

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
+ + + + +
ROLL CALL HEARING

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IN THE MATTER OF: :
 :
2335, LLC :
t/a Power Night :
Club/Lounge/Restaurant :
2335 Bladensburg Road NE :
Retailer CT :
License No. 104228 :
Case #22-PRO-00150 :
 :
(License Renewal) :
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Monday
December 12, 2022

The Alcoholic Beverage Control Board
met via WebEx videoconference, LaVerne Fletcher,
Board's Agent, presiding.

PRESENT:

LAVERNE FLETCHER, ABRA Board's Agent

ALSO PRESENT:

SIDON YOHANNES, Applicant Counsel
DENESHA MILLER, Protestant
GILBERT SMITH, Protestant

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

2 10:42 a.m.

3 MS. FLETCHER: There's one more case
4 on the calendar today and that case is Power
5 Night Club/Lounge/Restaurant 2325 Bladensburg
6 Road NE. License number ABRA 104228. This is a
7 Retailer Class CT license renewal.

8 The protest issues are adverse impact
9 on peace, order and quiet.

10 My name is LaVerne Fletcher conducting
11 the roll call hearing as the Board's agent. Is
12 anyone present on behalf of the establishment?

13 MS. YOHANNES: Yes, good morning.
14 Sidon Yohannes present on behalf of the licensee
15 and that's S-I-D-O-N Y-O-H-A-N-N-E-S.

16 MS. FLETCHER: Thank you and is the
17 protestant present? Ms. Miller, are you present?

18 MS. MILLER: Sorry, I was trying to
19 get off mute. Yes, Denesha Miller that is D-E-N-
20 E-S-H-A Miller. I'm the president of the Adams
21 Row HOA Association. I do believe we have some
22 others that are on.

23 MS. FLETCHER: Well, Ms. Miller, we
24 only received the protest letter from you. Okay?

25 MS. MILLER: Okay.

1 MS. FLETCHER: Just making sure that
2 I don't have any other protest letters from
3 anyone else. I'm just making sure that there's
4 not someone (Simultaneous speaking.)

5 MS. MILLER: Yeah, I know some others
6 were sent. Gilbert, are you on and able to come
7 off mute?

8 MS. FLETCHER: Yeah, I don't have a
9 protest letter from anyone else, but let me get
10 the name of person.

11 MS. MILLER: Okay.

12 MR. SMITH: So, good morning, this is
13 Gilbert Smith.

14 MS. FLETCHER: Gilbert. Mr. Smith,
15 would you spell your name for the record, please?

16 MR. SMITH: Gilbert is G-I-L-B-E-R-T.
17 Last name Smith S-M-I-T-H.

18 MS. FLETCHER: Thank you and there's
19 someone else?

20 MR. SMITH: May I just, just for
21 clarification I did submit a protest and it was
22 acknowledged by ABRA.

23 MS. FLETCHER: Okay, thank you. Thank
24 you, Mr. Smith. Is there anyone else? Okay, so
25 Ms. Miller, you're here. Mr. Smith, you're here.

1 Mr. Smith, I don't see a protest letter for you,
2 but I believe you, you say you sent one and it
3 was acknowledged by us, so I'm just going to get
4 the information that I need beyond today for the
5 record, though, that I have here in my
6 possession. Mr. Smith, do you by any chance know
7 when you filed your protest?

8 MR. SMITH: Yes, it was between
9 November 15 and November (Simultaneous speaking.)

10 MS. FLETCHER: Was it November 15?

11 MR. SMITH: Yes. It was acknowledged
12 by Martha Jenkins of the General Counsel Office
13 on the 18th and just further for the record,
14 there would be other representatives from the
15 community. I realize I have the link and a
16 couple of others have them. One other
17 representative that's on that hasn't been
18 acknowledged yet, but our ANC chair will be on as
19 well. She acknowledged the protest, but there
20 was quite a bit of confusion in terms of
21 communication on whether this was virtual, just
22 for the record.

23 MS. FLETCHER: Okay. One second.
24 Okay, so Mr. Smith, what I've written here is
25 that on November 15, 2022, is when you filed your

1 protest and that it was acknowledged by Martha
2 Jenkins on November 18, 2022. What did you say
3 about the ANC?

