Appeal No. 24-CV-0397

DISTRICT OF COLUMBIA COURT OF APPEALS

CHARLES E. WILSON, et al.

Appellants,

v.

MURIEL E, BOWSER, et al.

Appellees.

On Appeal from the Superior Court of the District of Columbia

Civil Case No. 2023-CAB-005414

(Carl E. Ross, Judge, D.C. Superior Court)

APPELLANTS' BRIEF IN REPLY TO BRIEF FOR APPELLEES MURIEL E. BOWSER AND THE DISTRICT OF COLUMBIA

/s/ *Johnny Barnes*

Johnny Barnes, D.C. Bar Number 212985
Counsel for Appellants
301 "G" Street, S.W - Suite B101
Washington, D.C. 20024
AttorneyJB7@gmail.com
Telephone (202) 882-2828

Dated: 6 August 2024

TABLE OF CONTENTS

TABLE OF AUTHORITIES …… 2

FURTHER STATEMENT OF THE CASE

Appellees Mayor Muriel E. Bowser and the District of Columbia **partnered** with Appellee D.C. Board of Elections, on 23 October 2023, and **jointly** filed the Motion to Dismiss that was embraced by the Trial Court and is the subject of this Appeal, stating in the first paragraph of the first sentence of the Motion that, "... the District of Columbia Board of Elections (the Board), Mayor Muriel E. Bowser, and the District of Columbia (**collectively, the District**) move to dismiss Plaintiffs' Complaint for lack of jurisdiction." (emphasis supplied). The Motion to Dismiss was co-signed by the Attorney General for the District of Columbia.

Again, while not independently submitting any pleadings in the Case, Appellees Mayor Muriel E. Bowser and the District of Columbia partnered with Appellee D.C. Board of Elections, on 13 November 2023, and jointly filed a Reply to Appellants Opposition to the Motion to Dismiss that was embraced by the Trial Court. Indeed, at no time, in the proceedings below, did Appellees Mayor Bowser and the District of Columbia file any separate pleadings with the Trial Court.

Moreover, at no time did any of the Appellees, especially Appellees Mayor Muriel E. Bowser and the District of Columbia raise the issue of Standing as they now do in their Appeal Brief. This is an appeal from an Order of Dismissal docketed 28 March 2024, in D.C. Superior Court, dismissing Appellants' Complaint, without a Hearing, vacating all future hearings, and closing the Case.

STANDING WAS NOT RAISED AND CAN NOT NOW BE RAISED

The centerpiece of the Brief for Appellees Mayor Muriel E. Bowser and the District of Columbia is that Appellants, "Failed to establish Standing to sue the Mayor and the District." Not only is that an incorrect assertion, but Appellees are also not allowed to raise that issue, for the first time, in this Appeal. It was not raised below.

Appellants have Standing

The injuries claimed here are not generalized grievances. As the United States Supreme Court has observed, imminent harm encompasses threatened" as well as "actual" injury, *Valley Forge Christian College v. Americans United for Separation of Church and State,* 454 U.S. 464, 472 (1982). And see *Gladstone Realtors v. City of Bellwood*, 441 U.S. 91, 99 (1979). Even a "small probability" of harm is sufficient to take a lawsuit out of the category of "hypothetical," *Elk Grove v. Evans*, 997 F.2d 328, 329 (7th Cir. 1993). Indeed, "relatively minor increments of risk" qualify for standing and meet the requirements of *Lujan, Mountain States Legal Foundation v. Glickman*, 92 F.3d 1228, 1231-1234 (D.C. Cir. 1996). In *Vermont Agency of Natural Resources v. United States ex rel. Stevens*, 529 U.S. 765 (2000), the Court endorsed the "partial assignment" approach to standing to sue, allowing private individuals to sue on behalf of the U.S. government for injuries suffered solely by the government. The United States

Supreme Court in *Massachusetts v. EPA*, 549 U.S. 497 (2007), found that *Massachusetts* and eleven other states had standing, due to its "stake in protecting its quasi-sovereign interests" as a state, to sue the EPA over potential damage caused to its territory by global warming. The Court rejected the EPA's argument that the Clean Air Act was not meant to refer to carbon emissions in the section giving the EPA authority to regulate "air pollution agent[s]".And, in an even later environmental Case, on November 2, 2018, the U.S. Supreme Court announced that the trial in a case brought by 21 people, including minors, against the federal government for its role in the global warming crisis, could continue, *Juliana v. United States*, 10 U.S. 327 (2018).

