

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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*In re Subpoena* in )  
 )  
 RACHEL TANYA ABILEAH, )  
 c/o Alan R. Kabat, Esq. )  
 Bernabei & Wachtel, PLLC )  
 1777 T Street N.W. )  
 Washington, D.C. 20009 )  
 )  
 v. )  
 )  
 JOHN DOE 1 THROUGH 3 AND )  
 JANE DOE 1 )  
 )  
 Defendants. )

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Misc. Action No.

**NOTICE OF REMOVAL OF SUBPOENA  
TO THE UNITED STATES CAPITOL POLICE**

The United States Attorney, through the undersigned attorneys and on behalf of the United States Capitol Police, respectfully files this Notice of Removal of Subpoena pursuant to 28 U.S.C. §§ 1442(a)(1), 1446. In support of this Notice, the U.S. Capitol Police states as follows:

1. On August 25, 2011, counsel for Rachel Tanya Abileah (“Ms. Abileah”) attempted to serve a subpoena *duces tecum* with a return date of September 26, 2011, upon the Office of the General Counsel for the U.S. Capitol Police. The subpoena requests documents in the custody of the U.S. Capitol Police in connection with the matter of *Abileah v. John Does 1 through 3*, Case No. 2011 CA 006754 B, which is pending in the Superior Court for the District of Columbia.

2. U.S. Capitol Police is a federal agency, and believes that the documents are protected from disclosure by 2 U.S.C. § 1979.

3. A copy of the subpoena is attached hereto.

4. Upon removal, The U.S. Capitol Police intends to move to quash the subpoena based on applicable federal law, absent some mutually satisfactory arrangement to the contrary with counsel for Ms. Abileah.

5. WHEREFORE, this subpoena action is properly removed from the Superior Court of the District of Columbia, to this Court, pursuant to 28 U.S.C. §§ 1442(a)(1), 1446. *See also Houston Bus. Journal, Inc. v. Office of the Comptroller of the Currency*, 86 F.3d 1208, 1211 (D.C. Cir. 1996); *Brown & Williamson Tobacco Corp. v. Williams*, 62 F.3d 408, 412-15 (D.C. Cir. 1995). The underlying civil case is not being removed and shall remain in the District of Columbia Superior Court.

Date: September 6, 2011

Respectfully submitted,

RONALD C. MACHEN JR., D.C. Bar #447889  
United States Attorney  
for the District of Columbia

RUDOLPH CONTRERAS, D.C. Bar #434122  
Chief, Civil Division

By: /s/ Alesia N. Black

ALESIA N. BLACK

Special Assistant United States Attorney  
555 4th Street, N.W.

Washington, D.C. 20530


Tel: (202) 616-3285 Fax: (202) 514-8780

Alesia.Black@usdoj.gov

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 6th day of September, 2011, service of the foregoing Notice of Removal of Subpoena to the United States Capitol Police has been made by U.S. and electronic mail to:

RACHEL TANYA ABILEAH,  
c/o Alan R. Kabat, Esq.  
Bernabei & Wachtel, PLLC  
1777 T Street N.W.  
Washington, D.C. 20009

/s/ Alesia N. Black   
Alesia N. Black  
Special Assistant United States Attorney

**SUBPOENA**

**Superior Court of the District of Columbia  
CIVIL DIVISION**

500 Indiana Avenue, N.W., Room JM-170  
Washington, D.C. 20001 Telephone (202) 879-1133

Rachel Tanya Abileah  
Plaintiff

SUBPOENA IN A CIVIL CASE

v.

John Does 1 through 3 and Jane Doe 1  
Defendant

CASE NUMBER: 2011 CA 006754 B

To: United States Capitol Police, 499 S. Capitol St., Suite 820, Washington, D.C. 20003

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the above case.

COURTROOM	DATE	TIME
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YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE	TIME
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YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (*list documents or objects*):

DOCUMENTS OR OBJECTS See Attachment A.		
PLACE OF PRODUCTION Bernabei & Wachtel, PLLC, 1775 T Street N.W., Washington, D.C. 20009	DATE September 26, 2011	TIME 12:00 P.M. EDT

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE	TIME
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Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. SCR-CIV 30(b)(6).

ISSUING PERSON'S SIGNATURE AND TITLE (indicate if attorney for plaintiff or defendant) <i>Alan R. Kabat</i> Attorney for Plaintiff	DATE August 25, 2011
ISSUING PERSON'S NAME, ADDRESS AND PHONE NUMBER Alan R. Kabat, Esquire, Bernabei & Wachtel, PLLC, 1775 T Street N.W., Washington, D.C. 20009 (202) 745-1942	

(SEE RULE 45, SUPERIOR COURT RULES OF CIVIL PROCEDURE ON REVERSE)

WHITE—ORIGINAL    YELLOW—FOR RETURN SERVICE    PINK—OFFICE COPY

## ATTACHMENT A TO SUBPOENA

### INSTRUCTIONS AND DEFINITIONS

1) This request is intended to cover all documents in possession of the United States Capitol Police, or subject to the custody or control of the United States Capitol Police.

2) The information sought by this subpoena covers the period from May 24, 2011 to the present.

