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Transcript of Hearing

Date: November 17, 2023

Case: Home Away From Home Pet Care (CU 24-05)

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Transcript of Hearing
Conducted on November 17, 2023

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8	HEARING		8		
9	Before Hearing Examiner Kathleen Byrne		9		
10	Rockville, Maryland		10		
11	Friday, November 17, 2023		11		
12	9:36 a.m.		12		
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1	A P P E A R A N C E S	2	1	P R O C E E D I N G S	4
2	CECE KENNA		2	KATHLEEN BYRNE: Good morning everyone. My name	
3	HOUSING CODE ENFORCEMENT		3	is Katie Byrne, I am the hearing examiner assigned to this	
4	100 Main Street		4	case. What we are hearing today is -- oh, I should turn	
5	Rockville, Maryland 20850		5	this on too. Is that better?	
6			6	Good morning. I hope you can hear me. My name	
7	ON BEHALF OF APPLICANT:		7	is Katie Byrne, I am the hearing examiner assigned to this	
8	STEPHANIE SMITH, ESQUIRE		8	case which is CU-2405, Home Away From Home Pet Care. This	
9	OFFIT KURMAN		9	is a public hearing, and conditional use application for	
10	7501 Wisconsin Ave.		10	animal boarding and day care services at 24432 Ridge Road,	
11	Suite 1000W		11	Damascus, Maryland, an RE2 C zone, under the standards set	
12	Bethesda, MD 20814		12	forth in Article 59, section 3.5.1.	
13	Phone: 240-507-1700		13	This hearing is conducted in a hybrid format and	
14			14	I want to thank the parties for participating in our first	
15	Emily Jarvinen - Member of the Applicant		15	hybrid hearing. Hopefully as we work through it we may	
16	Mario Chavarry - Member of Applicant		16	stop, start, work out a few kinks. But for the most part	
17	Carol Jarvinen - Member of the Applicant		17	we're hoping this is the wave of the future so that you	
18	Tchad Moore - Zoom Operator		18	don't always have to come in.	
19	Chris Kabatt - Traffic Expert		19	What I'd like to try now is identify all the	
20	Nana Johnson - Administrative Specialist		20	parties that are with us on Zoom. So I've got Nana Johnson	
21	Michelle Parsons - IT		21	here who is our administrative assistant. In the office	
22			22	we've already tested her mic and camera. So I see, it	
23			23	looks like the Applicant and Ms. Smith.	
24			24	STEPHANIE SMITH: Good morning. Can you hear us?	
25			25	KATHLEEN BYRNE: We can. Thank you. And if you	

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2 (5 to 8)