Standing is the legal right to initiate (participate in) a lawsuit. A party must be sufficiently affected by the matter at hand, and there must be a case or controversy that can be resolved by legal action. There are three requirements for standing: (1) injury in fact, which means an invasion of a legally protected interest that is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical; (2) a causal relationship between the injury and the challenged conduct, which means that the injury fairly can be traced to the challenged action of the defendant, and has not resulted from the independent action of some third party not before the court; and (3) a likelihood that the injury will be redressed by a favorable decision, which means that the prospect of obtaining relief from the

injury as a result of a favorable ruling is not too speculative, *Lujan v. Defenders of Wildlife*, 112 S. Ct. 2130, 2136 (1992). In deciding whether a party has standing, a court must consider the allegations of fact contained in the complaint and affidavits in support of the party's assertion of standing. See *Warth v. Seldin*, 422 U.S. 490, 501 (1974). And see *Warth*, 422 U.S. at 501 (when addressing motion to dismiss for lack of standing, both the D.C. Superior Court and the Court of Appeals must accept as true all material allegations of the complaint and must construe the complaint in favor of the party claiming standing. Standing is founded "in concern about the proper--and properly limited--role of the courts in a democratic society, "*Warth*, 422 U.S. at 498. In the instant matter, Appellants show 1) concrete personal injuries that are actual or imminent; 2) that are clearly traceable to Appellees' conduct; and 3) that are "likely" to be redressed if the relief sought is granted, *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992). Appellants meet the Standing requirements. The evidence at this stage, clearly demonstrates that the actual or imminent threat of personal injuries test is met. These are probabilistic injuries. And these injuries are traceable to the acts of Appellees. Moreover, at this stage Appellants' burden is at a point where a Tribunal must, "… presume that general allegations embrace the specific facts … necessary to support the claim," *Lujan* at 561. Given that the fate of the injury and damages that is the subject of this Complaint can only be fully protected by the Appellants, Standing cannot be

questioned. *Riverside Hospital v. D.C. Department of Health*, 944 A.2d 1098 (2008) in fact found that Plaintiff had standing to assert its rights.

Appellees may not now raise Standing as they did not raise it below

It is a long-standing principle of this Honorable Court to decline to consider arguments raised for the first time on appeal, *Miller v. Avirom*, 384 F.2d 319, 321-22 (D.C. Cir. 1967); *Hackes v. Hackes*, 446 A.2d 396, 398 (D.C. 1982). This Court has routinely reaffirmed this principle over the years, *Hollins v. Fed. Nat'l Mortg. Ass'n*, 760 A.2d 563, 574 (D.C. 2000) "[W]e ordinarily do not consider issues raised for the first time on appeal . . .", *Nwaneri v. Quinn Emanuel Urquhart & Sullivan, LLP*, 250 A.3d 1079, 1082 (D.C. 2021). "[T]rial and appellate processes are synchronized in contemplation that review will normally be confined to matters appropriately submitted for determination in the court of first resort," *D.D. v. M.T.*, 550 A.2d 37, 48 (D.C. 1988).

AN EARLY FILING IS NOT AN UNTIMELY FILING

Most notably, this Case was dismissed by the Trial Court, not because it was untimely or late filed, but solely because it may have been early filed, just one day earlier than the time asserted by Appellees that the Statute requires, an early filing, the Trial Court found, not a late filing. Without addressing the question of whether or not Appellants' Complaint asserted claims outside of the statutory ten-day mandate, the trial judge dismissed the Complaint in its entirety. **The day the**

Complaint was docketed by the Court was indeed 1 September 2023, not August 31, 2023, (the day it was stamped in the Clerk's office at 5:29:46 PM by counsel, after business hours) was the presumptive date of filing.