4 MR. SMITH: Jackie Manning is our ANC
5 commission.

6 MS. FLETCHER: You believe she filed
7 a protest as well?

8 MR. SMITH: No, she was copied on the
9 protest so she was (Simultaneous speaking.)

10 MS. FLETCHER: Oh she was copied on
11 the one you filed?

12 MR. SMITH: Correct as well as Council
13 Member McDuffy's office as well.

14 MS. FLETCHER: Council Member
15 McDuffy's office was copied and, Mr. Smith, the
16 protest letter that you filed just had your
17 signature?

18 MR. SMITH: It was from my wife and
19 myself.

20 MS. FLETCHER: Okay and what's your
21 wife's name?

22 MR. SMITH: Cindy C-I-N-D-Y.

23 MS. FLETCHER: And so, I don't have
24 the letter in front of me, Mr. Smith, so I just
25 have a question for you. How did you file your

1 protest? Did you file it as neighbors, living
2 close by? How did you file it? Just as
3 neighbors or persons living near by the
4 establishment? Did you file it as abutting
5 property owners? I'm just trying to get a sense
6 of the basis.

7 MR. SMITH: No problem. I just wanted
8 to let you finish your statement.

9 MS. FLETCHER: Okay, I'm done.

10 MR. SMITH: I filed it. (Simultaneous
11 speaking.) I'm sorry. I'm just trying not to
12 talk over you. I filed it as a 30 plus year
13 resident that lives within 500 feet of the
14 establishment. I literally can see the
15 establishment from the front of my house and it
16 probably is, well, within 500 feet.

17 MS. FLETCHER: And, Ms. Miller --

18 MR. SMITH: Does that answer your
19 question?

20 MS. FLETCHER: Yes. Ms. Miller?

21 MS. MILLER: Yes?

22 MS. FLETCHER: I read in your protest
23 letter that you also live within 500 feet of the
24 establishment. Is that the reason that you filed
25 your protest as well --

1 MS. MILLER: That's correct.

2 MS. FLETCHER: Because of how close
3 you live?

4 MS. MILLER: That's correct. As
5 stated, I'm the president of the HOA subdivision
6 here and so I represent 22 condo and townhome
7 properties that are also within 500 feet or a
8 mile or less of Power Night Club.

9 MS. FLETCHER: And your protest, Ms.
10 Miller, was based on the establishment having an
11 adverse impact on peace, order and quiet and
12 residential parking. Is it the same for yours,
13 Mr. Smith?

14 MR. SMITH: Yes, in summary, that is
15 correct. If you like, I can go through the
16 protests (Simultaneous speaking.)

17 MS. FLETCHER: I'll get your protest
18 letter when I get back to my office. Thank you.

19 MR. SMITH: All right, but in short,
20 yes, in answer to your question.

21 MS. FLETCHER: So what I'm going to
22 do, I'm going to read to you the definition, and
23 this is very short, of what an abutting property
24 owner is because what happens when you file a
25 protest of an ABRA, if you're going to file as an

1 individual or anyone is going to file where
2 there's a group of less than two, those protests
3 are dismissed unless you're claiming to be an
4 abutting property owner, but I want to give you
5 the description of that first. It's just a very
6 short description.

7 It means any property where the
8 property line is a boundary or boundary point in
9 common where the walls touch and so from what
10 you're describing now it sounds like you would be
11 too far away for the walls to touch. You would
12 need to be abutting where your ceiling would
13 touch the floor or, but you get the idea in order
14 to file a protest of less than a group of five.
15 Did you have any questions about that?

16 MS. MILLER: No, that's fine. Again,
17 I think we more than meet that, of course, as I'm
18 the president of HOA in 22 plus units and then
19 within a community that's also very interested in
20 this matter.

21 MS. FLETCHER: And so, Ms. Miller, in
22 your case, you filed the protest as an
23 individual. I have your protest letter where you
24 signed it as an individual and so in your case,
25 your property, your address, what has to abut

1 that Power Night Club.

2 MS. MILLER: Okay. (Simultaneous
3 speaking.) No, so I wouldn't meet that, you're
4 right. Would not meet that classification, I'm
5 not attached to that property, but the other
6 items certainly as far as parking and noise and
7 things.

