

**DISTRICT OF COLUMBIA**  
**OFFICE OF ADMINISTRATIVE HEARINGS**  
One Judiciary Square  
441 Fourth Street, N.W., Suite 450N  
Washington, DC 20001-2714  
TEL: (202) 442-9094 FAX: (202) 442-4789 EMAIL: oah.filing@dc.gov

HARRY GURAL,

*Tenant / Appellant,*

v.

EQUITY RESIDENTIAL MANAGEMENT  
and SMITH PROPERTY HOLDINGS VAN  
NESS, LP,

*Housing Providers / Appellees*

Case No.: 2016-DHCD-TP-30,855

In Re: 3003 Van Ness Street, NW  
Unit S 707

**HOUSING PROVIDER’S OPPOSED MOTION TO QUASH SUBPOENA TO AVIS**  
**DUVALL**

Housing Provider/Respondent Smith Property Holdings Van Ness L.P. (“Housing Provider”), by undersigned counsel, submits this Motion to Quash Subpoena to Avis DuVall, and, in support thereof, states as follows:

**I. Relevant Background**

The instant case is a tenant petition dating back to 2016. By Order of February 19, 2020, *Harry Gural v. Equity Residential Management et al*, the Rental Housing Commission remanded the case “for further proceedings to provide the Tenant the opportunity to call Ms. DuVall as a witness regarding his retaliation claims arising from the demand to sign a new term lease and the initiation of an action for possession against the Tenant.” *See generally* RHC Order.

Since this case was remanded from the Rental Housing Commission, Mr. Gural has sought, and obtained, the following extensions:

(i) On July 26, 2021, Tenant filed a request to reschedule the evidentiary hearing in this matter to December 2021 or January 2022 because he “need[ed] more time to prepare due to much increased personal demands during COVID. I have been representing myself but I would like to hire an attorney, which is difficult for this issue.” *See* Order on Motion for Discovery at 1-3.

(ii) On October 7, 2021, Tenant filed a second request to reschedule the evidentiary hearing because he “need[ed] more time to find an attorney and to give the attorney time to catch up on the long case history. I have greatly increased family responsibilities due to COVID, which has slowed the process.” *See id.* at 3.

(iii) On January 28, 2022, Tenant filed a third request to reschedule the evidentiary hearing because he had “been out of town a lot due to COVID and have increases family responsibilities. I didn’t realize the deadline for documents is today. I have been working without an attorney so it will take longer to assemble my case. *See id.*

(iv) Tenant again missed the deadline to file his witness list or exhibits, so this honorable Court scheduled a pre-hearing conference on August 25, 2022. On August 10, 2022, Tenant filed a fourth request to reschedule the evidentiary hearing because he had “a heavy burden of family responsibilities caring for my elderly mother during COVID, including helping her move. I am working without an attorney, and must review hundreds of pages of documents as well as write legal filing (sic-filings) that compete against the filings of a corporate law firm.” *See id.* at 4.

(v) On November 10, 2022, Tenant filed a fifth request to reschedule the pre-hearing conference and evidentiary hearing due to a death in his immediate family. *See id.*

Housing Provider stated in its witness and exhibit list, filed December 5, 2023, that Avis DuVall was not an employee of Housing Provider at this time. *See* Witness and Exhibit List at 1 n.2. Mr. Gural acknowledged that statement in his list of Witness and Exhibits, filed at 11:50PM on December 15, 2023.<sup>1</sup>

On December 19, 2023, Mr. Gural filed a Motion to Issue Subpoenas of Avis DuVall, Frances Nolan, Julia Jackson, and Stacey Aguiar. *See* Generally Mot. to Issue Subpoenas. On December 22, 2023, this Honorable Court granted that request and stamped the subpoenas and sent them to Mr. Gural. *See generally* Order of Dec. 22, 2023. On or about January 18, 2024, Mr. Gural transmitted an email to Michael Princivil (Michael.princivil@dc.gov), attaching an affidavit of service on Ms. DuVall and seeking advice as to whether “service outside of a radius of 25 miles is considered binding” and whether he is “forced to request a postponement until she can be served differently or other arrangements can be made.” The email is attached as Exhibit B. The affidavit of service indicates that Ms. DuVall was served on or about January 13, 2023, in Mount Airy, MD, a location that is 39 miles<sup>2</sup> from the Office of Administrative Hearings. The affidavit is attached as Exhibit A.