Moreover, enlightened courts, including the United States Supreme Court, have reasoned, and ruled that an early filing is not an untimely filing, not jurisdictional, and not grounds for dismissal. A broad reading of statutes and court rules, at all levels, and in most jurisdictions reveals that "untimely" means late, not early. Such was the ruling in *Stewart v. Iancu*, 912 F.3d 693 (4th Cir. 2019), where the Court ruled that, the 180-day waiting period involved in Title VII's exhaustion requirement for federal employees is "non-jurisdictional". Other courts, including the District of Columbia Circuit, have reasoned the same, *Fowlkes v. Ironworkers Local 40*, 790 F.3d 378, 385 (2d Cir. 2015) (holding that the failure to exhaust administrative remedies does not raise a jurisdictional bar); *Artis v. Bernanke*, 630 F. 3d 1031, 1034 n.4 (D.C. Cir. 2011) (same); *Frederique-Alexandre v. Dep't of Nat. & Envtl. Res. of Puerto Rico*, 478 F.3d 433, 440 (1st Cir. 2007). As here, when an agency does not timely act, the waiting period is satisfied by agency inaction, *Darby v. Cisneros*, 509 U.S. 137, 155, (1993). Early filing doesn't determine jurisdiction.

Distilled to its essence, Appellants simply argue here that the trial Judge's dismissal for lack of jurisdiction is reversible error because a premature filing is not fatal and is highly prejudicial to Appellants.

In this Appeal, Appellants contend that the trial court, with prejudicial effect**,** erred in dismissing their Complaint in its entirety, rendering the critical issues raised in the Complaint moot and leaving Appellants with no alternative to adjudicate on the merits of significant public interest matters. Among other things, the Complaint filed by Appellants raises grave questions concerning the powers of the D.C. Board of Elections, an Agency of the local Government, vis-à-vis the powers reserved to the Council of the District of Columbia, a separate Branch of that local Government, and even the powers of the United States Congress. This Case embodies no minor matter.

Appellants maintain that the trial court made several errors as a matter of law in its ruling. They include, but are not limited to:

First, the trial court's dismissal for lack of timeliness is highly prejudicial to Plaintiffs-Appellants but not to Defendants-Appellees. The trial court erred in ruling that a one-day early filing required outright dismissal without consideration of alternative avenues, allowing the merits of the matter to be heard and decided.

Second, applying the ten-day protest timeframe under D.C. Code § 1-1001.16(d)(2) to all claims asserted in the Complaint was error because

Appellants' Complaint for declaratory and injunctive relief could have been heard under the trial court's general equity jurisdiction, without regard to the Statute.

Third, Appellants contend that dismissal for failure to state a cause of action under is contrary to prevailing case precedents that dismissal for failure to state a claim runs counter to long-standing judicial preference for resolution of disputes on the merits. The merits of Appellants claims were never considered by the trial court. The faulty Initiative has been put forward to be considered by D.C. voters in the next general election scheduled for 4 November 2024. And the deadline for proposers to gather signatures is 8 July 2024.

The trial court's ruling should be reversed, and this Court should remand the matter for consideration of the claims raised in the Complaint.

As here, when an agency does not act, the waiting period is satisfied by agency inaction, *Darby v. Cisneros*, 509 U.S. 137, 155, (1993). In analogous situations, several Supreme Court cases establish the controlling principles that prematurity is a technicality that should not triumph over substantive rights. For example, in *Lemke v. United States,* 346 U.S. 325 (1953) – Rule 37(a)(2) of the Federal Rule of Criminal Procedure provides that "An appeal by a defendant may be taken within 10 days after entry of the judgment or order appealed from . . .." Judgement against defendant was not entered into the record until 14 March 1952, but he filed his notice of appeal 11 March 1952, one day after he was sentenced.

The appeal was dismissed as premature. The Supreme Court reversed the lower court's judgment and remanded for further proceedings citing Federal Rules of Civil Procedure Rule 52(a) which reads "Any error, defect, irregularity or variance which does not affect substantial rights shall be disregarded."

In *Foman v. Davis*, 1962, 371 U.S. 178 (1962), on 20 December, appellant filed a motion to vacate. On 17 January, he filed a notice of appeal from the 19 December judgment. On 23 January, the Court denied the motion to vacate. On 26 January, appellant filed a notice of appeal from the 23 January. The Court of Appeals dismissed, reasoning that because of the pendency of the motion the first notice of appeal was premature and that the second notice of appeal did not purport to be from the judgment, but only from the later order. Speaking through Mr. Justice Goldberg, the Supreme Court reversed, and said:

> "It is too late in the day and entirely contrary to the spirit of the Federal Rules of Civil Procedure for decisions on the merits to be avoided on the basis of such mere technicalities. The Federal Rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits," Citing, *Conley v. Gibson*, 355 U.S. 41, 48 (1957) (Internal quotations omitted).