8 MS. FLETCHER: I'm going to give you
9 some other information in a moment. Mr. Smith,
10 does the same apply to you? You mentioned that
11 you and your wife are approximately 500 feet
12 away, so that means that your property does not
13 abut that of the establishment?

14 MR. SMITH: That is correct.

15 MS. FLETCHER: So the protest filed by
16 you, Ms. Miller and Mr. Smith and your wife,
17 Cindy Smith, those protests are dismissed. They
18 have to be dismissed because you're not abutting
19 property owners, but I read your complaint at
20 least, Ms. Miller, and it sounds like you already
21 know about the option to take up your noise
22 complaint, etc., with the Enforcement Division.
23 Am I right about that?

24 MS. MILLER: No, what would be the
25 process for that? Is there a separate?

1 MS. FLETCHER: Yes.

2 MS. MILLER: Office for that and
3 people? Could you provide their contact
4 information?

5 MS. FLETCHER: Yes, there's a separate
6 process for that. You could even use the same
7 letter; you too, Mr. Smith. You could even use
8 the same letter that you filed as a protest as a
9 complaint. With the Enforcement Division, you
10 would be filing a complaint. The complaint will
11 be what you said in your protest letter and once
12 you do that, the Enforcement Division will assign
13 the case to an investigator.

14 An investigator will come out and
15 investigate your allegations. Once the
16 investigator has completed his/her investigation,
17 the investigative report goes to the ABC Board to
18 determine what should be the next course of
19 action.

20 You would receive a copy of the
21 investigative report, but the Board would decide
22 what happens next. But, that's what happens when
23 you file a complaint with the Enforcement
24 Division, which you can do at any time.

25 I'm actually going to have to, so Ms.

1 Miller --

2 MS. MILLER: Just so I'm clear, I
3 thought that this meeting was in order to protest
4 the additional extended hours of Power Night Club
5 during the week which also extends their beverage
6 and liquor license. (Simultaneous speaking.)

7 MS. FLETCHER: Ms. Miller? Ms. Miller
8 could you repeat that?

9 MS. MILLER: Sorry. I thought the
10 purpose of this meeting was to protest the
11 application that Power Night Club has filed in
12 order to extend their hours and also to extend
13 their beverage servicing hours during that time.
14 So, that was what myself and Mr. Smith filed our
15 protest in regards to because that's what we
16 received that the purpose of today was, to have a
17 protest for the extension of that. Now, I'm
18 sorry, did you say it was abutment? That was not
19 in reference to what was on the actual docket for
20 today. (Simultaneous speaking.)

21 MS. FLETCHER: So the case for today
22 is related to the license renewal. I'm not
23 familiar with the extension of hours that you're
24 referring to Ms. Miller. Was there a placard
25 posted for that?

1 MR. SMITH: Yes, yes there was.

2 MS. MILLER: Yes. (Simultaneous
3 speaking.)

4 MS. FLETCHER: There was a placard
5 posted for the -- what kind of placard? Do you
6 know what the placard notice said to be the
7 application, like this is a license renewal. Do
8 you recall what the placard said by any chance?

9 MS. MILLER: So it says, license class
10 type C, tavern. License number ABRA 104228.
11 Power Night Club and C5C04 has applied for the
12 renewal of an alcoholic beverage license at this
13 premise 2335 Bladensburg blah, blah, blah. A
14 hearing will be held on 12/12 and then there also
15 was a request for extending the hours to 2:00
16 a.m. on certain nights, but that's --

17 MS. FLETCHER: But that wasn't on the
18 same placard notice, right?

19 MS. MILLER: So, it says the date for
20 this discussion is 12/12, which I think is what
21 we thought was the purpose of this call today.
22 (Simultaneous speaking.) have on 12/12.

23 MS. FLETCHER: I'm sorry. I'm looking
24 at the placard notice for the license renewal. I
25 don't see anything on it related to the extension

1 of hours. Are you looking at something
2 different?

3 MR. SMITH: Well, this was dated
4 October 7.

5 MS. FLETCHER: Right October 7, was
6 the day it was posted on and it's the license
7 renewal and there's also an endorsement on here
8 related to a cover charge, dance and that's the
9 same one you're looking at?

