

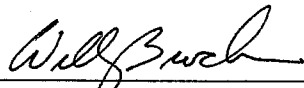
diligently pursued.

4. Close adherence to statutorily prescribed deadlines for ballot preparation is required to ensure an orderly elections process, and this action threatens to jeopardize those deadlines if not adjudicated expeditiously.

WHEREFORE, Defendants Linda Lamone and the State Board of Elections request that the complaint, cause and action be dismissed, with costs. The State Defendants further request that scheduling of the action be expedited to ensure a swift disposition of the case.

Respectfully submitted,

J. JOSEPH CURRAN, JR.
Attorney General of Maryland



WILLIAM F. BROCKMAN
Assistant Attorney General
Office of the Attorney General
200 Saint Paul Place, 20th Floor
Baltimore, Maryland 21202
(410) 576-7055 (telephone)
(410) 576-6955 (facsimile)

Attorneys for Defendant

Dated: July 25, 2006

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 25th day of July 2006, a copy of the foregoing Motion to Dismiss and to Expedite Scheduling, with accompanying memorandum in support, was sent by facsimile and email and served by first-class mail on:

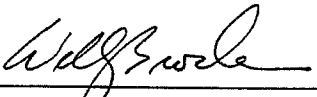
Stephen N. Abrams
2290 Dunster Lane
Rockville, Maryland 20854
Facsimile: (301) 179-3275
steveabr@comcast.net

Plaintiff *pro se*

– and –

Joshua R. Treem, Esq.
Andrew M. Dansicker, Esq.
Schulman, Treem, Kaminkow,
Gilden & Ravenell, P.A.
The World Trade Center, Suite 1800
401 E. Pratt Street
Baltimore, Maryland 21202
Facsimile: (410) 332-0866
Adansicker@stkgrlaw.com

Attorneys for Defendant Thomas E. Perez



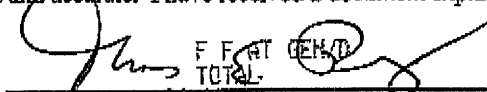
William F. Brockman

EXHIBIT 1

State of Maryland - Certificate of Candidacy
2006 Gubernatorial Primary Election

Name to Appear on Ballot	Tom Perez			GEMS Reporting	
Name as Registered for Voting	Thomas Edward Perez			Perez, Tom	
Office Sought	Attorney General				
Residence Address	7230 Minter Place, Takoma Park, MD 20912				
Mailing Address	7230 Minter Place, Takoma Park, MD 20912				
Contact Phone	(301) 270-1362	Public Phone	(301) 221-5800	Fax	(301) 585-8031
E-mail					
County or Baltimore City	Montgomery				
Election District or Ward	013	Precinct	068		
Party Affiliation	Democratic				
Date of Birth	10/7/1961	Sex	M		

I have carefully reviewed the information above and affirm that it is correct and accurate. I have received a document explaining how the various name fields will appear on the ballot and other election documents.


 F F RT GEM/TD
 TOTAL
 CHECK
 08 0020 C-ID 111 1111-001 12:56PM 8/17/06
 290.
 \$290.
 (Signature of Candidate)

I, **Thomas Edward Perez**, am filing for the office of **Attorney General**. I request that you place my name on the official Primary ballot to be used in the **2006 Gubernatorial Primary Election** on September 12, 2006 as a candidate seeking nomination of the **Democratic Party**.

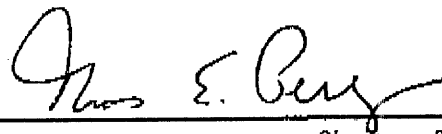
I hereby certify:

- > The ballot name listed above is my legal name or a name supported by an affidavit filed at this time under penalty of perjury.
- > I will not be a candidate for any other public office.
- > I am not a treasurer, sub-treasurer, or campaign manager for any candidate or committee.
- > I am a registered voter and a citizen of Maryland and meet all other requirements for the above listed office.
- > I understand that my signature authorizes local boards to change all records except party affiliation.
- > I understand that final acceptance of this certificate depends upon verification of the information provided by me.
- > I am in compliance with all campaign finance reporting requirements under Title 13 of the Election Code.
- > The filing fee for the above-mentioned office is submitted herewith.