Appellees framed their Motion to Dismiss in reliance on the principle of Exhaustion of Administrative Remedies. Exhaustion and Ripeness are complementary doctrines, designed to prevent unnecessary or untimely judicial involvement in the administrative process. Neither of those doctrines are here

present, and the Trial Court has subject matter jurisdiction over this Case. For years, the United States Supreme Court and other courts have carved out exceptions to the Exhaustion and ripeness Doctrines. In 1969, in *McKart v. United States*, 395 U.S. 185 (1969), the court saw no risk in impeding the agency through premature intervention because the passage of time had foreclosed further administrative remedies. The same is true here. Similarly in *Stephens v. Retirement Income,* 464 F.3d 606 (6th Cir. 2006), our Circuit Court joined with five other Circuit Courts in finding that the internal remedial procedures of an agency need not be exhausted before a lawsuit can be filed, *Stephens v. Pension Benefit Guaranty Corporation*, No. 13-5129 (D. C. Cir. June 24, 2014). Indeed, that is why reliance on *Burton v. District of Columbia*, 835 A.2d 1076 (D.C. 2003) is misplaced because in *Burton* the Court stated that, **"the Supreme Court has made clear that exhaustion is not a 'jurisdictional prerequisite' to a court proceeding"**, citing *Zipes v. Trans World Airlines, Inc.*, 455 U.S. 385, 393 (1982). Even in *Dano Resource Recovery v. District of Columbia*, 566 A.2d 483, 485 (D.C. 1989), also, the D.C. Court of Appeals stated that, "Courts in this jurisdiction have recognized a number of interrelated exceptions to the exhaustion doctrine, among them inadequate remedy, unavailable remedy, and futility", citing *Crown Coat Front Co. v. United States,* 386 U.S. 503, 512 (1967), (quoting *United States v. Holpuch Co.,* 328 U.S. 234, 240 (1946) and *Randolph Sheppard Vendors of*

America v. Weinberger, 254 U.S. App. D.C., 45, 62 (1986). Similarly, in *Fisher v. District of Columbia*, 803 A.2d 962, 964 (D.C. 2002) that Court's statement that the Exhaustion Doctrine is not without exceptions, with a "strong showing" of "exceptional circumstances", as here, citing *Barnett v. District of Columbia Dep't of Employment Services*, 491 A.2d 1156, 1161 (D.C. 1985). The Exhaustion Doctrine is inapplicable here.

THE CASE WAS RIPE FOR CONSIDERATION

Appellees argue that the matter is not *ripe*, because the plain, clear, unambiguous language of the Law governing Initiatives in the District of Columbia strictly prohibits those where, "(c) The measure presented would appropriate funds" to use Appellees' own words, from Page One (1) of its Motion, "*if it were to become law*". Appellees would have this Honorable Court add those words to the Statute that are not there now and were never there. Indeed, the Chief Financial Officer of the District of Columbia issued a Fiscal Impact Statement, on 11 August 2023, *Appellants' Appendix 9-11*, some "**Funds are not sufficient in the fiscal year 2023 budget and the fiscal year 2024 through fiscal year 2027 budget and financial plan to implement the proposed initiative. The Board of Elections (Board) will require additional funding beginning in fiscal year 2025 to implement both ranked choice voting and semi-closed primaries by the June 2026 primary election**." That is the very reason Congress insisted that only

the D.C. Council, and not the citizens, had the authority to commit the District of Columbia to spending funds. And that is the very reason the Chief Financial Officer concluded that, "**Funds are not sufficient in the fiscal year 2023 budget and the fiscal year 2024 through fiscal year 2027 budget and financial plan to implement the proposed initiative.**"

Forecasting that which the D.C. council will do with Initiative 83 are three important indicators. First, the Opinion of the General Counsel to the D.C. council, *Appellants' Appendix 4-8*, who wrote twice to the D.C. Board of Elections General Counsel stating, on 11 July 2023, that, "… the Proposed Initiative is not a proper subject of an initiative. That view reflects the same view earlier expressed, in a lengthier Opinion, citing the by now Black Letter Law, *En Banc* Decision of the D.C. Court of Appeals in *Dorsey v. District of Columbia*, 648 A.2d 675, 677 (1994), finding unlawful Initiatives "that propose laws appropriating funds," as does this Initiative 83.

