STATE OF NORTH CAROLINA
BUNCOMBE COUNTY

BEFORE THE BUNCOMBE COUNTY BOARD OF ELECTIONS

IN RE: CHALLENGE OF JOHN P. MIALL, JR. TO THE CANDIDACY OF SYBRENNAH ANTANETTE MOSLEY

ORDER OF PROCEEDINGS

THIS MATTER is before the Buncombe County Board of Elections to hear the challenge filed by John P. Miall, Jr. (the "Challenger") to the candidacy of Sybrennah Antanette Mosley (the "Challenged Candidate") for Asheville City Council. The Buncombe County Board of Elections is serving as the panel assigned to hear this challenge pursuant to N.C.G.S. § 163-127.3 ("the Panel"). This order directs the manner of the proceedings for the hearing of the candidate challenge, consistent with N.C.G.S. §§ 163-127.4 and -127.5, a copy of which is enclosed.

The hearing of the challenge will proceed as follows:

1. Date and Format of Hearing: The hearing will be conducted in-person, on Tuesday, January 20, 2026, at the Buncombe Board of Elections, 35 Woodfin St., Asheville, NC 28801. There will be two hearings held this day, this will be the second on the schedule. Please arrive to 35 Woodfin St. no later than 3:30pm, and this hearing will start shortly after the conclusion of the first hearing. The hearing is open to the public and will be transcribed by a court reporter and recorded by audio and video. Online access to all meetings can be found at: https://engage.buncombecounty.org/boardofelections

2. Opening Statement and Closing Argument: The Panel will permit an opening statement by the Challenged Candidate and then the Challenger before the presentation of evidence, not to exceed 3 minutes. After the presentation of evidence, the Challenged Candidate and the Challenger will each be permitted to offer a closing argument, not to exceed 2 minutes each.

   The opening statement, if provided, is a chance to explain what the evidence to be offered will show and what the law requires. The closing argument, if provided, is a chance to explain why the evidence that was offered supports the party's desired outcome from the proceeding and why the desired outcome is what the law requires.

3. Evidence Presentation by the Parties: The Challenged Candidate will have the first opportunity to present evidence and testimony. The Challenger will then be permitted to present evidence and testimony, but is not required to testify unless subpoenaed by a party.

Presentation of evidence is subject to the rules of evidence in Chapter 8C of the General Statutes.[1] If a party is offering testimony from a witness, the witness will be sworn in by the chair of the Panel. A party may offer their own testimony and, if so, will be sworn in by the chair of the Panel. The opposing party will have an opportunity to cross-examine any witness who testifies. The members of the Panel may also question the parties and any witnesses.

By 5 p.m., January 17, 2026, 3 days before the hearing, the Challenged Candidate and the Challenger shall email the director of elections for the county at (corinne.duncan@buncombenc.gov) the list of witnesses whose testimony they will offer at the hearing. The opposing side shall be copied on that email.

4. Subpoenas: The chair or any two members of the Panel may issue subpoenas to compel witnesses to testify or provide documents at the hearing. The parties are permitted to issue subpoenas for witnesses or documents, or both. **Subpoenas shall be issued no later than January 15, 2026, 5 days before the date of the hearing.**

5. Affidavits and Documentary Evidence: **All affidavits or supporting documents that a party plans to present at the hearing shall be served on the opposing party in accordance with N.C.G.S. § 1A-1, Rule 5, a copy of which is enclosed, at least three (3) days before the hearing. A copy of these materials shall also be emailed to the director of elections for the county at corinne.duncan@buncombenc.gov.**

   During the presentation of evidence, the party offering the evidence must first request that the Board receive the evidence, with an opportunity for an opposing party to object.

6. Evidence Presentation by Non-Parties: Any person who is present at the hearing and has information concerning the subject of the challenge may request that the Panel permit them to offer testimony or evidence. The request may be submitted in writing before the hearing by mail or in person delivery at the Buncombe County Board of Elections office (35 Woodfin St., Asheville, NC 28801) or by email to **corinne.duncan@buncombenc.gov**. The request may also be made to the Panel at the hearing. If the request is to offer testimony, the person will be sworn in by the chair of the Panel before testifying and the person will be subject to cross-examination by the parties.

IT IS SO ORDERED.

This 9th day of January, 2026.