I hereby certify under penalties of perjury that the information provided above is true.

6/16/06

Date of this Certificate

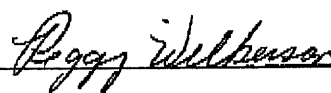


Signature of Candidate

Subscribed and sworn before me this 19 day of June, 2006

For Board Use Only

- ☐ Financial Disclosure
☐ Statement of Organization
☐ Filing Fee



Witnessed by Election Office

RECEIVED

JUN 19 2006

STATE BOARD OF ELECTIONS

Record Extract
Page 27

Affidavit of Alternate Name

Maryland State Board of Elections
 Division of Candidacy and Campaign Finance
 P.O. Box 6486 • 151 West Street, Suite 200 • Annapolis, MD 21401-0486
 410-269-2880 • 800-222-8683 • MD Relay 800-735-2258
 www.elections.state.md.us

RECEIVED

JUN 16 2006

STATE BOARD OF ELECTIONS

Part 1. Instructions.

A candidate's name will appear on the ballot as it appears on the candidate's Certificate of Candidacy, see, §5-301(c) of the Election Law Article, Annotated Code of Maryland. A candidate is required to use the candidate's given name and surname when filing a certificate of candidacy. A candidate may use a name other than the candidate's given name if the candidate signs an affidavit, under penalty of perjury, that the candidate is generally known by the alternate name in: 1) press accounts, if any, or 2) if no press accounts exist, the candidate's everyday encounters with members of the community.

To use an alternate name, a candidate must complete and sign the Affidavit of Alternate Name set forth below. In determining whether use of an alternate name is permitted, a candidate should first determine whether press accounts concerning or relating to the candidate have used the alternate name. If such accounts with the alternate name exist, use of the alternate name is permitted upon completion of the Affidavit. If no press accounts are available, the Affidavit may be executed if the candidate is generally known by the alternate name within the community.

A candidate is not allowed to use a symbol, title, degree, or other professional designation on the Certificate of Candidacy (see § 5-301(c)(4) of the Election Law Article). Accordingly this Affidavit of Alternate Name will not be accepted if a symbol, title, degree, or other professional designation is included.

Part 2. Affidavit of Alternate Name.

I, Thomas E. Perez, hereby affirm, under the penalties of
Full Legal Name
 perjury, that the following statement by me is true (check one only):

☒ Press accounts concerning or relating to me refer to me by use of my alternate name,

Tom Perez, OR
Alternate Name

☐ There are no relevant press accounts concerning or relating to me, however, in everyday encounters with members of my community, I am generally known by my alternate name,

Alternate Name

6/16/06
Date

Thomas E. Perez
Signature

RECEIVED

JUN 16 2006

STATE BOARD OF ELECTIONS

Candidate Information Sheet

C2008
A1998

To expedite your in-person filing process, you should fax this Candidate Information Form to this office at (410) 974-5415 with an indication of your expected filing date and time.

Election	<input checked="" type="checkbox"/> Gubernatorial Primary <input type="checkbox"/> Gubernatorial General
Office Sought	Attorney General
District Running In	Statewide <input type="checkbox"/>
Party Affiliation	Democrat <input checked="" type="checkbox"/>
Election Year	2006
Legal Name (As Registered to Vote)	Thomas Edward Perez MDVOTERS
Name to Appear on Ballot (Indicate only if different than legal name)	Tom Perez MDVOTERS
Date of Birth	10-7-1961 MDVOTERS <input checked="" type="checkbox"/>
Contact Phone (home phone)	301-270-1362
Public Phone	301-221-5800
Fax	301-585-8031
E-Mail	
County of Residence	Montgomery
Sex	Male
Election District (Will be filled out by Staff)	013
Precinct (Will be filled out by Staff)	068
Residence Address (Number, Street, City, Zip)	7230 Minter Pl. Takoma Park 20912
Mailing Address (Only if different than Residence)	

MARYLAND STATE BOARD
OF ELECTION LAWS
P O BOX 731
ANNAPOLIS, MD 21404

YOUR RECPY, THANK YOU
KEEP AS A RECORD
PRT1
F F AT GEN/D 290.00

111
0020 12:56PM 6/19/06

for 1906
☒ Financial Disclosure ☒ Statement of Organization ☒ Identification ☒ Filing Fee
☐ Alternate Name Affidavit SBE Staff _____ LBE Staff Wilda

Place a ✓ in each box to indicate that the required forms have been provided and that you have verified the above information.