More recently, an action, even more definitive than the Opinion of the D.C. Council's General Counsel, and the two *En Banc* Decisions of the D.C. Court of Appeals, when the Chair of the D.C. council and Councilmember Anita Bonds introduced Bill B25-0475, The Initiative Amendment Act of 2023. Chairman Mendelson's Statement is so compelling and insightful about the problems

Initiative 83 and others could produce that it is repeated in full in a copy of the Statement and proposed Legislation, annexed, in *Appellants' Appendix Pages 1-3*.

HIGHLY RELEVANT, DISREGARDED FACTUAL BACKGROUND

As indicated, dismissal was granted by the trial court, without a hearing and without consideration of the significant, serious, and consequential matters raised by Appellants in their Complaint. Appellee D.C. Board of Elections, self-serving, delayed acting on the Initiative, leaving Appellants free to act, under law.

Appellee, D.C. Board of Elections, held a Hearing on 18 July 2023 and received testimony. At the conclusion of the Hearing, DCBOE agreed to keep the record open for written comments until noon on Friday, 21 July 2023. DCBOE continued the matter to review the comments and to meet in executive session. On 19 July 2023, DCBOE posted on its website a notice that it would meet at 2:00 pm on 21 July 2023. DCBOE reconvened on 21 July 2023. On that date, and at that time, DCBOE announced, without adequate findings of fact and conclusions of law as required by the D.C. Administrative Procedure Act (D.C. APA), its ruling that the Measure was "Accepted" as a proper subject matter for an Initiative. It then published its Opinion and Order on 25 July 2023, on its website.

No Initiative should be accepted and approved by DCBOE if 1) it appropriates funds, 2) it violates or seeks to amend the D.C. Home Rule Act (formally Titled "The District of Columbia Self-Government and Governmental

Reorganization Act" (which Plaintiffs will continue to refer to hereafter as the "D.C. Home Rule Act"), 3) it violates the United States Constitution, 4) it authorizes discrimination prohibited by the D.C. Human Rights Act, and 5) it vitiates and negates an Act of the D.C. Council. This initiative violates all those legal limitations and more.

The several states in the United States have sovereign power. By comparison, the District of Columbia does not. The Federal Government is the holder of the sovereign power for the Seat of Government. Any local power that exists must be expressly and explicitly delegated to the District of Columbia by the Congress of the United States. Such delegation was done by Congress in 1973, through the enactment of the D.C. Home Rule Charter.

While the Home Rule Act gave District residents the right to vote for a local elected government, Congress has placed severe restraints on that right. The "Accepted" Initiative Violates the D.C. Home Rule Act.

Most problematic, the "Accepted" Initiative Wrongfully and Without Authority Appropriates Funds. The central thrust of the Case of *Convention Center Referendum Committee, et al., Appellants, v. District of Columbia Board of Elections and Ethics, et al., Appellees,* 441 A.2d 889 (1981), with the D.C. Court of Appeals, sitting *En Banc*, is that the Initiative was barred because the Initiative proposed a law appropriating funds. That is the same conclusion that the General

Counsel of the D.C. Council reached in its Advisory Opinion about the instant Initiative. Although the D.C. Council requests funds, it is Congress, not the D.C. Council, that does the "appropriating, D.C. Code § 47-224.

The subject Initiative violates the First and Fifth Amendments to the United States Constitution. While the *Hechinger* (*Hechinger v. Martin*, 411 F. Supp. 650 (D.D.C. 1976) Court ruled that the D.C. Board of Elections was not authorized and empowered to disturb the Congressional mandates of sections 401(b) (2) and 401(d)(3) of the Home Rule Charter, the Court fully embraced violating the First and Fifth Amendment rights of individual voters. If the Initiative goes forward those rights of voters who belong to the Democratic Party in Washington, D.C. would be abridged.

