

**DC SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**  
**CIVIL DIVISION**

<b>In the matter of:</b>	)
	)
<b>CLAUDIA BARBER</b>	)
<b>10 Oak Run Road</b>	)
<b>Laurel, MD 20724</b>	)
	)
<i>Petitioner,</i>	)
	)
v.	)
	)
<b>DISTRICT OF COLUMBIA</b>	)
<b>BOARD OF ETHICS AND GOVERNMENT</b>	)
<b>ACCOUNTABILITY</b>	)
<b>OFFICE OF OPEN GOVERNMENT</b>	)
<b>441 4<sup>th</sup> Street, NW Suite 830 South</b>	)
<b>Washington, D.C. 20001</b>	)
	)
<i>Respondent.</i>	)
	)

**PETITION FOR REVIEW OF AGENCY DECISION**

Notice is hereby given that Petitioner Claudia Barber (“Petitioner Barber”), by and through counsel, appeals to the Superior Court of the District of Columbia from the District of Columbia Board of Ethics and Government Accountability Office of Open Government Decision on Resolution of Complaint-COST, #OOG-0013\_11.14.17, issued on the 12th day of January, 2018. A copy of the Order sought to be reviewed is attached to this petition as Exhibit A.

Petitioner Barber was employed as an Administrative Law Judge with the Office of Administrative Hearings, and was terminated by the Commission on the Selection and Tenure of Administrative Law Judges (“COST”) in August 2016, after the COST held several meetings and/or hearings regarding the proposal to remove Petitioner on March 3, 2016, May 24, 2016, July 8, 2016, July 12, 2016 and July 13, 2016, and failed to properly notice the meetings or

hearings as required under the District of Columbia Open Meetings Act, D.C. Official Code § 2-571 et. seq. (2018).

In a related complaint filed an OAH Administrative Law Judge against COST, on October 30, 2017, an OOG Decision concluded that: “the COST failed to provide proper notice of the June 29, 2017 meeting in violation of D.C. Official Code § 2-576(1); failed to comply with OMA location of notice requirements in violation of D.C. Official Code § 2-576(2-3); failed to properly enter into closed session in violation of D.C. Official Code § 2-575(c) and 2-575(b); and failed to take a roll call vote in violation of D.C. Official Code § 2-577(3).” OOG further held “that the COST, has over the course of nearly three years and twelve meetings, consistently failed to meet notice requirements; closed session protocols; recording of roll call votes; recoding of detailed meeting minutes in violation of D.C. Official Code § 2-578; making meeting minutes available to the public pursuant to D.C. Official Code § 2-536(a)(7).” The OOG Director concluded that her office had the authority to order compliance with the OMA and to nullify the actions taken in the meetings, which violated the OMA.

Petitioner Barber hereby files this Petition for Review of the Office of Open Government (“OOG”) January 12, 2018 Resolution of Complaint against COST without a finding of a violation. OOG held that OOG was unable to make factual determinations regarding violations of the OMA without the requested records and took no further action, and OOG does not have the authority to independently nullify actions taken during meetings of public bodies, and cannot take any action regarding Petitioner’s request to nullify the meetings and/or hearings.

Address of Respondent Agencies or Officials:

Board of Ethics and Government Accountability  
Office of Open Government  
441 4th Street, NW  
Washington, D.C. 20001

Names and addresses of parties or attorneys to be served:

Karl A. Racine  
Office of the Attorney General  
441 4th Street, NW, Suite 1100S  
Washington, D.C. 20001

Respectfully submitted,

*/s/ David A. Branch*

David A. Branch, DC Bar # 438764  
Law Office of David A. Branch and  
Associates, PLLC  
1828 L Street, NW, Suite 820  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 9th day of February 2018 a copy of the foregoing was served on the following by first-class mail:

Karl A. Racine  
Office of the Attorney General  
441 4th Street, NW, Suite 1100S  
Washington, D.C. 20001

Respectfully submitted,

*/s/ David A. Branch*

David A. Branch

# **Exhibit A**

BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY  
OFFICE OF OPEN GOVERNMENT



January 12, 2018

**VIA ELECTRONIC MAIL**

Ms. Claudia Barber  
10 Oak Run Road  
Laurel, MD 20724  
[claudiaabarter@aol.com](mailto:claudiaabarter@aol.com)

**VIA ELECTRONIC MAIL**

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Associate, PLLC  
1828 L Street NW  
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Washington, DC 20036  
[louiseryder@dcbranchlaw.com](mailto:louiseryder@dcbranchlaw.com)

**RE: #OOG-0013\_11.14.17 Resolution of Complaint\_COST<sup>1</sup>**

Dear Ms. Barber:

The Director of the Office of Open Government (OOG), pursuant to the authority set forth in § 503(a)(2) of the District of Columbia Administrative Procedure Act, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-593(a)(2) (2018)), and 3 DCMR § 10400 *et seq.* (2018), investigated your Open Meetings Act (OMA), (D.C. Official Code § 2-571 *et seq.* (2018)), complaint regarding whether the Commission on the Selection and Tenure of Administrative Law Judges (COST) failed to properly notice meetings that occurred on May 24, 2016, July 8, 2016 and July 12, 2016, in violation of D.C. Official Code § 2-576(1)(2)(A)(B). Further, you asked that the OOG nullify the meetings of the COST that occurred on March 3, 2016 and July 13, 2016.

On November 16, 2017, the OOG requested all meeting-related records, including meeting notices, agendas, minutes and recordings relative to COST meetings occurring on the dates in question. In its November 30, 2017 response to the Notification of Complaint, the COST, by way of the Office of Administrative Hearings, acknowledged that a May 24, 2016 meeting did occur, but contends no formal action was taken; and that a July 8, 2016 status conference was conducted by the COST. The OOG is unable to make factual determinations regarding violations of the OMA without the requested records.

Finally, the OOG does not have the authority to independently nullify actions taken during meetings of public bodies, and cannot take any action regarding your request to nullify the March 3, 2016 meeting; the July 13, 2016 status hearing; and the July 13, 2016 hearing.

Sincerely,

TRACI L. HUGHES, ESQ.  
Director, Office of Open Government  
Board of Ethics and Government Accountability

<sup>1</sup> The OOG mistakenly duplicated file numbers. This complaint is properly assigned file #OOG-0013\_11.14.17, rather than #OOG-0012\_11.14.17. This is a change in file number only, and has no substantive impact regarding the OOG's determination regarding the complaint.