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<sup>1</sup> The filing was late. A paper is considered filed with OAH when the Clerk’s office receives it during business hours. *See* OAH R. 2809.3. Here, Mr. Gural’s witness and exhibit list was not received during business hours until December 18, 2023. This rule applies to email filing as well. *See* OAH R. 2841.10: “The filing date for an e-mail filing received between 9:00 a.m. and 5:00 p.m. on any OAH business day will be the date it is received in the correct OAH mailbox. The filing date for an e-mail filing received at other times will be the next day that the Clerk’s Office is open for business. The date and time recorded in the correct OAH electronic mailbox shall be conclusive proof of when it was received.”

<sup>2</sup> Although the proper measure of subpoena power is “as the crow flies,” or, a straight line from the Court to the location, 6514 Detrick Road appears to be 49.9 miles by car from the Office of Administrative Hearings. *See* Google Maps screenshot, attached as Exhibit C.

## II. Argument

A subpoena must be served at least four calendar days before a hearing in an OAH matter. *See* OAH Rule 2824.7. Service of a subpoena for a witness to appear at a hearing shall be made by personally delivering the subpoena to the witness. *See id.* A subpoena may be served at any place within the District of Columbia, or at any place outside the District of Columbia that is within twenty-five (25) miles of the place of the hearing. *See id.* 2824.11. Non-party witnesses cannot be compelled to appear in court if they are outside the subpoena power of the court in which the action is heard. *See Deutz Corp. v. City Light & Power, Inc.*, 2006 U.S. Dist. LEXIS 100599 at \*9 (N.D. Ga. Aug. 15, 2006) (citing *Ramsey v. Fox News Network, LLC*, 323 F. Supp. 2d 1352, 1356 (N.D. Ga. 2004); *State Street Cap. Corp. v. Dente*, 855 F. Supp. 192, 198 (S.D. Tex. 1994)). To prove service of a subpoena, a party shall file a written statement, or shall provide in-court testimony describing the date and manner of service, and names of the persons served. *See id.* 2824.12. An Administrative Law Judge may quash or modify a subpoena if it was improperly served. *See id.* 2814.13(b).

Mr. Gural has served Ms. DuVall at a location well outside the subpoena power of this Honorable Court. Ms. DuVall does not work for Housing Provider. Ms. DuVall is not a party to this case. Ms. DuVall may not be compelled to appear in this Honorable Court because she is outside its subpoena power and was served more than 25 miles from the applicable location. Accordingly, the subpoena as to Ms. DuVall should be quashed. To the extent that Mr. Gural argues that as a *pro se* individual, he should be granted leeway, this is without support. Although District of Columbia courts treat *pro se* filings with a measure of leniency, *pro se* parties cannot be permitted to shift the burden of litigating to the courts, nor to avoid the risks that attend their decision to forego expert assistance. *See Macleod v. Georgetown Univ. Med. Ctr.*, 736 A.2d 977,

979 (D.C. 1999). Mr. Gural has been litigating this case since 2016. Mr. Gural was made aware of the fact that Ms. DuVall does not work for Housing Provider on December 5. Mr. Gural has sought, and obtained five continuances in this matter. *See* Order on Mot. for Discovery at 1-3 (“On November 10, 2022, Tenant filed a fifth request to reschedule the pre-hearing conference.”). The natural turnover of staff is a product of the passage of time, which has been exacerbated by Mr. Gural’s numerous delays in prosecuting this case.<sup>3</sup> For the foregoing reasons, the subpoena to Ms. DuVall should be quashed.

Dated: January 19, 2024

Respectfully submitted,  
GREENSTEIN DELORME & LUCHS, PC

/s/ Spencer B. Ritchie

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Spencer B. Ritchie (D.C. Bar No. 1673542)  
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Email: [rw1@gdllaw.com](mailto:rw1@gdllaw.com)  
Email: [sbr@gdllaw.com](mailto:sbr@gdllaw.com)  
*Counsel for Housing Providers / Appellees*

### **CERTIFICATE REGARDING CONSENT**

The undersigned sought consent from Petitioner by email on 1-19-2024. Petitioner stated that he will not consent.

/s/ Spencer Bruce Ritchie  
Spencer B. Ritchie

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<sup>3</sup> Mr. Gural will surely rely on the language of the RHC Order indicating that he should have the “opportunity” to call Ms. DuVall. Mr. Gural has had the opportunity. It is not the obligation of this Court to litigate this case for him to ensure that he can meet the procedural requirements to make Ms. DuVall attend the hearing.



