

STEPHEN N. ABRAMS  
v.  
LINDA H. LAMONE, et al.

\* IN THE  
\* COURT OF APPEALS  
\* OF MARYLAND  
\* Case No. 142  
\* September Term, 2005

\* \* \* \* \*

**RESPONSE TO MOTION TO MODIFY ORDER**

Thomas Perez, by counsel, objects to the Motion to Modify Order filed by Linda Lamone (“Lamone”) and objects to the proposed modifications by Appellant Stephen N. Abrams (“Abrams”) on the following grounds:

While the issue raised by Lamone may be real, it is one anticipated by the State and one originally raised in the Circuit Court. It was before this Court at the time this case was argued. Presumably, any notice issues that would result from a reversal of the Circuit Court Order would have been addressed by this Court if there was a perceived need to do that. The issue of Mr. Perez’s place on the ballot and this Court’s ruling has received extensive media attention since last Friday. The candidates for Attorney General are certainly free to further educate the public of the Court’s ruling as is Mr. Abrams. There is simply no need for the State Board of Elections to do so. That is not its job. If a vote is cast freely and voluntarily, whether it is “counted” should make no difference to the Board of Elections. Implicit in any notice sanctioned by the State is a suggestion of how and for whom to vote. That is an unwarranted State action.

It is noteworthy that Lamone's Motion fails to address the issue of the absentee ballots which have in fact already been cast for Perez.<sup>1</sup> The effect of the Court's Order is disenfranchisement of those voters – a prejudice that was brought to the attention of the Circuit Court as was raised in the record in this Court. The point is that there is no need for further interference in the voting process by the State or this Court.

Furthermore, the "notice" proposed by the State is inappropriate. All that a voter needs to know, assuming that some notice must be given, is that Mr. Perez is not a candidate for the office of Attorney General. The reasons are irrelevant. This is especially true here where the Court's Per Curiam Order appears not to be unanimous and the exact reasons for it, i.e. the legal or factual basis for the order, are, as yet, unknown.

The words "lack of qualification" that Lamone wants included in the notice are also objectionable. They imply a lack of personal character of Mr. Perez which is certainly not the case and to the extent that Mr. Perez may run for public office in the future, such notice conspicuously posted in all polling places will likely have a future negative impact and an unjustified effect. If Mr. Perez had withdrawn from the race last Friday because of personal reasons the State Board of Elections would not be clamoring to post a notice explaining what those were. It would be enough to say that he was not a candidate.

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<sup>1</sup> Since Friday, Mr. Perez has received several calls from voters to this effect.

The situation is no different here. Assuming the legality of the State posting any notice at all, at most, notice that Mr. Perez is no longer a candidate is all that is necessary.

As for the modifications proposed by Mr. Abrams, they are offensive, not only for the reasons set forth above but because they seek to impose a requirement on the Board of Elections and a cost on Mr. Perez that goes far beyond what the agency's duty is or that this Court's order provides.

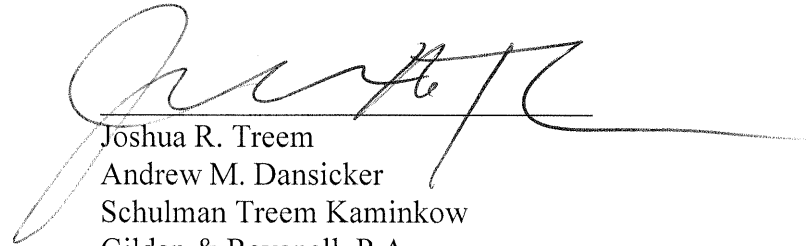
The Board of Elections is not authorized to advertise in the "appropriate media", whatever that is. If Mr. Abrams wants to do that as part of his campaign against Mr. Perez, he can - at his own expense. To have the Board of Elections buy time and space in the "media" is tantamount to the State campaigning for the two remaining candidates. The only people who need to know that Mr. Perez is not a candidate are those who show up to vote. Notice at the polling places is enough.

Abram's modification is also unworkable. For instance, does Mr. Abrams propose for those who are visually challenged that audio messages be distributed on the radio or television? How long does the message in the media run - every day? What publications or other media would be utilized?

Additionally, Mr. Abrams would have this expense borne by Lamone and Perez when it is Lamone's Motion that has raised this issue. Perez is now liable only for a portion of the costs of the appeal. What Abrams seeks is not that at all. It is a penalty to remedy a situation created by this Court's Per Curiam Order and Lamone's claimed inability to reprogram the election computers and voting machines in the next two weeks. It is not Perez's issue and should not be his expense.

For the reasons set forth, Mr. Perez objects to the Motion to Modify Order.

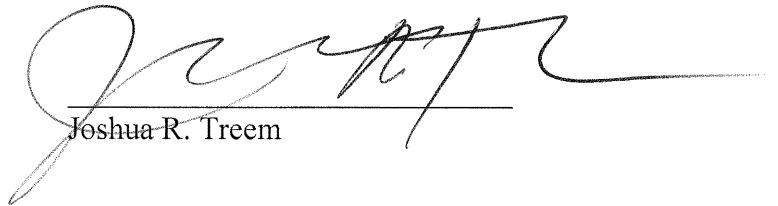
Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY, that on this 29<sup>th</sup> day of August, 2006, a copy of the foregoing Response to Motion to Modify Order was sent via electronic mail to, Assistant Attorney General William F. Brockman and Stephen N. Abrams, Esquire.



Joshua R. Treem