Dr. Glenda Weinert

Dr. Glenda Weinert, Chair of the Panel

[1] Accessible at the North Carolina General Assembly's website at https://ncleg.gov/Laws/GeneralStatuteSections/Chapter8C.

CERTIFICATE OF SERVICE

I, Nathaniel H. Speier, today caused the foregoing document to be served on the following individuals via email and certified mail on 01/09/2026:

Challenger, John P. Miall, Jr.

Challenged Candidate, Sybrennah Antanette Mosley

Other Parties Required to Receive Notice of Hearing: Buncombe County Republican Party Chair, Buncombe County Democratic Party Chair, and all Asheville City Council Candidates: Drew Ball, Maggie Ullman Berthiaume, Jeffrey Burroughs, Scott Burroughs, R. Blake Butler, Tiffany DeBellott, Dan Ferrell, Angel Gonzales, Nina Ireland, Shaunda Jackson, Tyler Ladd, Jess Young McLean, David Moritz, Bobby Smith, Sheneika E. Smith, CJ Snyder, Kyle Turner, Jared Wheatley, and Keith Young.

This 9th day of January, 2026.

Nathaniel H. Speier
Candidate Coordinator
Buncombe County Election Services

§ 163-127.5. Burden of proof.

(a) The burden of proof shall be upon the candidate, who must show by a preponderance of the evidence of the record as a whole that he or she is qualified to be a candidate for the office.

(b) If the challenge is based upon a question of residency, the candidate must show all of the following:

(1) An actual abandonment of the first domicile, coupled with an intent not to return to the first domicile.

(2) The acquisition of a new domicile by actual residence at another place.

(3) The intent of making the newer domicile a permanent domicile. (2006-155, s. 1; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

Rule 5. Service and filing of pleadings and other papers.

(a) Service of orders, subsequent pleadings, discovery papers, written motions, written notices, and other similar papers - When required. - Every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment and similar paper shall be served upon each of the parties, but no service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in Rule 4.

(a1) Service of briefs or memoranda in support or opposition of certain dispositive motions. - In actions in superior court, every brief or memorandum in support of or in opposition to a motion to dismiss, a motion for judgment on the pleadings, a motion for summary judgment, or any other motion seeking a final determination of the rights of the parties as to one or more of the claims or parties in the action shall be served upon each of the parties at least two days before the hearing on the motion. If the brief or memorandum is not served on the other parties at least two days before the hearing on the motion, the court may continue the matter for a reasonable period to allow the responding party to prepare a response, proceed with the matter without considering the untimely served brief or memorandum, or take such other action as the ends of justice require. The parties may, by consent, alter the period of time for service. For the purpose of this two-day requirement only, service shall mean personal delivery, facsimile transmission, electronic (e-mail) delivery, or other means such that the party actually receives the brief within the required time.

(a2) Service by the Court. - With respect to any document filed by the court that is required to be served, service by the court may be made by a notice that identifies the document filed and directs the recipient to an internet location where the document is available to the recipient.

(b) Service - How made. - A pleading setting forth a counterclaim or cross claim shall be filed with the court and a copy thereof shall be served on the party against whom it is asserted or on the party's attorney of record as provided by this subsection.

With respect to all pleadings subsequent to the original complaint and other papers required or permitted to be served, service shall be made upon the party's attorney of record and, if ordered by the court, also upon the party. If the party has no attorney of record, service shall be made upon the party.

Service is made under this subsection if performed on an attorney through the court's electronic filing or case management system at an email address of record with the court. Service is made under this subsection if performed on a party through the court's electronic filing system or case management system at an email address of record with the court in the case if the party has consented to receive service through the court's electronic filing or case management system and

a copy of the consent is filed with the court by any party. Service through the court's electronic filing or case management system must be sent by 5:00 P.M. Eastern Time on a regular business day. If the service is sent after 5:00 P.M., it will be deemed to have been sent on the next business day.