I will file my candidacy in Annapolis on: 6-16-06 at 3 PM
(Approximate filing date) (Approximate filing time)

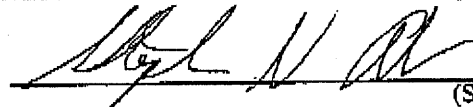
I will file my candidacy on: _____

EXHIBIT 2

State of Maryland - Certificate of Candidacy
2006 Gubernatorial Primary Election

Name to Appear on Ballot	Stephen N. Abrams			GEMS Reporting	
Name as Registered for Voting	Stephen Nathaniel Abrams			Abrams, Stephen N.	
Office Sought	Comptroller				
Residence Address	2290 Dunster Lane, Rockville, MD 20854				
Mailing Address	2290 Dunster Lane, Rockville, MD 20854				
Contact Phone	(301) 340-3199	Public Phone		Fax	(301) 279-3275
E-mail	steveabr@comcast.net				
County or Baltimore City	Montgomery				
Election District or Ward	004	Precinct	025		
Party Affiliation	Republican				
Date of Birth	7/17/1943	Sex	M		

I have carefully reviewed the information above and affirm that it is correct and accurate. I have received a document explaining how the various name fields will appear on the ballot and other election documents.



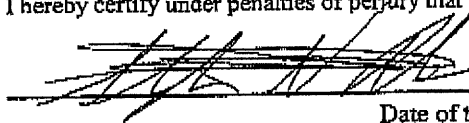
(Signature of Candidate)

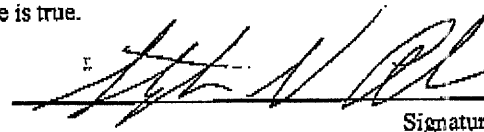
I, **Stephen Nathaniel Abrams**, am filing for the office of **Comptroller**. I request that you place my name on the official Primary ballot to be used in the **2006 Gubernatorial Primary Election** on September 12, 2006 as a candidate seeking nomination of the **Republican Party**.

I hereby certify:

- > The ballot name listed above is my legal name or a name supported by an affidavit filed at this time under penalty of perjury.
- > I will not be a candidate for any other public office.
- > I am not a treasurer, sub-treasurer, or campaign manager for any candidate or committee.
- > I am a registered voter and a citizen of Maryland and meet all other requirements for the above listed office.
- > I understand that my signature authorizes local boards to change all records except party affiliation.
- > I understand that final acceptance of this certificate depends upon verification of the information provided by me.
- > I am in compliance with all campaign finance reporting requirements under Title 13 of the Election Code.
- > The filing fee for the above-mentioned office is submitted herewith.

I hereby certify under penalties of perjury that the information provided above is true.

 5/5/06
 Date of this Certificate


 Signature of Candidate

Subscribed and sworn before me this 5 day of May, 2006.

For Board Use Only
<input checked="" type="checkbox"/> Financial Disclosure
<input checked="" type="checkbox"/> Statement of Organization
<input checked="" type="checkbox"/> Filing Fee


 Witnessed by Election Office

RECEIVED

MAY 05 2006

STATE BOARD OF ELECTIONS

Candidate Information Sheet

To expedite your in-person filing process, you should fax this Candidate Information Form to this office at (410) 974-5415 with an indication of your expected filing date and time.