3) Where production of documents is required, such request includes such documents as are in the possession of the United States Capitol Police's employees, agents, representatives, and attorneys, or their agents, representatives, or attorneys.

4) "And" and "or" shall be both conjunctive and disjunctive.

5) In the event that you withhold any document on the basis of any claim of privilege, including but not limited to the attorney-client privilege or attorney work-product doctrine, provide the following information as to each document withheld:

- a. the name and position of each author of or contributor to the documents;
- b. the name and position of each addressee and recipient of the document;
- c. the date of the document;
- d. the subject matter of the document;
- e. the factual grounds, if any, for the claim of privilege or work-product.

6) "Document" shall mean every writing of every type and description, and every other instrument or device by which, through which, or on which information has been recorded, preserved, or transmitted, including but not limited to memoranda, including those reflecting meetings, discussions or conversations, meeting agendas, meeting minutes, or meeting notes, handwritten, typewritten or computer generated notes, e-mails, letters, correspondence, files, agreements, contracts, diaries, logs, ledgers, studies, data sheets, notebooks, books, appointment calendars, telephone bills, telephone messages, receipts, vouchers, computations, calculations, accounting(s), financial statements, tax forms, voice recordings, computer tapes or disks, and other data compilations. The term "document" also means every copy of a document where such copy is not an identical duplicate of the original and the original of the document.

## **TO BE PRODUCED**

All documents that constitute, embody, memorialize, comprise, contain, reflect, identify, state, mention, refer to, comment on, respond to, describe, are pertinent to, or in any way relate to the following:

- 1) The incident in which Rachel Abileah was assaulted in the United States House Gallery on May 24, 2011, as described in Exhibit 1.
- 2) The identities of the individuals who assaulted Ms. Abileah in the United States House Gallery on May 24, 2011, as described in Exhibit 1.
- 3) The Criminal Investigation Division's interviews of the individuals who assaulted Ms Abileah, as described in Exhibit 1.
- 4) Any Capitol Police investigation into the assault described in Exhibit 1.
- 5) The Capitol Police's decision not to arrest the individuals who assaulted Ms. Abileah on May 24, 2011 in the United States House Gallery.

In addition to the documents described above, please also produce all photographs, video and audio recordings of the May 24, 2011 incident in the United States House Gallery, described in Exhibit 1.

May 27 2011 Friday

On 05-24-11, Tuesday I was working in the House Gallery on the Joint Session. The Prime Minister of Israel was speaking to Congress. About 5 minutes into his speech, a woman on my left 3 seats over stood up and started yelling and waving a cloth banner. A man in the seat on her right grabbed her and pulled her down and covered her mouth. He had her neck pulled back. I told him to let her go, he did and then she rolled into the row of seats in front of her. I and another officer removed her from the Gallery and put handcuffs on her. We then took her down to the CVC loading Dock where a Patrol Division Transport was waiting to take her. Before she had a chance to get into the Patrol Division Transport she spoke with some officers from Threats Section. She then said that she was having pain in her neck and asked for a doctor. She also asked about the people in the Gallery who grabbed her and that she was assaulted and wanted to press charges. I spoke with our Inspector and told him what I saw and did in the Gallery. The Inspector and I went back to the Gallery and got the people who grabbed her in the Gallery. They were brought to the Capitol Division where they were interviewed by our Criminal Investigations Division. Later at Prisoner Processing the woman that I removed from the House Gallery did not mention being assaulted by the people in the Gallery or were any questions asked.

Officer Conrad W. Smith  
House Chamber Section

*Conrad W. Smith 3928*

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EXHIBIT 1

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
Civil Division

*In re Subpoena* in )  
 )  
RACHEL TANYA ABILEAH, )  
c/o Alan R. Kabat, Esq. )  
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JOHN DOE 1 THROUGH 3 AND )  
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Defendants. )  
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Case No. 2011 CA 006754 B

**NOTICE OF FILING OF NOTICE OF REMOVAL OF SUBPOENA  
TO THE UNITED STATES CAPITOL POLICE**

PLEASE TAKE NOTE that on September 6, 2011, the United States Attorney for the District of Columbia filed with the clerk of the United States District Court for the District of Columbia a Notice of Removal of Subpoena to the United States Capitol Police in the above captioned matter, pursuant to 28 U.S.C. §§ 1442(a)(1), 1446. The Superior Court of the District of Columbia “shall proceed no further unless and until the case is remanded.” See 28 U.S.C. § 1446(d). A copy of the Notice of Removal of Subpoena to the United States Capitol Police (with attachment) is attached hereto.

Date: September 6, 2011

Respectfully submitted,  
  
RONALD C. MACHEN JR., D.C. Bar #447889  
United States Attorney  
for the District of Columbia

RUDOLPH CONTRERAS, D.C. Bar #434122  
Chief, Civil Division

By: Alesia D. Bleck



ALESIA N. BLACK  
Special Assistant United States Attorney  
555 4th Street, N.W.  
Washington, D.C. 20530  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 6th day of September, 2011, service of the foregoing Notice of Filing of Notice of Removal of Subpoena to the United States Capitol Police has been made by U.S. and electronic mail to:

RACHEL TANYA ABILEAH,  
c/o Alan R. Kabat, Esq.  
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Alesia N. Black  
Special Assistant United States Attorney