When service through the court's electronic filing or case management system is not available, service may be made as follows:

(1) Upon a party's attorney of record:

a. By delivering a copy to the attorney. Delivery of a copy within this sub-subdivision means handing it to the attorney, leaving it at the attorney's office with a partner or employee, or sending it to the attorney's office by a confirmed telefacsimile transmittal for receipt by 5:00 P.M. Eastern Time on a regular business day, as evidenced by a telefacsimile receipt confirmation. If receipt of delivery by telefacsimile is after 5:00 P.M., service will be deemed to have been completed on the next business day. Service may also be made on the attorney by electronic mail (e-mail) to an e-mail address of record with the court in the case. Such e-mail must be sent by 5:00 P.M. Eastern Time on a regular business day. If the e-mail is sent after 5:00 P.M., it will be deemed to have been sent on the next business day.

b. By mailing a copy to the attorney's mailing address of record with the court.

c. In the manner provided in Rule 4 for service and return of process.

(2) Upon a party:

a. By delivering a copy to the party. Delivery of a copy within this sub-subdivision means handing it to the party.

b. By mailing a copy to the party at the party's last known address or, if no address is known, by filing it with the clerk of court.

c. Service may also be made on the party by electronic mail (e-mail) if the party has consented to receive e-mail service in the case at a particular e-mail address, and a copy of the consent is filed with the court by any party. Such e-mail must be sent by 5:00 P.M. Eastern Time on a regular business day. If the e-mail is sent after 5:00 P.M. Eastern Time, it will be deemed to have been sent on the next business day.

d. In the manner provided in Rule 4 for service and return of process.

Service by mail shall be complete upon deposit of the pleading or paper enclosed in a post-paid, properly addressed wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service.

(b1) Service - Certificate of Service. - A certificate of service shall accompany every pleading and every paper required to be served on any party or nonparty to the litigation, except with respect to pleadings and papers whose service is governed by Rule 4. The certificate shall show the date and method of service or the date of acceptance of service and shall show the name and service address of each person upon whom the paper has been served. If one or more persons are served by facsimile transmission or electronic mail (e-mail), the certificate shall also show the telefacsimile number or e-mail address of each person so served in that manner. Each certificate of service shall be signed in accordance with and subject to Rule 11 of these rules. With respect to persons served through the court's electronic filing systems, an automated certificate of service generated by that system and that is filed in the case satisfies the requirements of this rule.

(c) Service - Numerous defendants. - In any action in which there are unusually large numbers of defendants, the court, upon motion or of its own initiative, may order that service of the

pleadings of the defendants and replies thereto need not be made as between the defendants and that any crossclaim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

(d) Filing. - The following papers shall be filed with the court, either before service or within five days after service:

(1) All pleadings, as defined by Rule 7(a) of these rules, subsequent to the complaint, whether such pleadings are original or amended.

(2) Written motions and all notices of hearing.

(3) Any other application to the court for an order that may affect the rights of or in any way commands any individual, business entity, governmental agency, association, or partnership to act or to forego action of any kind.

(4) Notices of appearance.

(5) Any other paper required by rule or statute to be filed.

(6) Any other paper so ordered by the court.

(7) All orders issued by the court.

All other papers, regardless of whether these rules require them to be served upon a party, should not be filed with the court unless (i) the filing is agreed to by all parties, or (ii) the papers are submitted to the court in relation to a motion or other request for relief, or (iii) the filing is permitted by another rule or statute. The party taking a deposition or obtaining material through discovery is responsible for its preservation and delivery to the court if needed or so ordered.

(e)(1) Filing with the court defined. - The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with the judge, in which event the judge shall note thereon the filing date and forthwith transmit them to the office of the clerk.

(2) Filing by electronic means. - If electronic filing is available in the county of filing, filing shall be made in accordance with Rule 5 of the General Rules of Practice for the Superior and District Courts.

(3) The failure to affix a date stamp or file stamp on any order or judgment filed in a civil action, estate proceeding, or special proceeding shall not affect the sufficiency, validity, or enforceability of the order or judgment if the clerk or the court, after giving the parties adequate notice and opportunity to be heard, enters the order or judgment nunc pro tunc to the date of filing. (1967, c. 954, s. 1; 1971, c. 538; c. 1156, s. 2.5; 1975, c. 762, s. 1; 1983, c. 201, s. 1; 1985, c. 546; 1991, c. 168, s. 1; 2000-127, s. 1; 2001-379, s. 3; 2001-388, s. 1; 2001-487, s. 107.5(a); 2004-199, s. 5(a); 2005-138, ss. 1, 2; 2006-187, s. 2(a); 2011-332, s. 4.2; 2017-158, s. 1; 2020-46, s. 2; 2023-103, s. 12(a); 2024-33, s. 2.)