

Congress of the United States
House of Representatives
COMMITTEE ON HOUSE ADMINISTRATION
1309 Longworth House Office Building
Washington, D.C. 20515-6157
(202) 225-2061
<https://cha.house.gov>

March 10, 2021

Mr. Marc E. Elias
Perkins Coie LLP
700 Thirteenth St., N.W., Suite 800
Washington, DC 20515

Mr. Alan R. Ostergen, P.C.
Alan R. Ostergen, P.C.
500 Locust Street, Suite 199
Des Moines, IA 50309

Mr. Ryan Koopmans
Belin McCormick
666 Walnut Street, Suite 2000
Des Moines, IA 50309

Mr. Mark Schultheis
Nyemaster Goode
700 Walnut Street, Suite 1600
Des Moines, IA 50309

Dear Counsel:

Pursuant to Committee Resolutions 117-10 (adopted February 19, 2021) and 117-12 (adopted earlier today), I am requesting that your clients, the two parties to the pending contested election case in *Hart v. Miller-Meeks*, each file with the Clerk of the House of Representatives and serve on the opposing party two briefs. Your initial briefs will be due no later than 5:00 p.m. Eastern Time on Monday, March 22, 2021, and your reply briefs will be due no later than 5:00 p.m. Eastern Time on Monday, March 29, 2021.

As explained in section 2(a) of Committee Resolution 117-10, each party's initial brief shall:

- (1) express[] the party's views and answer[] ... [this letter's] questions ... about specific procedures, legal principles, and timelines that should control the course of the contested election case and facilitate the case's disposition; and
- (2) explain[] how the party's views and answers in paragraph (1) comport with the Constitution, the Federal Contested Election Act [FCEA], precedents of the House of Representatives, and any other applicable authorities.

Sections 1(d) and 2(b)–(c) of the same resolution establish the word limits for these four briefs. Additionally, you may cite or attach appendices, exhibits, and authoritative sources if doing so will meaningfully advance the presentation of your views.

An initial brief's failure to fully respond to any question in this letter, or a reply brief's failure to fully respond to the views and answers presented in the opposing party's initial brief, could be deemed to waive or forfeit a claim, defense, or argument; so responding with clarity, precision, and comprehensiveness is strongly encouraged.

The Committee will consider your views and your responses to these questions in establishing procedures, principles, and timelines that it will follow during the remainder of this contested election case. However, the parties should not read any conclusions, final or tentative, into any of the questions. The Committee has not reached any decisions in this contest other than those reflected in the Committee's duly adopted resolutions.

The questions in this letter are intended to facilitate bipartisan consensus, to give the parties an opportunity to express their views, and to help crystalize positions on potential steps that may help drive this case toward a just and speedy conclusion. In the interests of fairness and transparency, this letter and likely the four briefs filed in response to it will be made available to the House and to the public on the Committee's website.

For purposes of this letter, the term "Committee" means not only the Committee on House Administration, but also a task force of the Committee, if one is established, or the Chairperson of the Committee or a task force, as appropriate; the terms "you" and "your" refer to the Contestee or Contestant, or an attorney acting on her behalf; the term "Contestee" means Congresswoman Mariannette Miller-Meeks; and the term "Contestant" means former Iowa State Senator Rita R. Hart.

Rules and Procedures for this Contested Election Case

1. Please describe as clearly, precisely, and comprehensively as possible the rules and procedures, if any, that the Committee should adopt for (a) determining whether particular ballots were validly cast by eligible voters; (b) examining, inspecting, and counting ballots, consistent with voters' intent; and (c) facilitating the just and speedy disposition of this contested election case.
2. How would your proposed rules and procedures promote fairness, impartiality and nonpartisanship, the accurate counting of all ballots validly cast by eligible voters and only those ballots, transparency, public confidence, timely dispute resolution, the equal right of all eligible voters to participate in the election, and the integrity of the election?

Ballots Excluded from or Included in Iowa's State-Certified Vote Totals

3. Please describe as clearly, precisely, and comprehensively as possible (a) any ballots that were validly cast by eligible voters but were erroneously excluded from the state-certified vote totals at any point during the initial tabulation of results, the canvass, or the recount, and (b) what, if anything, the Committee should do to determine whether and how each of these ballots should be added to the vote totals.
4. Please describe as clearly, precisely, and comprehensively as possible (a) any ballots that were not validly cast by eligible voters but were erroneously included in the state-certified vote totals and (b) what, if anything, the Committee should do to determine whether and how each of these ballots should be deducted from the vote totals.
5. Please describe as clearly, precisely, and comprehensively as possible (a) any other ballot-counting or ballot-tallying errors or irregularities that affected the state-certified vote totals and (b) what, if anything, the Committee should do to correct them.
6. Which, if any, of these alleged ballot-counting or ballot-tallying errors or irregularities could either party have reasonably foreseen and successfully challenged through Iowa state administrative or judicial procedures prior to (a) Election Day (November 3, 2020) or (b) the Iowa State Canvassing Board's final certification of the election (November 30, 2020)? If either party did unsuccessfully challenge any of these alleged errors or irregularities, please describe those challenges.

Responses to Questions 3–6 do not prejudice your ability to identify additional responsive answers that may be determined through, for example, the discovery process.

Iowa's Contest Court

7. Given the decision in Committee Resolution 117-12 not to immediately dismiss this contested election case, what measures, if any, should the Committee take in response to Contestant's decision not to file a state-court case contesting the Iowa State Canvassing Board's November 30, 2020, final certification of the election?

Discovery

8. Do you intend to depose witnesses or subpoena documents or other tangible things, as described in the FCEA? Should the Committee limit (a) the number of deposition hours available to each party and/or (b) the number or types of documents or other tangible things available to each party? Should the Committee impose any other limits on discovery?

Preservation and Security of Ballots and Other Physical Evidence

9. What physical evidence, including ballots, other records or papers, voting machines, or other equipment, might the Committee need to examine? For each type of evidence, please explain why examination might be necessary; the specific claim or defense to which the evidence might relate; and where, how, and by whom the evidence is currently being maintained.
10. If you have any concerns about the current preservation or security of any physical evidence, please explain those concerns.

November 2020 Recounts

11. For each county, please describe whether the November 2020 recount was conducted by hand, by machine, or a mix of the two; and if a mix of the two, please describe what types of ballots were counted by hand, and what types were counted by machine.
12. For each county, please describe which of the rules, procedures, and methods that the county recount board used were requested or agreed to by your designee to the board.

Timelines

13. Please propose a timeline that includes (a) the close of any discovery; (b) the close of any Committee investigation; (c) any post-investigation briefing; (d) announcement of any Committee decision; and (e) any other deadlines the Committee should impose.

Other Considerations

14. Please identify any other considerations the Committee should take into account to adjudicate and resolve this contested election case.

Thank you for your assistance to the Committee. Please do not hesitate to contact Sean J. Wright, the Committee's Senior Elections Counsel, at (202) 225-2061, if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Zoe Lofgren", with a long horizontal flourish extending to the right.

Zoe Lofgren
Chairperson
Committee on House Administration