Election	<input type="checkbox"/> Gubernatorial Primary <input type="checkbox"/> Gubernatorial General	RECEIVED MAY 05 2006 STATE BOARD OF ELECTIONS
Office Sought	COMPTROLLER	
District Running In	STATEWIDE	
Party Affiliation	REPUBLICAN	<input checked="" type="checkbox"/>
Election Year	2006	
Legal Name (As Registered to Vote)	STEPHEN N ABRAMS	
Name to Appear on Ballot (Indicate only if different than legal name)		
Date of Birth	7-17-1943	<input checked="" type="checkbox"/>
Contact Phone (home phone)	301 340-3199	
Public Phone		
Fax	301 279-3275	
E-Mail	stivabr@comcast.net	
County of Residence	MONTGOMERY	
Sex	MALE	
Election District (Will be filled out by Staff)	4	
Precinct (Will be filled out by Staff)	25	
Residence Address (Number, Street, City, Zip)	2290 DUNSTON LANE ROCKVILLE MD 20854	<input checked="" type="checkbox"/>
Mailing Address (Only if different than Residence)		
For Board Use Only <input checked="" type="checkbox"/> Financial Disclosure <input checked="" type="checkbox"/> Statement of Organization <input checked="" type="checkbox"/> Identification <input checked="" type="checkbox"/> Filing Fee <input type="checkbox"/> Alternate Name Affidavit SBE Staff _____ LBE Staff <u>Betty Conn</u>		
Place a ✓ in each box to indicate that the required forms have been provided and that you have verified the above information.		

MARYLAND STATE BOARD
OF ELECTION LAWS
P O BOX 231
ANNAPOLIS, MD 2140

YOUR REPLY, THANK YOU
KEEP AS A RECORD
PRT1
F F COMP/R 290.1

222
0007 1:16PM 5/ 5/

I will file my candidacy in Annapolis on: _____

(Approximate filing date)

at

Record Extract

Page 32

(Approximate filing time)

EXHIBIT 3

J. JOSEPH CURRAN, JR.
ATTORNEY GENERAL



Candidates

Judson F. Garrett, Jr.
Charles O. Monk, II
Dennis M. Sweeney

Deputy Attorneys General

OFFICE OF THE ATTORNEY GENERAL

Munsey Building
Calvert and Fayette Streets
Baltimore, Maryland 21202-1909
(301) 576-6300

WRITER'S DIRECT DIAL NO.
376-6344

TTY for Deaf Balto. Area 376-6372 D.C. Metro 363-0431

July 2, 1987

The Honorable Robert H. Kittleman
12400 Route 108
Clarksville, Maryland 21029

Dear Delegate Kittleman:

Attorney General Curran has asked me to respond to your letter of June 25, 1987, in which you pose several questions about candidates' qualifications. Your specific questions, and my responses, are as follows:

1. "First, what criteria do a Board of Elections Supervisors (either State or local) use to qualify candidates?"

Under the Election Code, election officials exercise relatively limited authority in determining candidates' qualifications. Article 33, §4A-1(a) provides that persons seeking nomination in a primary election (and, by virtue of §7-1(e), petition candidates in a general election) must file a certificate of candidacy. In a primary, each candidate "must be a registered voter of the particular county or district in which he seeks to be nominated." In addition, each candidate "must be affiliated with the party whose nomination for office he seeks." The election board with which the certificate of candidacy is filed has a specific duty: "Before finally placing the name of such a candidate on the ballot at the succeeding primary election, the board shall determine that the candidate meets the registration and affiliation requirements of this section." This is a ministerial function, accomplished by checking the registration records of the board.

Record Extract
Page 34

07/14/2006 14:41 410-974-5126
JAN 30 '02 10:30AM MD 066 410 576 7036

In addition, the election board checks a certificate of candidacy to determine whether, on its face, it discloses a lack of qualification in some other respect - for example, a failure to meet an age requirement. The board would also make certain that the person is not rendered ineligible because of a failure to comply with certain requirements of the Fair Election Practices Act. See §§25-13(b) and 26-16(b).

However, election officials lack authority to determine other potential questions about qualifications. For example, an election board is not empowered to act as an adjudicator if someone were to challenge the representation by a candidate for sheriff that he or she has been a citizen of Maryland for at least five years preceding the election (Article IV, §44 of the Maryland Constitution) or by a candidate for Attorney General that he or she has practiced law in Maryland for at least 10 years (Article V, §4).

