

**DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS**

Cover Sheet for Electronic Filing

I am filing the attached papers at the Office of Administrative Hearings.

1. Check one of the boxes below.

- The case number is: 2016 DHCD TP 30,855 This is a new case, and a case number has not yet been assigned.

2. Briefly describe the paper that you are filing:

Housing Providers' Motion To Quash Subpoena - Nolan

3. My name, mailing address, telephone number, and e-mail address are:

Name:	Richard W. Luchs, Esq. Spencer B. Ritchie, Esq.	Telephone:	202-452-1400
Address:	Greenstein DeLorme & Luchs, P.C. 801 17 th Street, NW, Ste. 1000	E-mail address:	rw1@gdllaw.com sbr@gdllaw.com
City, State, Zip:	Washington, DC 20006	Representing:	Respondent

I agree to receive documents from the court at my email address. Yes

4. You should complete this form, save it to your computer, and then attach it to an e-mail, along with the papers you are filing. The e-mail address for filing papers at OAH is oah.filing@dc.gov. Papers sent to any other e-mail address will **not** be accepted for filing.

I sent a copy of the attached papers to all other parties or their representatives as listed below.

Person to Whom the Papers Were Sent:

Harry Gural
3003 Van Ness Street NW
Apt. S-707
Washington, D.C. 20008

Method of sending:

- Mail
 Fax (Give Fax number) _____
 Hand delivery
 Email (only if the person has agreed; provide email address: harrygural@gmail.com)

Date the papers were sent: February 26, 2024

If you sent the papers to more than two people, provide the above information for the additional people on a separate sheet.

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 FRANCES NOLAN

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

I. Relevant Background

For brevity, Housing Provider incorporates by reference the background section in its Motion to Quash Subpoena to Jesse Jennell, filed February 22, 2024, which lists the six continuances that Mr. Gural has sought and obtained in this matter since its remand.

At the trial on remand in this matter on January 25, 2024, this Honorable Court quashed Mr. Gural’s first subpoena to Frances Nolan and allowed Mr. Gural to submit for issuance a subpoena compelling Ms. Nolan’s attendance via videoconference at the hearing on February 28, 2024. *See* Order Granting Motion to Quash Subpoena Issued to Frances Nolan. Subsequently, Mr.

Gural filed a Motion to Issue Subpoenas to Frances Nolan and Jesse Jennell (Mr. Jennell was not listed on Mr. Gural's witness list, filed on December 15, 2023).¹

Mr. Gural transmitted an Affidavit of Process Server to counsel for Housing Provider on February 23, 2024. The affidavit is attached as Exhibit A. Of note, Mr. Gural did not personally serve Frances Nolan, but rather served Equity Residential Management through CT Corporation System. *See id.*

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.* (emphasis added). 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).

The subpoena should be quashed for improper service. OAH Rule 2824.13(b). Mr. Gural, having apparently failed to serve Frances Nolan in Illinois, served the corporate entity of Equity

¹ The subpoena to Jesse Jennell was improperly served as well and is the subject of another Motion to Quash, filed February 22, 2024.

Residential Management. This is not the first time Mr. Gural failed to locate and serve Frances Nolan. *See* Order Granting Housing Provider’s Motion to Quash Subpoena Issued to Frances Nolan, issued January 25, 2024.

Service of a subpoena for a witness to appear at a hearing shall be made by personally delivering the subpoena to the witness. OAH Rule 2824.7. Where the witness named in the subpoena is a natural person, the subpoena must be personally served upon that individual. *See, e.g., Ghandi v. Police Dep’t of Detroit*, 74 F.R.D. 115, 120-21 (E.D. Mich. March 14, 1977). When the “named person” being served is an entity rather than a natural person, service must be effected upon that entity’s registered agent. *See, e.g., La. Corral Mgmt., LLC v. Axis Surplus Ins. Co.*, 2023 U.S. Dist. LEXIS 13994 (E.D. La., Jan. 26, 2023).² Ms. Nolan is a natural person and must be personally served. Mr. Gural failed to serve Ms. Nolan. The subpoena should be quashed under Rule 2824.13(b).