10 MR. SMITH: Correct.

11 MS. MILLER: No, well (Simultaneous
12 speaking.)

13 MS. FLETCHER: I don't see any
14 extension of hours.

15 MR. SMITH: Well, let me just -- the
16 endorsement says cover charge, dance. Can I
17 share my screen?

18 MS. FLETCHER: Yeah, I'm looking it.
19 I have the placard.

20 MR. SMITH: Okay. No problem. And
21 then it has the hours of operation from 2:00 p.m.
22 to 2:00 a.m. Hours of sales/service 2:00 p.m. to
23 2:00 a.m. and the hours of entertainment from
24 2:00 p.m. to 2:00 a.m.

25 MS. FLETCHER: Yes.

1 MR. SMITH: Those were the
2 understanding of the extension of hours because
3 those -- well, the understanding was that that
4 was part of the hearing process. (Simultaneous
5 speaking.) I'm sorry just to clarify, we did not
6 have a notice, if someone could go on mute here,
7 I'm hearing an echo, if you're not muted.

8 MS. FLETCHER: What was the last thing
9 you said, Mr. Smith?

10 MR. SMITH: It was not our
11 understanding that those were the existing hours
12 that those hours were extended beyond the
13 original hours. (Simultaneous speaking.) I'm
14 sorry, go ahead.

15 MS. FLETCHER: No, go ahead. I'm
16 sorry.

17 MR. SMITH: Let me, if I may, give a
18 little further history. This was the second
19 hearing that I have participated with regard to
20 Power Night Club. In my protest letter, I gave
21 reference to the history associated with Power
22 Night Club.

23 I've attended a hearing before,
24 probably about two or three years ago, it's in
25 the letter, I just don't have the letter details

1 right now. That was with regard to an outside
2 garden and going through ABRA's website, it is
3 understood that that garden was approved during
4 that hearing process. The only other, well there
5 were some other investigations, but the only
6 other hearing is this hearing that was the
7 understanding to extend the hours.

8 MS. FLETCHER: Yeah, but this hearing
9 (Simultaneous speaking.)

10 MR. SMITH: I'm sorry. I'm sorry. We
11 may be in the wrong hearing to be honest with you
12 and that goes back to my original comment about
13 the confusion and the lack of responsiveness to
14 understand the process. If I may also add, there
15 was another protest letter by another family
16 within the community, I don't have that
17 information readily right now and they're not on
18 this particular call, because here -- let me just
19 try to explain it in this fashion.

20 MS. FLETCHER: Okay.

21 MR. SMITH: If we were clear on the
22 time, the agenda and the venue as far as virtual,
23 there would be many more people in our community
24 on this call. Fortunately, Ms. Miller shared the
25 link with me. I shared it with Ms. Cook, who is

1 also on and is in the community, but I started
2 that, you would have at least five at a minimum,
3 and more than that I would assure of that.

4 MS. FLETCHER: Okay, I understand
5 exactly what you mean. Let me ask, Ms. Cook?

6 MS. COOK: Yes, I'm here.

7 MS. FLETCHER: Ms. Cook?

8 MS. COOK: Yes.

9 MS. FLETCHER: Could you spell your
10 name for the record, please?

11 MS. COOK: M I-C-H-E-L-L-E Cook C-O-O-
12 K.

13 MS. FLETCHER: And, Ms. Cook, you're
14 here today because you filed a protest letter as
15 well?

16 MS. COOK: I did not. I live in the
17 community and I got --

18 MS. FLETCHER: Okay.

19 MS. COOK: The link and I want to be
20 a part of what's going on in our community.

21 MS. FLETCHER: Okay. I just wanted to
22 make sure. Okay, it's fine that you're present,
23 I just don't need to determine whether or not you
24 have standing as a protestant. Thanks for
25 coming.

1 MS. COOK: Yes.

2 MS. FLETCHER: So, Mr. Smith, I
3 understand what you mean. This hearing today is
4 related to the license renewal, but based on what
5 you're saying, there is or will be a substantial
6 change application related to the extension of
7 hours. In order to extend your hours, there's a
8 substantial change application that has to be
9 filed. It doesn't sound like that's the placard
10 that was posted.