2. "Second, is a local (or state) Board of Elections Supervisors the single body charged with evaluating those qualifications?"

Article 33, §4A-2 governs the location at which a certificate of candidacy is filed and, therefore, determines which election board makes a determination about qualifications, as discussed above. Persons seeking nomination for statewide offices, offices encompassing more than one county, seats in the General Assembly, and circuit court judgeships file certificates of candidacy with the State Administrative Board of Election Laws. Persons seeking nomination to local offices file with the board of supervisors of elections in the particular county.

3. "Finally, if a board doesn't exercise its responsibility in this regard, is there a higher authority that will?"


If an aggrieved person believes that an election board has failed to carry out a determination of qualifications required by statute, that person might seek judicial relief through a mandamus action against the board. Otherwise, an allegation that a candidate is not qualified might give rise to a request for judicial relief under Subtitle 19 of Article 33. Under this subtitle, "Any registered voter may seek judicial relief from any act or omission relating to an election, whether or not the election has been held, on the grounds that the act or omission ... [i]s inconsistent with this article or other law applicable to the elections process and ... [m]ay change or have changed the outcome of the election."

The Honorable Robert H. Kittleman
July 2, 1987

3.

I hope that this letter of advice, although not an opinion of the Attorney General, is fully responsive to your inquiry. Please let me know if I may be of further assistance.

Very truly yours,



Jack Schwartz
Chief Counsel
Opinions and Advice

JS:bmg

cc: Linda H. Lamone
Assistant Attorney General

Mr. Gene Raynor

Record Extract

Page 36

JAN 30 '02 10:30AM MD ORG 410 576 7036

07/14/2006 14:41 410-974-5126

IN THE CIRCUIT COURT OF ANNE ARUNDEL COUNTY

STEPHEN N. ABRAMS, :
Plaintiff, :
v. : Case No. C-06-115383
LINDA H. LAMONE, et al., :
Defendants. :

oooOooo

**DEFENDANT THOMAS E. PEREZ’S
MOTION TO DISMISS AND/OR MOTION FOR SUMMARY JUDGMENT**

Pursuant to Maryland Rule 2-322(b)(2), Defendant Thomas E. Perez hereby moves, through undersigned counsel, to dismiss the Complaint for Injunctive and Declaratory Relief (“Complaint”) with prejudice, because the plain language of the Maryland Constitution demonstrates that Mr. Perez is not required to have been a member of the Maryland Bar for ten years to have “practiced law in this State for at least ten years,” and Mr. Perez is therefore, as a matter of law, eligible to serve as Attorney General for Maryland. To that extent, even assuming the truth of the facts alleged in the Complaint concerning Mr. Perez’s admission to the Maryland Bar in 2001, Plaintiff has failed to state a cause of action.

Alternatively, if matters outside the pleading, including the attached Affidavit of Thomas E. Perez, are considered by the Court, Mr. Perez moves for summary judgment pursuant to Maryland Rules 2-322(c) and 2-501 on the grounds that there is no genuine dispute between the parties as to any material fact, and that Mr. Perez is entitled to judgment as a matter of law because the undisputed evidence, as set forth in detail in the Supporting Memorandum of Law and attached Affidavit, demonstrates that Mr. Perez has “practiced law in this State for at least

ten years” and therefore is constitutionally eligible to serve as Attorney General of the State of Maryland.

A Memorandum of Law and Supporting Affidavit accompanies this Motion.

Respectfully submitted,

Joshua R. Treem
Andrew M. Dansicker
Schulman, Treem, Kaminkow,
Gilden & Ravenell, P.A.
Suite 1800, The World Trade Center
401 East Pratt Street
Baltimore, Maryland 21202
(410) 332-0850

Counsel for Defendant Thomas E. Perez

IN THE CIRCUIT COURT OF ANNE ARUNDEL COUNTY

STEPHEN N. ABRAMS,

:

Plaintiff,

:

v.

:

Case No. C-06-115383

LINDA H. LAMONE, et al.,

:

Defendants.