The most fundamental problem with the Make All Votes Count Initiative is that the open primary provision violates the D.C. Democratic party members' and voters' right to freedom of association guaranteed by the First and Fifth Amendments to the U.S. Constitution, *Creese v. District of Columbia*, 281 F.Supp.3d 46, 52 n.2 (DDC 2017) (The Equal Protection Clause applies to the District of Columbia through the Fifth Amendment). See *Bolling v. Sharpe*, 347 U.S. 497, 499 (1954)). U.S. Supreme Court precedence provides that the "First Amendment protects the freedom to join together in furtherance of common political beliefs which necessarily presupposes the freedom to identify those who

constitute the association, and to limit the association to those people only," *California Democratic Party v. Jones*, 530 U.S. 567, 574 (2000) (quoting various Supreme Court precedent). As a corollary, Court precedent provides that "[f]reedom of association would prove an empty guarantee if associations could not limit control over their decisions to those who share the interests and persuasions that underlie the association's being," *Id*. at 574-75 (quoting *Democratic Party of U.S. v. Wisconsin,* 450 U.S. 107, 122 n.22 (1981)). Like D.C. law, the California law considered in *Jones* provided that political parties can only nominate their candidates through primaries. 530 U.S. at 569. In such circumstances, the Court asserted that "in no area is the political association's right to exclude more important than in the process of selecting its nominee," *Id*. at 575.

CONCLUSION

On 31 August 2023, Plaintiffs -Appellants submitted the Complaint that is the subject of this appeal. The Complaint was accepted and docketed by the Clerk of the D.C. Superior Court on 1 September 2024. Plaintiffs-Appellants' filing is captioned "Complaint for Declaratory Judgment, And Injunctive Relief, Objecting to The Summary Statement, Short Title, And Legislative Form of Proposed Initiative No. 83 in One Count of The Four Counts Embodied In This Complaint".

Appellants challenged the Board's decision to accept Initiative 83, "*Make All Votes Count Act of 2024*," as a proper subject for an initiative measure. If

enacted following the process of the proposers obtaining the requisite number of voter signatures, sweeping changes to how elections are conducted in the District by implementing ranked choice voting and open primaries would be implemented. This would create a new system of open primaries that would enable more than 85,000 (or 16% of registered D.C. voters) persons currently registered as non-affiliated with any party to participate in the primaries of Democrats, Republicans, or the D.C. Statehood Green Party. Party primaries are currently closed to independent voters who are able to cast a vote for the candidate(s) of their choice in the DC General elections. Party nominees are decided in the primaries. Allowing Independent voters to vote in primaries could significantly impact the outcome of partisan primaries. Under the ranked choice voting component of the Initiative, voters can rank multiple candidates in particular race according to their preferences.

Plaintiffs-Appellants asserted in their Complaint that the process of voting in the District of Columbia cannot be changed through the initiative process because it is contravention of the D.C. Home Rule Act (also referred to as the D.C. Home Rule Charter) express language regarding partisan elections and designating certain numbers of elected officials from each party. The Initiative would also violate the Home Rule Charter's express prohibition against initiatives that would require the expenditure of local funds; unlawfully discriminate against District voters in lower

income and elderly voters particularly in underserved communities with larger low-income and elderly populations who would be disenfranchised in violation of the D.C. Human Rights Act; violate the First Amendment right to free association under the U.S. Constitution by requiring Democratic party voters to associate with Independent voters; and violate equal protection rights through Fifth Amendment of the U.S Constitution. It should be noted that the local D.C. Republican Party is also opposed to the Initiative. In July 2023 several House Republicans in the United States Congress also introduced a bill, The One Vote, One Choice Act that would ban ranked choice voting in all District of Columbia elections.

Respectfully submitted,

/s/ *Johnny Barnes*

_____

Johnny Barnes, D.C. Bar Number 212985
Counsel for Appellants
301 "G" Street, S.W. - Suite B101
Washington, D.C. 20024
AttorneyJB7@gmail.com

DATED: 6 August 2024

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Appellants' Reply Brief to the Brief for Appellees Mayor Muriel E. Bowser and the District of Columbia was served on the Court and all Counsel using the Court's electronic filing system on this 6th day of June 2024.

/s/ *Johnny Barnes*

_____

DATED: 6 August 2024 **Johnny Barnes, D.C. Bar Number 212985**