

**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 MOTION TO STRIKE**

Housing Provider/Respondent Smith Property Holdings Van Ness L.P. (“Housing Provider”), by undersigned counsel, moves to strike Tenant’s Pre-Hearing Brief On The Time Frame For Calculating Damages. Mr. Gural, after missing the deadline to file his witness and exhibit list three times, now seeks (without leave of Court) to submit two additional exhibits, as well as a substantive legal briefing on matters not introduced into evidence. The pleading should be stricken.

**I. RELEVANT BACKGROUND.**

Mr. Gural first missed the deadline to file his witness and exhibit list on January 28, 2022. *See* Order on Motion for Discovery at 3. Mr. Gural missed the deadline again on August 5, 2022. *See Id.* On December 15, 2023, at 11:50 p.m., Mr. Gural filed his witness and exhibit list. 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. 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.”). Mr. Gural filed a Motion to append additional exhibits on January 12, 2024. The filing brought Mr. Gural’s numbered exhibits up to two hundred thirty-one (231).

On February 26, 2024, without leave of Court, Mr. Gural submitted a “Pre-Hearing Brief on the Time Frame for Calculating Damages.” This pleading attaches two exhibits—a tenant ledger as of February 2024, and the Rental Housing Commission’s Decision and order in *United Dominion Management Company and Neil Sowers v. Rice*, issued August 15, 2013. Neither of these documents were included as one of Mr. Gural’s many exhibits submitted to the Court thus far (Mr. Gural attached an earlier tenant ledger as exhibit 116, but despite attaching multiple RHC opinions, did not attach *Dominion*). Mr. Gural does not indicate what rule or direction of the Court he submits his “pre-hearing” brief pursuant to—and the name itself is a misnomer—it is not a “pre-hearing brief” as, the Court has already begun the hearing, sworn, and heard testimony from two witnesses (Stacey Aguiar and Julie Jackson) who were subpoenaed and examined by Mr. Gural.

## **II. LEGAL STANDARD.**

Where the OAH Rules do not address a procedural issue, an Administrative Law Judge may be guided by the District of Columbia Superior Court Rules of Civil Procedure. The Court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. *See* D.C. Superior Court Rule 12(f)(1)-(2). *See* OAH Rule 2801.1. The Court may strike a filing that was not timely filed. *See, e.g., Fairfax Vill. Cmty. Ass’n v. Fairfax Vill. Condo. V*, 2018 D.C. Super LEXIS 286, \*5 (D.C. Super Ct. Sept. 26, 2018) (citing *Nwachukwu v. Karl*, 216 F.R.D. 176, 178 (D.D.C. 2003)). Pretrial procedures are designed to remove cases from the realm of surprise. *See Malik Corp. v. Tenacity Grp, LLC*, 961 A.2d 1057, 1061 (D.C. 2008). It is a well-established legal principle that it is improper

to comment in argument on matters unsupported by the evidence. *See Nebraska v. Robinson*, 742 N.W. 2d 35, 75 (Neb. 2006).

### III. ARGUMENT.

Mr. Gural's "Pre-Hearing Brief" should be stricken because it is untimely filed, contains legal argument unsupported by facts introduced into evidence, and was not directed (or permitted) by this Court. First, Mr. Gural has appended two additional exhibits as well as a substantive legal brief, without identifying and producing those papers, either at the original deadline, or even with his second batch of exhibits filed weeks later. *See* Tenant List of Witnesses and Exhibits (filed December 15, 2023); Tenant Motion to Append (Filed January 12, 2024). Second, at this stage, Mr. Gural has not successfully introduced any of his exhibits into evidence at the initial hearing in this matter. The only evidence Mr. Gural has introduced is the examinations of Stacey Aguiar and Julie Jackson—none of which support the arguments made in the brief. Third, Mr. Gural did not seek, nor did the Court grant, leave to submit a pre-hearing brief—much less additional exhibits and substantive legal argument. Indeed—the brief appears to have been filed at the eleventh hour after Mr. Gural failed to serve his subpoenas within the requirements of the OAH Rules. *See* Mot. to Quash Subpoena to Frances Nolan (filed February 26, 2024); Mot. to Quash Subpoena to Jesse Jennell (filed February 22, 2024). The pleading should be stricken. A proposed Order is attached.

Dated: February 27, 2024

Respectfully submitted,

GREENSTEIN DELORME & LUCHS, PC

/s/ Spencer B. Ritchie

Richard W. Luchs (D.C. Bar No. 243931)  
Spencer B. Ritchie (D.C. Bar No. 1673542)  
801 17th Street NW Suite 1000  
Washington, DC 20006  
Telephone: (202) 452-1400  
Facsimile: (202) 452-1410  
Email: [rwl@gdllaw.com](mailto:rwl@gdllaw.com)  
Email: [sbr@gdllaw.com](mailto:sbr@gdllaw.com)  
*Counsel for Housing Providers / Appellees*

**CERTIFICATE OF SERVICE**

THE UNDERSIGNED COUNSEL HEREBY CERTIFY that a copy of the foregoing was served  
this 27th 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

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**[PROPOSED ORDER]**

UPON CONSIDERATION of Housing Provider's Motion to Strike Petitioner's Pre-Hearing Brief On The Time Frame For Calculating Damages, and any opposition thereto, and for the reasons set forth in that Motion, it is this \_\_\_\_ day of \_\_\_\_\_, 2024, hereby

**ORDERED** that the Motion is **GRANTED**; and it is further

**ORDERED** that Tenant's Pre-Hearing Brief On The Time Frame For Calculating Damages shall be **STRICKEN**.

**SO ORDERED.**

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ALJ M. Colleen Currie