:

oooOooo

**AFFIDAVIT OF DEFENDANT THOMAS E. PEREZ IN SUPPORT
OF MOTION TO DISMISS AND/OR MOTION FOR SUMMARY JUDGMENT**

I, Thomas E. Perez, under penalty of perjury, declare as follows:

1. I am over eighteen years of age, am competent to testify, and have personal knowledge of the facts stated herein, all of which are true.
2. I am a citizen of the State of Maryland, and I reside at 7230 Minter Place, Takoma Park, Maryland. I have lived in and been a resident of Maryland since 1989. I am a qualified voter in Maryland.
3. I am a graduate of Brown University (1983), Harvard Law School (1987) and the John F. Kennedy School of Government (1987). Following my graduation in 1987, I clerked for the Hon. Zita Weinshienk in the United States District Court for the District of Colorado from August 1987 until March 1989.
4. I took and passed the New York bar examination in 1987 and was admitted to the New York bar in 1988. I waived into the District of Columbia bar in approximately 1997, took and passed the Maryland Lawyer's bar in 2001, and was admitted to the Maryland bar in 2001. I have practiced law continuously from 1989 to the present.

5. Following a clerkship with a federal judge in Colorado, I joined the United States Department of Justice (DOJ) in April 1989 as a Trial Attorney in the Criminal Section of the Civil Rights Division.
6. My office was located in the main headquarters of the Department of Justice ("DOJ") in Washington, DC. I served as a federal prosecutor and enforced federal criminal civil rights laws. The cases typically involved allegations that a person or persons committed a hate crime, or a person, such as a police officer, had violated the constitutional rights of another while acting under color of law.
7. I was a front line prosecutor from 1989 to 1994, and handled a national docket, including but not limited to numerous matters in Maryland. As a front line prosecutor, I was responsible for directing the investigation of cases, discussing the cases with the local Assistant United States Attorney, FBI agent or other investigator, making a determination as to whether cases merited prosecution, and then prosecuting cases, if appropriate. In this capacity, I made legal judgments about whether the facts stated in a complaint constituted a potential violation of federal criminal civil rights laws.
8. I won numerous DOJ awards for my prosecutions in various cases. For instance, I received DOJ's second highest award for my role in prosecuting a group of skinheads who went on a deadly, racially motivated crime spree against African-Americans in Lubbock, Texas.
9. DOJ attorneys assigned to DOJ headquarters in Washington, DC are eligible to practice law in all federal and state courts across the country. These attorneys need not obtain prior approval of judges to appear in a federal or state court, or

investigate a federal case in a particular state or local jurisdiction. DOJ attorneys simply need to be a member in good standing of a bar of a state. The Local Rules of the United States District Court for the District of Maryland explicitly state that prosecutors practicing in criminal cases in Maryland need not be a member of the Maryland bar. I personally know of a number of former Assistant United States Attorneys who work or worked in the U.S. Attorney's office in Maryland and were not members of the Maryland bar.

10. Between April 1989 and May 1994, I handled 42 Maryland legal matters. These matters involved allegations of hate crimes and cases involving claims that individuals acting under color of law had abused their authority. In each of these cases, my job was to search for the truth and determine whether the allegations had prosecutorial merit. I worked with the United States Attorney's Office in Maryland, directed the investigation of potential cases, discussed those cases, where necessary, with Assistant United States Attorneys, FBI agents or other investigators, reviewed investigative reports, reviewed the law and determined whether the case merited prosecution.
11. In approximately August 1994, I was promoted to Deputy Chief of the Criminal Section. In this capacity, I was one of three first-line supervisors in the Section of approximately 25 lawyers. We divided our supervisory responsibilities geographically, and I was responsible for supervision of all Maryland matters. This meant that any attorney seeking to pursue a potential prosecution of a Maryland matter had to consult with me as the first-line supervisor.

