 somehow, herself, submitted signatures that were
4 not the signatures as alleged. She has not even
5 begun to prove fraud, although she has used that
6 word more than once during this hearing.

7 In short, the burden has not been met
8 in either challenge. I ask the Board to indicate
9 that its initial review stands. That review says
10 that even if every one of the 858 challenges were
11 valid, Ms. Norton would still meet the requisite
12 number to qualify for ballot access. Thank you
13 very much.

14 CHAIR BENNETT: Thank you. Do you
15 have any -- I'll close out here. Ms. Greenfield,
16 do you have any questions, any closing questions
17 or comments for either the challenger or the
18 candidate?

19 MEMBER GREENFIELD: No, I just -- I
20 thank them for their time and bringing in this
21 Board, this process, but I don't have any other
22 questions.

1 CHAIR BENNETT: Neither do I. What
2 we'll do is we will close this session. I'm
3 going to close with a humble apology for the
4 communications. We are trying our very best to,
5 in this emergency, to continue on with business.
6 I appreciate your tolerance of the process.

7 We're going to get better at this.
8 This is not something we anticipated a few weeks
9 ago. What I want to do is to get a motion from
10 Ms. Greenfield to close the meeting. We're going
11 to have a closed session, an executive session,
12 just to discuss the evidence.

13 We do have all of your evidence that
14 you presented. We're going to have a discussion
15 around that, and also make a decision. What I'd
16 like to do is to give you a verbal decision at
17 some point this afternoon, and then a written
18 decision will end up following that.

19 MS. STROUD: Mr. Chair, this is Terri.
20 If you would like to go into executive session to
21 vote, we can do that -- not to vote, but to
22 deliberate. Then you can come back on the record

1 to give your vote, if you would like to do that.
2 If you want to go into executive session, you
3 will need to do a roll call vote to go into
4 executive session to deliberate on the matter.

5 CHAIR BENNETT: I'm good with that.
6 I think we need to have a roll call vote to go
7 into executive session. Ms. Greenfield, can I
8 get your vote to go into executive sessions?

9 MEMBER GREENFIELD: Yes, you have my
10 vote to go into executive session.

11 CHAIR BENNETT: Okay, that's two, so
12 that's a quorum and a majority. If you would
13 like, I am happy to come back on the call --

14 MR. SINDRAM: Hello --

15 CHAIR BENNETT: -- if people want to
16 wait --

17 MR. SINDRAM: -- Mr. Chair?

18 CHAIR BENNETT: Yes.

19 MR. SINDRAM: A point of order before
20 you do that. I had difficulty today getting
21 through to you all. There's no exchange. It
22 doesn't work for me. I wanted to make you aware

1 so in the future, I don't have this technical
2 glitch, if you will. I've made Ms. Jennings
3 aware of it. She tells me Octo connected
4 previously. There was no problem, but there is
5 now. It's a toll call to my number, and I
6 shouldn't have to absorb a cost to be able to
7 weigh in to this public meeting. I wanted to
8 make you aware to remedy it, so we don't have
9 discussion again. Again, Michael Sindram --

10 (Simultaneous speaking.)

11 CHAIR BENNETT: Thank you, Mr.
12 Sindram. We're going to -- we had a vote to go
13 into executive session, and we're going to do
14 that. I will ask, to avoid trying to --

15 (Simultaneous speaking.)

16 MS. PELT: -- question.

17 CHAIR BENNETT: -- continue
18 communicating with this, I'm going to ask Ms.
19 Stroud or Mr. McGann to talk to the parties after
20 we close this session to see if you'd like to
21 come back on the line and get a verbal vote from
22 us or if you're okay with us doing a vote in

1 executive session and making you guys aware.

2 MS. STROUD: Mr. Chair, you will have
3 to come back on the record to vote, so should we
4 just say that we'll be back on the line and
5 people can call in at 12:30? Would that be
6 sufficient time?

7 CHAIR BENNETT: If that's okay with
8 the parties, 12:30's fine with me. It's up to
9 the parties would they have to come back at
10 12:30.

11 MR. TOURE: Point in question.

12 MR. SINDRAM: -- Mr. Chair.

13 CHAIR BENNETT: Can the parties come
14 back at 12:30, the challenger --

15 (Simultaneous speaking.)

16 DELEGATE NORTON: This is Eleanor
17 Norton. I can come back at 12:30.

18 CHAIR BENNETT: Okay.

19 MS. STROUD: Ms. Fernandez-Whitney?

20 MS. FERNANDEZ-WHITNEY: Yes. Am I
21 muted?

22 MS. STROUD: No, we can hear you.

1 MR. TOURE: I had a point in question.

2 MR. TOURE: Is that allowed?

3 CHAIR BENNETT: Yes.

4 DELEGATE NORTON: Who is this?

5 MR. TOURE: In light of the previous
6 gentleman that was speaking -- I didn't even know
7 who that was. In light of his position that he
8 could not hear and there was difficulties, I want
9 to renew the motion -- the conciliatory motion
10 about (inaudible due to telephonic interference)
11 and whether Ms. Fernandez-Whitney's full brunt of
12 her argument was even heard by all parties. I
13 want to renew that motion of continuance and
14 consolidation.

15 MS. STROUD: The parties heard and are
16 aware. That was a member of the public. This is
17 a public hearing, so members of the public can
18 attend. The parties were aware of all of the
19 proceedings.

20 MS. FERNANDEZ-WHITNEY: We are happy
21 to come back at 12:30.

22 MS. STROUD: Thank you. The Board

1 will -- Mr. Chair, continue.

2 CHAIR BENNETT: Yes, we're going to
3 close this session and go into executive session,
4 and then we'll continue at 12:30. Thank you all,
5 and again, my apologies for the communication.
6 We'll try and do better in the next 20 minutes.
7 Thank you.

8 (Whereupon, the above-entitled matter
9 went off the record at 12:06 p.m. and resumed at
10 12:31 p.m.)

11 CHAIR BENNETT: Okay, I think we have
12 all parties on the call now. What I'll do is
13 I'll take a motion from Member Greenfield to come
14 out of executive session.

15 MEMBER GREENFIELD: I move we come out
16 of executive session.

17 CHAIR BENNETT: It's properly moved
18 and second. We are now out of executive session.
19 What I would like to do now is to let the parties
20 know we've had deliberation on the matter. I'd
21 like to, for the record, do a roll call vote to
22 accept or to deny the challenge. Ms. Stroud, is

1 there anything else I need to take care of before
2 we do the roll call?

3 MS. STROUD: No, you have exited
4 executive session and taken a roll call vote for
5 the purposes of doing so. Now, it's just
6 appropriate time for delivery of your ruling in
7 the matter, if you have reached one.

8 CHAIR BENNETT: Great, we have. Ms.
9 Greenfield, do you deny or accept the challenge?

10 MEMBER GREENFIELD: I deny the
11 challenge.

12 CHAIR BENNETT: Okay, thank you. This
13 is Chairman Bennett. For the record, I deny the
14 challenge, as well. Since we have a quorum,
15 that's full complement, so the challenge to Ms.
16 Norton's candidacy or to her petitions has been
17 denied. There'll be a full order issued by March
18 27th, I believe it is, Ms. Stroud.

19 MS. STROUD: That is correct.

20 CHAIR BENNETT: My thanks for the
21 parties in their patience with regard to this
22 teleconference. We're trying to do all kinds of

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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: 03-25-20

Place: teleconference

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Court Reporter

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