<p>5</p> <p>1 could please both state your full names for the record, and 2 spelling, and who you are. 3 STEPHANIE SMITH: Okay. Good morning. My name 4 is Stephanie Smith, and I'm the attorney representing Home 5 Away From Home Pet Care. The spelling of my name is 6 S-T-E-P-H-A-N-I-E, and my last name is spelled S-M-I-T-H. 7 EMILY JARVINEN: Good morning. My name is Emily 8 Jarvinen. I am one of the applicants. My name is spelled 9 E-M-I-L-Y, last name, J-A-R-V-I-N-E-N, and I'm going to 10 tilt the camera here to the two other applicants. 11 CAROL JARVINEN: Good morning. My name is Carol 12 Jarvinen. I am one of the co-owner applicants. And my 13 name is spelled C-A-R-O-L, J-A-R-V-I-N-E-N. Thank you. 14 MARIO CHAVARRY: Hello. My name is Mario 15 Chavarry. My name is spelled, M-A-R-I-O, last name 16 C-H-A-V-A-R-R-Y. 17 KATHLEEN BYRNE: Okay. All right. Thank you. 18 And if you guys could mute for now we're going to go 19 through the other people we have on Zoom. 20 All right. I have a Tara S. I do not have a 21 Tara S. anymore. All right. And that's Chris? 22 CHRIS KABATT: Good morning. I'm Chris Kabatt, 23 C-H-R-I-S, and the last name Kabatt is K-A, B as in bravo, 24 A-T-T. And I'm from Wells + Associates and I was working 25 with the Applicant on the transportation part. I read the</p>	<p>7</p> <p>1 meeting is being recorded. We are also recording the Zoom 2 meeting, but it's really backup for the court reporter. 3 It's not published. We don't keep it, it is primarily to 4 assist the court reporter with the transcript. All right. 5 And as we started at the beginning, all persons connected 6 via Zoom must remain mute. And you can turn your camera 7 off if you are not speaking. We definitely need your 8 camera on if you are speaking. Nana, if you want to turn 9 your camera off, perfectly fine. If you have any questions 10 during the hearing the chat function has been turned off so 11 you will need to use the raise your hand function and we'll 12 get to you as quickly as we can add a stopping point. You 13 will not be able to share screen during this process. We 14 have Chad Moore who is our Zoom operator. He will pull all 15 of the exhibits directly from OZHA's website and share 16 screen. So you just have to identify which exhibit you 17 would like him to pull up, and then we will all be able to 18 see it. The procedure will be opening statements, then the 19 petitioner will go first with its case in chief. Since we 20 have no opposition essentially at the end of testimony and 21 your case we will conclude with any kind of closing 22 statement, last words, and we'll go from there. Any other 23 preliminary matters, Ms. Smith? Is there anything else 24 you'd like to add? Have you had an opportunity to look at 25 the exhibit list and can I confirm that everything is there</p>
<p>6</p> <p>1 traffic statement. 2 KATHLEEN BYRNE: Okay. So you're the traffic 3 expert, then, sir? 4 CHRIS KABATT: Yes. 5 KATHLEEN BYRNE: All right. Thank you very much. 6 The other window that you all see is Michelle Parsons who 7 is our IT person, one of our IT people so she's popping in 8 and out to help us with the technology. All right. So we 9 have everyone here, checked in. I'm going to finish with 10 the introduction and a few other housekeeping duties and 11 then we can start with you, Ms. Smith. Again, I'm the 12 hearing examiner for this particular matter. I'm going to 13 listen to testimony, review evidence, and render an opinion 14 on the application pursuant to the criteria set forth for 15 conditional uses in Article 59, section 7.3.1. If you 16 disagree with my decision you may appeal it to the Board of 17 Appeals within 10 days after my decision is issued. I'm 18 going to be looking all around because you guys are over 19 here, but the camera is right there. So you might be 20 getting the side of my face most of the hearing. All 21 right. Just a few housekeeping duties, and it's easy 22 because we only have one party so we ask you not to 23 interrupt each other while someone is talking, primarily 24 for the court reporter so we don't have crosstalk. You'll 25 notice when you started you heard a message that said this</p>	<p>8</p> <p>1 that you need? 2 STEPHANIE SMITH: Yes, I have. And everything is 3 there that you all would need to review. Thank you. 4 KATHLEEN BYRNE: Okay. Thank you. And we did 5 receive your opening statement and witness list this 6 morning, and we've added that as Exhibit 22. 7 STEPHANIE SMITH: Thank you. 8 KATHLEEN BYRNE: Okay. All right. So what I'd 9 like to think first, Ms. Smith, is we will go to you for 10 your opening and then we will swear in your first witness. 11 STEPHANIE SMITH: Okay. Thank you. I'm 12 Stephanie Smith. I'm the attorney representing Home Away 13 From Home Pet Care which is the Applicant. We are 14 requesting OZHA to approve the Applicant's conditional use 15 application to operate a doggy daycare. As provided for in 16 the Applicant's statement of justification, her Exhibit 3, 17 this proposed use (indiscernible) daycares in the 18 community. It would provide the needed -- 19 UNIDENTIFIED SPEAKER: Ms. Smith, hold on one 20 second. You were kind of fading in and out a little bit. 21 STEPHANIE SMITH: Okay. 22 KATHLEEN BYRNE: It was almost when you turn your 23 head slightly, your voice got smaller. So yeah. 24 MS. SMITH: I'm going to turn the computer 25 directly so that you can hear me.</p>

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3 (9 to 12)