12. I was a very hands-on supervisor, and spent considerable time discussing investigative strategy, reviewing legal briefs, and working on a wide range of case matters with front-line prosecutors.
13. There were 49 Maryland legal matters that I supervised between August 1994 and December 1995. One such case was a cross burning that took place in front of a home in Prince George's county. The case was investigated in 1994 and 1995, and the trial ultimately took place before the Honorable Peter Messitte. I did not try the case, but I was the first-line supervisor participating in strategic discussions, reviewing pleadings and legal documents, and taking an active role in every legal facet relating to the prosecution of the case.
14. In late 1995, I was assigned by DOJ to the minority staff of the Senate Judiciary Committee for approximately two years. I remained a DOJ employee, and was effectively on loan to Senator Edward Kennedy working as Special Counsel on his Judiciary Committee staff. I worked for approximately two years for Senator Kennedy on a number of issues pertaining to the Sentencing Guidelines, as well as on juvenile crime issues. I was one of the principal drafters of the Church Arson Prevention Act, which was enacted in 1996 following the spate of church arsons at African-American churches and other places of worship. I also worked on the 1996 Immigration reform bill.
15. In early 1998, I returned to DOJ as Deputy Assistant Attorney General for Civil Rights. There are three such Deputies that report to the Assistant Attorney General for Civil Rights. In this capacity, I oversaw the work of three of the Division's litigation sections, the Employment Litigation Section, the Educational

Opportunities Section, and the Criminal Section (my old section), representing roughly one-third of the litigation activities of the Division.

16. Each of the section chiefs of these three Sections reported directly to me, and I had to approve all investigations, whether a request for a grand jury investigation, a request to investigate whether a school district was in compliance with federal civil rights laws, or a request to investigate a public employer accused of workplace discrimination. I was also involved in a wide variety of civil rights policy initiatives.
17. During this time period, I oversaw 62 Maryland matters, including a high-profile case in Baltimore City stemming from the fatal shooting of a Korean resident of Baltimore by an African-American resident of Baltimore City. The State's Attorney's office prosecuted the case as a homicide, and the trial resulted in an acquittal. The United States Attorney's office and the Civil Rights Division were asked to jointly investigate the matter to determine whether the case could be prosecuted as a federal hate crime.
18. I was personally involved in many legal facets of this case and had a number of interactions with investigators and prosecutors, including the Hon. Lynn Battaglia, who was then the United States Attorney in Maryland. We ultimately determined that the matter did not constitute a prosecutable violation of federal criminal civil rights laws, and we closed the case. At the conclusion of the investigation, then U.S. Attorney Battaglia and I met with leaders of the Korean community in Baltimore to explain our decision, and we testified at a field hearing of the U.S. Commission on Civil Rights in Baltimore about the case.

19. In the education context, I was involved in the development of DOJ litigation strategy surrounding the use of race-conscious programs, policies and remedies in the elementary, secondary and higher education contexts. The Education Section of the Civil Rights Division handled a steady diet of these cases, and I oversaw the work of this section. For instance, in Eisenberg v. Montgomery County Public Schools, a federal case arising out of the transfer policy of the Montgomery County School Board, the Board had enacted a narrowly-tailored, race-conscious transfer policy that limited transfers from one school to another if that transfer would exacerbate racial isolation. The purpose of the policy was to retain racial integration. A lawsuit was filed in federal court in Maryland challenging the constitutionality of this policy. The trial court upheld the program. On appeal, DOJ decided to file an amicus brief in this case. I reviewed the brief and was one of a number of high-ranking DOJ officials who participated in the process that resulted in the filing of the amicus brief in this important case.
20. From February 1999 until January 2001, I served as the Director of the Office for Civil Rights ("OCR") at the U.S. Department of Health and Human Services ("DHH"). In this capacity, I was responsible for enforcing civil rights laws in the health and human service setting across the country and functioned as Secretary Donna Shalala's chief advisor on civil rights. This position required a firm grasp of a wide range of legal issues, as well as management and leadership responsibilities. I was frequently on Capitol Hill addressing a wide range of policy issues involving access to health care. In short, I acted as a legal strategist, case supervisor, manager, leader, and policymaker.