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In Re: 3003 Van Ness Street, NW  
Unit S 707

**PROPOSED ORDER**

UPON CONSIDERATION, of Housing Provider's Motion To Quash Subpoena, it is this

\_\_\_\_\_ day of \_\_\_\_\_, 2024, hereby

**ORDERED** that the Motion is **GRANTED**.

**SO ORDERED.**

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ALJ Colleen Currie

Copies to all parties of record

# **EXHIBIT A**



**AFFIDAVIT OF PROCESS SERVER**

District of Columbia Office of Administrative Hearings

**Harry Gural**

Plaintiff(s),

VS.

**Equity Residential Management**

Defendant(s).

Attorney: NONE

Harry Gural  
3003 Van Ness St., NW, #S-707  
Washington DC 20008



\*309341\*

**Case Number: 2016-DHCD-TP 30,855**

Legal documents received by Same Day Process Service, Inc. on **01/09/2024** at **2:31 PM** to be served upon **Avis DuVall at 6514 Detrick Rd., Mount Airy, MD 21771**

I, **Richard Asaro**, swear and affirm that on **January 13, 2024** at **9:14 AM**, I did the following:

**Personally Served Avis DuVall** the person listed as the intended recipient of the legal document with this **Subpoena to Appear and Testify at a Hearing at 6514 Detrick Rd. , Mount Airy, MD 21771.**

**Description of Person Accepting Service:**

Sex: Female Age: 55-65 Height: 5ft4in-5ft8in Weight: 161-200 lbs Skin Color: African-American Hair Color: Black

**Supplemental Data Appropriate to this Service:**

I declare under penalty of perjury that the foregoing information contained in this affidavit is true and correct and that I am a professional process server over the age of 18 and have no interest in the above legal matter.

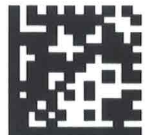
Sworn to and subscribed before me on

*January 17<sup>th</sup>, 2024*  
*Amanda Kay Main*  
X  
Notary Public

*Richard Asaro*

**Richard Asaro**  
Process Server  
**Same Day Process Service, Inc.**  
1413 K St., NW, 7th Floor  
Washington DC 20005  
(202)-398-4200  
info@samedayprocess.com

Internal Job ID:309341



**AMANDA KAY MAIN**  
Notary Public  
Frederick County  
Maryland  
My Commission Expires Nov. 10, 2024



# **EXHIBIT B**

## Spencer B. Ritchie

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**From:** Harry Gural <harrygural@gmail.com>  
**Sent:** Thursday, January 18, 2024 3:33 PM  
**To:** Michael Princivil  
**Cc:** Spencer B. Ritchie; Richard W. Luchs  
**Subject:** Question regarding subpoena -- 2016-DHCD-TP-30,855 - Harry Gural vs. Equity Residential  
**Attachments:** Affidavit of service for Avis Duvall.pdf

**CAUTION:** This is an external message. Please verify that it is a trusted source before replying, clicking links or opening attachments.

Mr. Princivil,

I am a pro se litigant and I have a question about the subpoena for a key witness in my case. Please note that I have cc'ed opposing counsel.

Her name is Avis Duvall, and she is the former property manager of the apartment building at 3003 Van Ness. Equity Residential's attorney, Greenstein, DeLorme and Luchs, report that Ms. Duvall no longer works for Equity.

My case was remanded by the Rental Housing Commission to OAH for the express purpose of giving me the opportunity to question Ms. Duvall. The RHC's Final Order states:

"The Commission vacates the Final Order in part and remands for further proceedings **to provide the Tenant the opportunity to call Ms. Duvall as a witness** regarding his retaliation claims arising from the demand to sign a new term lease and the initiation of an action for possession against the Tenant."

I requested of OAH the right to subpoena Ms. Duvall. The president judge granted my request in an order of Oct. 22, 2023. I hired a professional process server who -- after some difficulty due to the fact that Ms. Duvall no longer works for Equity and has also moved twice -- successfully served her on Jan. 13, 2023. See attached affidavit of service.

However, I note that OAH rules require that service be made within 25 miles of OAH. Ms. Duvall no longer works in the District and she resides in Mt. Airy, MD -- 39 miles from OAH. Furthermore, after being served Ms. Duvall threw the papers out her car window, and I have little confidence that she will respond to the subpoena.

What do OAH rules or conventions suggest in such a situation? Is service outside a radius of 25 miles considered binding in such a circumstance? Am I forced to request a postponement until she can be served differently or other arrangements can be made?