9	11
1 KATHLEEN BYRNE: Perfect. Thank you.	1 really love to be able to expand our business offerings to
2 STEPHANIE SMITH: Is this better?	2 include having actual dog daycare play groups in our home
3 MICHELLE PARSONS: Yes.	3 and host a couple of dogs overnight at a time for our
4 STEPHANIE SMITH: Would you like me to restart	4 longtime customers when they're traveling. So that's our
5 just for the court reporter's --	5 goal here is to expand our current business that we've been
6 KATHLEEN BYRNE: We might as well, yes.	6 running since 2016. And yeah, we'd like to provide more
7 STEPHANIE SMITH: Okay. Great.	7 for our current term customers and hopefully welcome some
8 KATHLEEN BYRNE: Thank you.	8 new customers as well.
9 STEPHANIE SMITH: Good morning. I am Stephanie	9 SAMANTHA SMITH: Thank you very much, Emily. I'm
10 Smith and the attorney for -- representing Home Away From	10 now going to Mario Chavarry, who is also a member of the
11 Home Pet Care which is the Applicant. We are requesting	11 Applicant. And Mr. Chavarry, I'm going to turn the camera
12 OZHA to approve the Applicant's conditional use application	12 over to you.
13 to operate a doggy daycare. As provided for in the	13 KATHLEEN BYRNE: I do have to swear you in, sir.
14 Applicant's justification statement, her Exhibit 3, this	14 If you could raise your right hand? Do you promise to tell
15 proposed use would be beneficial to the community given the	15 the truth, and the whole truth, and nothing but the truth?
16 dearth of these types of daycares within the community. It	16 MARIO CHAVARRY: I do.
17 will provide a needed environment for residents in the	17 KATHLEEN BYRNE: Thank you.
18 community to board their dogs. So I have as witnesses, and	18 STEPHANIE SMITH: Thank you very much. So I'm
19 I will name them accordingly, Emily Jarvinen is a member of	19 going to ask a question about Mr. Chavarry's experience and
20 the Applicant. Mario Chavarry, member of the Applicant,	20 also his business acumen in running the doggy daycare and I
21 and Carol Jarvinen who is also a member of the Applicant.	21 will move the camera over so that he can speak directly
22 There appears to be no opposition to this application and	22 into the camera.
23 we believe that the presentation should be approximately	23 KATHLEEN BYRNE: Ms. Smith, I did miss the last
24 three minutes. I would like to call my first witness and	24 part of that. You asked him, or you basically said you're
25 that would be Emily Jarvinen. So I'm going to turn the	25 going to have him testify to his experience with the doggy
10	12
1 camera onto her so that you can --	1 daycare and then I lost it. So --
2 KATHLEEN BYRNE: Okay. Thank you. Ms. Jarvinen,	2 STEPHANIE SMITH: And his experience and business
3 can you raise your right hand? Do you promise to tell the	3 acumen running a company.
4 truth, the whole truth, and nothing but the truth?	4 KATHLEEN BYRNE: Thank you.
5 EMILY JARVINEN: Yes, I do.	5 MARIO CHAVARRY: So yeah, we've been experienced
6 KATHLEEN BYRNE: Thank you.	6 for quite a few years now handling dogs, primarily walking
7 STEPHANIE SMITH: Thank you. So Ms. Jarvinen can	7 in our great county walking trails, and on the sidewalks.
8 you provide a (indiscernible) your role as the Applicant	8 You know, we take great care to make sure that all the dogs
9 and your experience running a doggy daycare.	9 are safe, that we handle, you know, a safe amount of dogs
10 EMILY JARVINEN: Yes. Hello. I am the owner and	10 at a time. Basically safety is our biggest concern. We
11 founder of Home Away From Home Pet Care. My husband and	11 just want to make sure that we are able to provide the
12 business partner have been servicing the Damascus community	12 services that the community needs in order to do their work
13 since 2016. We currently offer dog walking, check in	13 while their dogs are taken care of.
14 visits for cats and other small animals and one of our most	14 STEPHANIE SMITH: Mr. Chavarry, can you tell us
15 popular services is what we call a path walk. This is	15 about your business experience? I understand that you're a
16 where several of our regular dog walking customers are able	16 veteran and can you talk a little bit about that in terms
17 to be transported via van that we already own and have set	17 of how you run your business?
18 up with heavy duty safe transportation crates, and we take	18 MARIO CHAVARRY: I'm a United States Marine Corp
19 them on group hikes together. So this service, which	19 veteran. I have been doing business as -- I've been doing
20 again, is our most popular has prompted a lot of our	20 basically businesses since I got out of the Marine Corp. I
21 customers to ask if we could host them actually in our home	21 started a business with my dad doing state highway
22 and, you know, watch their dogs when they go out of town	22 contracting and then, you know, I started this business
23 for traveling for work, and to visit family and things like	23 with my wife. So I do have some experience running a
24 that. So we've gotten to know the community for a long	24 business and dealing, you know, professionally with other
25 time and have quite a lot of regular clients and we would	25 people.