Ms. Nolan is also well outside the subpoena power of this Honorable Court. The subpoena providing that Ms. Nolan must testify by WebEx does not obviate the need to properly serve the subpoena. *See* OAH Rule 2824.11; 2824.13 (laying out improper service (sub-section “b”) and undue burden and appearance by phone (subsection “d”) as *separate* bases by which to move to quash or modify a subpoena). To the extent Mr. Gural contends that Ms. Nolan is an “officer of a party,” again, that does not obviate the need for proper service. *See Johnson v. Big Lots Stores, Inc.*, 251 F.R.D. 213, 216-17 (E.D. La. 2008) (“Nothing in the language of [Federal] Rule 45(b)(2) itself provides for service at any place other than those locations specified in the rule itself To read the ‘subject to Rule 45(c)(3)(A)(ii)’ clause as *expanding* the territorial reach of where a party

² Mr. Gural has not sought a subpoena for Equity Residential Management as an entity. Housing Provider plans to designate Mr. Joshua Luper, General Manager at 3003 Van Ness, as its corporate representative at the hearing on February 28 pursuant to its witness and exhibit list, filed December 5, 2023. Mr. Luper was present at the original trial date in this matter as well.

or party officer may be served with a trial subpoena ignores the ordinary meaning of the phrase ‘subject to.’”) (emphasis in original); *see also Mazloun v. D.C. Metro Police Dep’t*, 248 F.R.D. 725, 728 (D.D.C. April 11, 2008) (noting that “there does not appear to be a basis in the text of Rule 45(c)(3)(A)(ii) to authorize valid service of a subpoena upon a party witness beyond the normal 100-mile range of a federal court’s subpoena power.”).

Mr. Gural may well argue that he should be granted leniency and additional time to serve Ms. Nolan due to Mr. Gural’s *pro se* status. 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 has sought and obtained six continuances in this matter. The natural turnover and relocation³ of staff is a risk that Mr. Gural took when he sought and obtained six continuances of this case. The subpoena should be quashed. A proposed Order is attached.

Dated: February 26, 2024

Respectfully submitted,
GREENSTEIN DELORME & LUCHS, PC

/s/ Spencer B. Ritchie

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Counsel for Housing Providers / Appellees

³ Indeed, it appears that Mr. Gural himself has moved away from the District of Columbia, as the address listed on his most recent filings is in Lewisburg, Pennsylvania. *See Tenant’s Motion to Append Exhibit to His Opposition to Housing Provider Motion to Quash Subpoena to Jesse Jennell*, filed February 23, 2024.

CERTIFICATE REGARDING CONSENT

Counsel for Housing Provider sought consent from Petitioner by email on February 26, 2024. Petitioner stated that he will not consent.

/s/ Spencer Bruce Ritchie
Spencer B. Ritchie

CERTIFICATE OF SERVICE

THE UNDERSIGNED COUNSEL HEREBY CERTIFY that a copy of the foregoing was served this 26th day of February, 2024 by email, upon:

Harry Gural
3003 Van Ness Street NW
Apt. S-707
Washington, D.C. 20008
harrygural@gmail.com

/s/ Spencer Bruce Ritchie
Spencer B. Ritchie

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



311917

Case Number: 2016-DHCD-TP 30,855

Legal documents received by Same Day Process Service, Inc. on 02/23/2024 at 6:00 AM to be served upon Frances Nolan, c/o Equity Residential Management, by serving CT Corporation System at 1015 15th St., NW, #1000, Washington, DC 20005

I, Aidan Doyle, swear and affirm that on February 23, 2024 at 12:06 PM, I did the following:

Served Frances Nolan, c/o Equity Residential Management, by serving CT Corporation System by delivering a conformed copy of the Subpoena to Appear and Testify at a Hearing to Reza Lustig as Intake Specialist & Authorized Agent of Frances Nolan, c/o Equity Residential Management, by serving CT Corporation System at 1015 15th St., NW, #1000 , Washington, DC 20005.

Description of Person Accepting Service:

Sex: Male Age: 35 Height: 5ft4in-5ft8in Weight: 161-200 lbs Skin Color: Caucasian 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.

District of Columbia
Signed and sworn to (or affirmed) before me
on _____ by _____
Name of Individual(s) Making Statement

Signature of Notarial Officer

Title of Office

My commission expires: 3/14/2026

Aidan Doyle

Aidan Doyle
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:311917



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HARRY GURAL,

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EQUITY RESIDENTIAL MANAGEMENT
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PROPOSED ORDER

UPON CONSIDERATION, of Housing Provider's Motion To Quash Subpoena as to Frances Nolan, it is this ____ day of _____, 2024, hereby

ORDERED that the Motion is **GRANTED**.

SO ORDERED.

ALJ Colleen Currie

Copies to all parties of record