The hearing in my case is set to begin next Wednesday, Jan. 24th. For this reason, my procedural question is time sensitive. Can you please advise me about how to proceed?

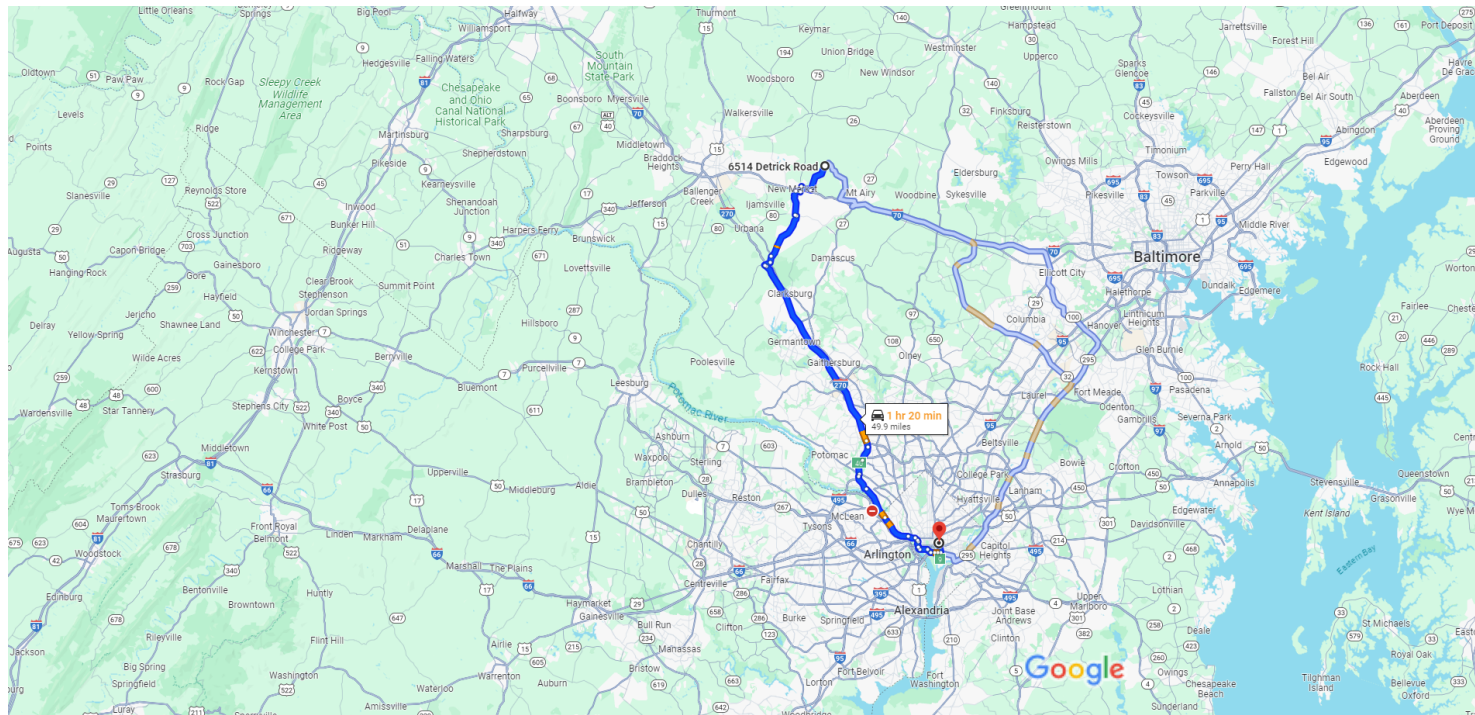
Harry Gural

# **EXHIBIT C**





6514 Detrick Rd, Mt Airy, MD 21771 to One Judiciary Square, 441 4th St NW, Washington, DC 20001


Drive 49.9 miles, 1 hr 20 min



Map data ©2024 Google 5 mi

 **via I-270 S** **1 hr 20 min**  
 Fastest route now, avoids road closures on George Washington Mem Pkwy 49.9 miles

 **via MD-32 E and Baltimore-Washington Pkwy** **1 hr 25 min**  
 63.3 miles  
 Slower traffic than usual

 **via I-70 E and Baltimore-Washington Pkwy** **1 hr 26 min**  
 66.0 miles  
 Slower traffic than usual

[See details about One Judiciary Square](#)

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