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4 (13 to 16)

<p>13</p> <p>1 SAMANTHA SMITH: Thank you. Okay. And my last 2 witness is Ms. Carol Jarvinen who is also a member of the 3 Applicant. And I will have her be sworn in. Turning the 4 camera to her directly. 5 KATHLEEN BYRNE: Thank you. And Ms. Jarvinen, 6 please raise your right hand. Do you promise to tell the 7 truth, the whole truth, and nothing but the truth? 8 CAROL JARVINEN: I do. 9 KATHLEEN BYRNE: Thank you. 10 SAMANTH SMITH: Thank you very much. The 11 camera's now back on me. I would like to ask a question of 12 you, Ms. Jarvinen about your experience working with your 13 daughter and son-in-law in running or wanting to run this 14 doggy daycare and just your experience overall working in 15 the administrative area to make sure that this business 16 will run efficiently? 17 CAROL JARVINEN: Well, up until now I haven't 18 been directly involved in the business because I work full 19 time for another company. But we bought this property 20 together, and it's my hope to be able to retire and enjoy 21 the company, the Home Away From Home company on a part-time 22 basis. But I do have a lot of industry experience, 23 purchasing, and dealing with things in a professional 24 manner. Also I was, you know, helping them with 25 interacting with the County to try to get this application</p>	<p>15</p> <p>1 KATHLEEN BYRNE: Thank you. 2 EMILY JARVINEN: Yes. Hello. So the way that we 3 plan to do bathroom breaks is to walk them on a leash 4 within the fenced area so to my understanding it's not 5 quite the same the way you would categorize an exercise 6 play yard -- 7 KATHLEEN BYRNE: Right. 8 EMILY JARVINEN: -- because we will be walking 9 them on leash to relieve themselves within the fenced area. 10 The fence, of course, serves as an additional safety 11 barrier, but they will be walked on leash. It's not going 12 to be a running free for all sort of playtime. They will 13 be walked on leash for bathroom usage. 14 KATHLEEN BYRNE: Okay. And we might as well, 15 just stay together Ms. Jarvinen. I just have a couple more 16 operational questions. 17 EMILY JARVINEN: Yes, please. 18 KATHLEEN BYRNE: I didn't want to do anything 19 that was too limiting because I want to make sure that I'm 20 describing exactly what your business practice is. And I 21 have hours of operation for the daycare from 7:30 a.m. to 22 4:30 p.m.? 23 EMILY JARVINEN: Yes, on weekdays only. 24 KATHLEEN BYRNE: Weekdays only. Okay. 25 EMILY JARVINEN: For the daycare portion . now,</p>
<p>14</p> <p>1 going with the help of Ms. Smith. So I'm looking forward 2 to working with this group, and my daughter and son-in-law. 3 I've been a dog owner my whole entire life since even 4 before I could have a memory, so I'm really looking forward 5 to helping, to being involved with this business. 6 KATHLEEN BYRNE: Thank you. 7 SAMANTHA SMITH: Thank you very much. So you 8 have heard from my witnesses and my concluding statement is 9 this. This is obviously a much needed business in the 10 community. I believe that my client, the Applicant, has 11 the ability, the agility, and the business acumen to run 12 this business successfully. They are very thorough and 13 have taken all measures to make sure that the animals will 14 be safe and that the community would benefit from their -- 15 from actually having a doggy daycare to help the residents 16 of their community. Thank you. 17 KATHLEEN BYRNE: Thank you, Ms. Smith. I do have 18 a few questions. I just want to make sure that I have 19 everything correct for you. The staff report says the dogs 20 would not be outside, but the potty breaks which 21 essentially are built into it identified two dogs at one 22 time to go outside to relieve themselves. With that being 23 in a fenced area? 24 SAMANTHA SMITH: I'm going to let Ms. Emily 25 Jarvinen respond.</p>	<p>16</p> <p>1 we will hope to have a couple overnight boarding guests, 2 that will be seven days a week, but that will just be about 3 probably average two dogs at a time who are also staying 4 overnight. But the daycare activity portion is just Monday 5 through Friday, 7:30 to 4:30. 6 KATHLEEN BYRNE: Okay. And maximum 15 dogs on 7 any given day? 8 EMILY JARVINEN: Yes. That will be weekday 9 maximum. Weekends will be less. That's just during the 10 daytime for the daycare portion and that's really what I 11 expect the maximum to be during really popular travel times 12 like Christmas, and you know, times that people generally 13 travel out of town. On average what I would -- my hope 14 and my goal would be to have about 10 dogs daily for 15 daycare and maybe up to 15, like I said, just during very 16 popular travel times. And overnight hopefully average two, 17 maybe up to four to five overnight during those popular 18 holiday times. 19 KATHLEEN BYRNE: Right. And I guess the 20 situation where you have sibling dogs where two from the 21 same family that kind of thing? 22 EMILY JARVINEN: Yes. Yes. And of course, you 23 kow, we are very, very experienced in introducing dogs 24 throughout our current path walk service, so we wouldn't -- 25 sibling dogs can, of course, share the same oversized -- I</p>