21. The bulk of cases that OCR handled involved Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act ("ADA"). I was actively involved in a steady diet of Title VI and ADA cases in Maryland. I have always been a strong advocate of alternative dispute resolution, and I worked hard to attempt to resolve matters without resort to litigation.
22. In the ADA context, I was a principal architect of the Department's strategy to respond to the landmark 1999 Supreme Court decision in Olmstead v. L.C. In this case, the Supreme Court ruled that unnecessary institutionalization of persons with disabilities is a form of discrimination under the ADA. The Court encouraged states to develop comprehensive, effectively working plans for enabling qualified persons with disabilities to reside in the least restrictive setting. Following this decision, I personally initiated a compliance review of several states, including Maryland, to determine whether Maryland's actions were consistent with the *Olmstead* decision. I wrote a letter to Maryland officials, encouraging them to develop a comprehensive plan for moving qualified people with disabilities out of institutions and into community-based settings. My staff convened a number of meetings with Maryland officials in an effort to develop this plan.
23. In addition, I worked with advocacy groups across the nation to educate them about the *Olmstead* decision and OCR's intention to work with states and stakeholder groups to craft comprehensive plans. I also informed advocacy

groups of our intention to investigate any and all complaints from people with disabilities seeking to move into a community based setting.

24. As a result of this outreach, OCR received hundreds of ADA complaints nationally from individuals with disabilities seeking to move from institutions into community-based settings. In Maryland, we received 11 complaints from Maryland residents with disabilities living in institutions who were seeking to move into community-based settings. We reviewed each complaint, and our investigations resulted in community placements of 10 disabled Maryland residents, without resort to formal litigation. As a result of my direct involvement, ten disabled Maryland residents were able to transform their lives by leaving institutions and entering community-based living arrangements.
25. Pursuant to my direction, OCR also initiated a compliance review of Maryland's Temporary Assistance to Needy Families (TANF) program. Under this program, eligible low-income residents of Maryland can receive benefits for basic subsistence. In 2000, we initiated a review of the program in an effort to determine compliance with the ADA and Title VI of the Civil Rights Act of 1964. In particular, we investigated whether people with disabilities and people with limited English proficiency were able to meaningfully access the TANF program. As a consequence of this review, a number of reforms were implemented to ensure compliance, and the matter was resolved informally.
26. During my tenure as Director of OCR, we also handled approximately half a dozen matters in Maryland involving allegations that entities receiving federal financial assistance were in violation of Title VI of the Civil Rights Act of 1964

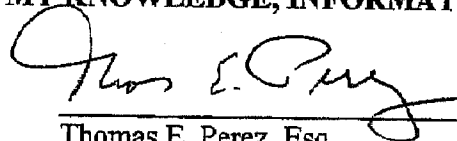
for failing to ensure meaningful access to their programs or services for people with limited English proficiency. Each of these matters was resolved without resort to litigation.

27. In January 2001, I resigned as Director of OCR and left federal government service. Shortly thereafter, in April 2001, I joined the University of Maryland School of Law as Assistant Professor of Law and Director of Clinical Law Programs.
28. In this capacity, I directed Maryland Law School's nationally ranked clinical law programs, and taught my own legal clinic. In fact, from 2001 to the present, I taught a variety of legal clinics, including a criminal defense clinic, criminal justice clinic (which had a prosecution and defense component), civil rights clinic, and my current clinic addressing the intersection of health care and civil rights. All of my clinics involved legal representation of low-income clients in Maryland courts and federal administrative settings. My students and I represented a group of low-wage workers who were fired as a result of their advocacy on behalf of a living wage bill. My students and I also represented victims of lead paint poisoning in landlord tenant court, and we filed an administrative complaint seeking to expand access to health care for Marylanders. Although my clinic does not meet in the summer, I have a number of cases pending at this time. I also have taught a course of Public Interest Advocacy, and I am scheduled to teach a seminar in Fall 2006 on Civil Rights and Health Care.
29. I have served as a host of various faculty committees, including as Chair of the Law School's Committee on Professionalism and Diversity. I have also published

or co-written articles for a number of journals or entities, including the Institute of Medicine of the National Academies of Science, and most recently, the Maryland Journal of Health Care Law and Policy.

I SOLEMNLY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE MATTERS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

Dated: July 25, 2006


Thomas E. Perez, Esq.