11 The placard that was posted was for
12 the license renewal, which is the reason that
13 we're here today. So, let me ask you something -
14 - the protest filed by Ms. Miller, Mr. and Mrs.
15 Smith, those protests are dismissed today.
16 You'll get a Board order dismissing them for the
17 reasons that I stated already, that the
18 properties are not abutting. You'll have 10 days
19 to seek reinstatement of those protests if you
20 believe that you should have been granted
21 standing as a protestant. That'll be up to you,
22 you'll have that option. You'll get the order,
23 if you don't seek reinstatement then the protests
24 just go away.

25 MS. MILLER: So, do I understand that,

1 this is Ms. Miller, in order to meet the
2 qualification for protest that your property has
3 to be abutting and so anything else that's
4 related to parking or noise or just general late
5 night traffic and foolishness, would not a part
6 of the abutting protest for the license renewal?

7 MS. FLETCHER: Well, yeah, it could
8 be. There would just need to be a group of at
9 least five individuals.

10 MS. MILLER: And so what about my role
11 as HOA president? Because I thought I said
12 Denesha Miller, Adams Row HOA, which is again is
13 22 units.

14 MS. FLETCHER: So, HOA's don't have
15 standing as a protestant. If you had filed as
16 the president of the HOA, then that protest would
17 have been dismissed because homeowners'
18 associations don't have standing as protestants,
19 but residents do.

20 MS. MILLER: Okay, so if I understand
21 the next steps is we need at least five people
22 and even if we don't meet the physical
23 qualification as far as the, was that word
24 abutment?

25 MS. FLETCHER: Uh-huh.

1 MS. MILLER: That we're filing for
2 noise, parking, etc., we can still do so if we
3 meet the minimum of five and we have 10 days --

4 MS. FLETCHER: Well, there was a
5 deadline to file a protest related to the license
6 renewal so that deadline has already passed, but
7 what you can still do is file a complaint with
8 the Enforcement Division and get them involved.
9 The deadline to file a protest for the license
10 renewal was November 21st.

11 MS. MILLER: Okay.

12 MS. FLETCHER: But you can still
13 pursue this through the Enforcement Division,
14 pursue your concerns through the Enforcement
15 Division.

16 MS. MILLER: Okay and you'll provide
17 that information or?

18 MS. FLETCHER: I don't have the chief
19 of enforcement's e-mail address, Ms. Miller, but
20 when I get back to my desk, I'll send it to you.

21 MS. MILLER: Okay and then so going
22 back to the matter at hand, this was for a
23 license renewal. It was not for an extension of
24 hours because that --

25 MS. FLETCHER: Exactly.

1 MS. MILLER: Did not change. Okay.

2 MS. FLETCHER: Exactly. (Simultaneous
3 speaking.) I don't know about the hours because
4 I don't see a before and after here. Normally,
5 of course, substantial change is going to have
6 before and after, but it's a different placard,
7 so as far as I can tell, this is for the license
8 renewal only.

9 MS. MILLER: Okay, I did check the
10 website and I see that the hours are the same so
11 it does not appear to be --

12 MS. FLETCHER: Okay.

13 MS. MILLER: A change in hours.

14 MS. FLETCHER: Exactly. So then, what
15 I'm going to do when I get back to my desk, Ms.
16 Miller, and I'll send this to you, too, Mr.
17 Smith, I'm going to send you the e-mail address
18 to our chief of enforcement. You can still
19 pursue your concerns, but it would have to be
20 that way.

21 MS. MILLER: And we can send them
22 pretty much the exact same letter, signed with
23 the e-mail contact information, okay?

24 MS. FLETCHER: Yes, just tell him that
25 you're filing a complaint. Well, your letter is

1 a complaint. It says that, but you can just let
2 him know that you're filing a complaint and the
3 letter that you sent already would be attached.

4 MR. SMITH: So, Ms. Fletcher, if I
5 could just add further clarity to the
6 acknowledgment of my letter from Ms. Jenkins.
7 She says, that she would forward my concerns to
8 the ABRA Chief of Enforcement, Derrick Brooks,
9 who was also copied on her acknowledgment and she
10 says, please feel free to contact him directly in
11 the future. So, it sounds like what you're
12 saying is my letter that I sent has already went
13 to the chief of enforcement. It should be,
14 according to this acknowledgment. So, I just
15 wanted to add that clarification.