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5 (17 to 20)

<p>17</p> <p>1 don't even want to call it a kennel. We have looked into 2 the type of structures we're going to buy so it will be a 3 very oversized sleeping quarters which sibling dogs could 4 of course share. But any dogs from different households 5 will be, of course separated into their own separate 6 sleeping quarters safely so any dogs that are not direct 7 siblings will always have constant 100 percent supervision 8 at all times when they're out interacting together. But 9 yes, siblings may share the same sleeping quarter space. 10 KATHLEEN BYRNE: All right. I have no questions 11 on the sound study. That looked good. Also traffic study 12 looked good as well. Primarily, the back and forth will be 13 the van, correct? 14 EMILY JARVINEN: Yes. 15 KATHLEEN BYRNE: Oh, can you skootch it a little 16 bit more towards you. 17 EMILY JARVINEN: Yes, our van as we currently 18 already own and we do presently use the van for out pack 19 walk service so we're very experienced in loading up the 20 dogs already in and out of the van, take them hiking on -- 21 we're so lucky in Damascus, we have a lot of beautiful 22 county maintained parks so yeah, the dogs are already 23 pretty accustomed to getting in and out of the van. The 24 van is filled up with crates, crash-tested crates that have 25 been working out really well for us. So might as well --</p>	<p>19</p> <p>1 those options are recommended by the EPA, which is 2 obviously a good agency to go by. So were leaning towards 3 that. 4 KATHLEEN BYRNE: Okay. I guess if you had a 5 preference that's fine. But if you had eliminated one I 6 wanted to know -- 7 EMILY JARVINEN: Oh, no. 8 KATHLEEN BYRNE: -- so all three are still on the 9 table? 10 EMILY JARVINEN: Yeah. Mm-hmm. 11 KATHLEEN BYRNE: Okay. Just wanted to confirm 12 that. All right. And that's it for my questions. 13 SAMANTHA SMITH: Thank you very much, Hearing 14 Examiner. 15 KATHLEEN BYRNE: All right. Well, I really, 16 truly appreciate you guys agreeing to be -- well, I guess 17 you didn't really agree, I just gave you the option and you 18 participated in a hybrid way. So thank you so much. 19 I will always be here. The court reporter will 20 always be here. We will always have a Zoom operator here. 21 So you know, for you Ms. Smith in the future, if you, 22 wanted to come in with the Applicant and you had your 23 expert witnesses all flung all over the place they could 24 participate by Zoom. 25 SAMANTHA SMITH: Yes, very good. Very efficient.</p>
<p>18</p> <p>1 we'll continue to utilize so that we don't have a lot of 2 traffic coming in and out. We will continue to be the ones 3 doing the majority of picking up and dropping off. 4 KATHLEEN BYRNE: So that impacts it even less 5 than a regular child daycare. 6 EMILY JARVINEN: Exactly. 7 KATHLEEN BYRNE: For sure. Okay. And one other 8 question regarding pet disposal. You have three options, 9 and I have seen that the staff report focused on just, 10 like, the regular trash. So I don't to limit your options 11 in any way. All three looked pretty suitable, but are you 12 leaning towards one or another? 13 EMILY JARVINEN: so we -- the three options that 14 we looked up, I guess Mario might be better suited on this, 15 but we work -- so I think the EPA, it was the EPA that 16 recommended backing it into a biodegradable bags and giving 17 into a trash service. But I think personally we might be 18 leaning more towards hiring an outside company. I'm not 19 sure if you're familiar with them, there's one called Doody 20 Calls. 21 KATHLEEN BYRNE: Yeah I've seen their trucks. 22 EMILY JARVINEN: and they specifically -- yes so 23 I think that's what we're leaning towards. 24 KATHLEEN BYRNE: Okay. 25 EMILY JARVINEN: But we do know that all three of</p>	<p>20</p> <p>1 Thank you very much. 2 KATHLEEN BYRNE: All right. You guys have a 3 great day. 4 SAMANTHA SMITH: Thank you. 5 EMILY JARVINEN: Thank you. 6 KATHLEEN BYRNE: Oh wait. I have to do my 7 closing. Hold on. 8 SAMANTHA SMITH: Yes. 9 KATHLEEN BYRNE: All right. So the hearing is 10 concluded. The record will be held open for 10 days in 11 order for the court reporter to get us a copy of the 12 transcript. All of the documents that we have which are 22 13 exhibits in this particular matter are going to be deemed 14 admitted, and 30 days after I get the transcript the 15 decision will be rendered and issued and you will receive 16 notice. And so at this point were off the record. 17 SAMANTHA SMITH: Thank you very much. We have a 18 question. One moment. 19 KATHLEEN BYRNE: Oh sure. 20 SAMANTHA SMITH: I meant to ask this earlier. 21 Can we take the sign down now? 22 KATHLEEN BYRNE: Yes. Nana, are you still there? 23 She may or may not be. But yes, it generally the day of 24 the hearing after we have the hearing you can take the sign 25 down.</p>

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6 (21 to 24)

<p>21</p> <p>1 SAMANTHA SMITH: Okay. And I'll get with her offline 2 to arrange to return it. 3 KATHLEEN BYRNE: Okay. Sounds good. 4 SAMANTHA SMITH: Thank you. 5 (Off the record 10:00 a.m.) 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>23</p> <p>1 CERTIFICATE OF TRANSCRIBER 2 I, Molly Bugher, do hereby certify that this 3 transcript was prepared from the digital audio recording of 4 the foregoing proceeding; that said transcript is a true 5 and accurate record of the proceedings to the best of my 6 knowledge, skills, and ability; and that I am neither 7 counsel for, related to, nor employed by any of the parties 8 to the case and have no interest, financial or otherwise, 9 in its outcome. 10 <u>Molly Bugher</u> 11 12 Molly Bugher, CDLT-161 13 November 29, 2023 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p>22</p> <p>1 CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC 2 3 I, CODY HANDLIR, the officer before whom the 4 foregoing proceedings were taken, do hereby certify that 5 any witness(es) in the foregoing proceedings were fully 6 sworn; that the proceedings were recorded by me and 7 thereafter reduced to typewriting by a qualified 8 transcriptionist; that said digital audio recording of 9 said proceedings are a true and accurate record to the best 10 of my knowledge, skills, and ability; and that I am neither 11 counsel for, related to, nor employed by any of the parties 12 to this case and have no interest, financial or otherwise, 13 in its outcome. 14 15 <u>Cody Handlir</u> 16 17 CODY HANDLIR 18 November 17, 2023 19 20 21 22 23 24 25</p>	

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A			
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