16 I have another statement that I'm kind
17 of reserving, I'll just hold off. Well, I'll
18 just say it for the record. I'm a bit frustrated
19 in the process; however, I understand what you're
20 explaining, but I'm a native Washingtonian, I've
21 been here all my life, trying to do the right
22 thing and this is discouraging in terms of trying
23 to file a complaint, go through the process and
24 like.

25 I don't have that kind of time

1 unfortunately, but I understand we're all trying
2 to do our jobs and trying to do the right thing
3 for the community. It's just I can't spend that
4 kind of time. I'm already over in time, I have
5 work commitments and I know everybody has other
6 commitments as well.

7 I wish my ANC Chairman was on there
8 because I think she would be just as livid, but
9 nevertheless, I'm just saying that for the
10 record. We'll do what we can. It's just
11 becoming unfortunate in terms of the community
12 and what's going on in the community.

13 I don't have anything personally
14 against Power Night Club, but we need to have
15 peace and quiet regardless of the time. That's
16 all I have to say for now.

17 MS. FLETCHER: Thank you.

18 MR. SMITH: I need to drop off because
19 (Simultaneous speaking.)

20 MS. FLETCHER: Okay, Mr. Smith, well
21 thank you very much for coming.

22 MR. SMITH: All right, thank you.
23 Thank you.

24 MS. FLETCHER: You're welcome. So,
25 Ms. Miller, it sounds like Mr. Smith's letter was

1 copied to the chief of enforcement.

2 MS. MILLER: Mine was also actually,
3 but it looks like what happened is we each sent
4 in a letter and then there was an automatic
5 response saying we've received your letter, we're
6 going to forward it to such and such.

7 MS. FLETCHER: Oh, okay.

8 MS. MILLER: And at least I know for
9 my letter, it says that the letter would be
10 forwarded to -- I got a response from ABRA Legal,
11 Derrick Brooks was copied and it said that it
12 would be forwarded and that he was copied.

13 Then it further said, you know,
14 pursuant to the Alcoholic Beverage Control Board
15 will only accept protests and it did provide what
16 you need to do to do that protest, but Mr. Brooks
17 was copied in the response acknowledging receipt,
18 but I'm happy to send it to him again and then to
19 document that this is the second letter.

20 MS. FLETCHER: But you haven't heard
21 anything?

22 MS. MILLER: I have not.

23 MS. FLETCHER: Ms. Miller, do you have
24 the date of that letter of acknowledgment?

25 MS. MILLER: Yes, let's see, November

1 18th.

2 MS. FLETCHER: November 18. So,
3 November 18 is when the e-mail was copied to Mr.
4 Brooks. Okay and does his e-mail address show up
5 on the document?

6 MS. MILLER: Yes, I have it.

7 MS. FLETCHER: Okay, Ms. Cook, I see
8 your message. Take care. Thanks for coming.
9 Ms. Cook's signing off. I got a message in the
10 chat. Okay, Ms. Miller, you can send a follow
11 up, but I will send one from this end also.

12 MS. MILLER: Okay.

13 MS. FLETCHER: Anything else I can say
14 to further clarify what's happening here, Ms.
15 Miller?

16 MS. MILLER: No, I think I'm all set.
17 Thank you.

18 MS. FLETCHER: Okay, well thank you
19 for coming today. I will go ahead and conclude
20 this matter. If you think of anything else, just
21 send me an e-mail.

22 MS. MILLER: Okay, great. Thank you.

23 MS. FLETCHER: (Simultaneous
24 speaking.) Have a nice holiday.

25 MS. MILLER: Okay. Bye.

1 MS. FLETCHER: Thank you. Bye-bye.
2 The roll call hearing in this matter is
3 concluded.

4 MS. YOHANNES: Thank you.

5 MS. FLETCHER: You're welcome.

6 (Whereupon, the proceeding went off
7 the record at 11:11 a.m.)

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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: Power Night Lounge

Before: DC ABRA

Date: 12-12-22

Place: teleconference

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Court Reporter

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