

**U.S. District Court  
District of New Hampshire (Concord)  
CIVIL DOCKET FOR CASE #: 1:00-cv-00025-PB**

A. v. Education Dept NH, et al  
Assigned to: Judge Paul J. Barbadoro  
Demand: \$0  
Cause: 42:1983 Civil Rights Act

Date Filed: 01/14/2000  
Date Terminated: 06/20/2002  
Jury Demand: None  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff**

**Brandon A.**  
*by next friend*  
David A.

represented by **Jennifer A. Johnson**  
Disabilities Rights Center Inc.  
18 Low Ave  
Concord, NH 03301-4971  
603 228-0432  
*TERMINATED: 02/16/2000*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Ronald K. Lospennato**  
Disabilities Rights Center Inc.  
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603 228-0432  
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*LEAD ATTORNEY*  
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V.

**Defendant**

**State of New Hampshire, Department  
of Education**  
*other*  
Elizabeth Twomey

represented by **Nancy J. Smith**  
Office of Attorney General  
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33 Capitol Street  
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**Amicus**

**Epsom School District**

represented by **Diane M. McCormack**  
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**Concord School District**

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*ATTORNEY TO BE NOTICED*

**Amicus**

**Exeter School District**

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*LEAD ATTORNEY*  
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**Hudson School District**

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**Litchfield School District**

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**Timberlane Regional School District**

represented by **John F. Teague**  
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**Winnisquam Regional School District**

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**Amherst School District**

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**Mont Vernon School District**

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**Souhegan School District**

represented by **John F. Teague**  
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ATTORNEY TO BE NOTICED

**Intervenor Plaintiff****Justin C.**

TERMINATED: 08/09/2001

represented by **Ronald K. Lospennato**

(See above for address)

TERMINATED: 08/09/2001

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
01/14/2000	1	IDEA Complaint; FILING FEE \$ 150.00 RECEIPT # 17813 Administrative Record Due 2/18/00 (jeb) Modified on 01/19/2000 (Entered: 01/19/2000)
01/19/2000		SUMMONS(ES) issued for Education Dept NH, Epsom SD (jeb) (Entered: 01/19/2000)
02/14/2000	2	IDEA Administrative Record (SEALED) filed; Certificate of Completion due 3/15/00 (mm) (Entered: 02/14/2000)
02/14/2000	3	NOTICE of withdrawal by Attorney Jennifer Johnson for Brandon A. (mm) (Entered: 02/14/2000)
02/16/2000	4	NOTICE of substitute attorney for Brandon A. . Terminated attorney Jennifer A. Johnson for Brandon A. **Substituted attorney Ronald K. Lospennato. (mm) (Entered: 02/16/2000)
03/15/2000	5	MOTION by Education Dept NH to Extend Time until 3/24/00 to file responsive pleading with assent. (mm) (Entered: 03/16/2000)
03/16/2000	6	RETURN OF SERVICE executed as to Education Dept NH 2/25/00 . Answer due on 3/16/00 for Education Dept NH (mm) (Entered: 03/16/2000)
03/16/2000	7	WAIVER OF SERVICE Executed as to Epsom SD ; waiver mailed 2/23/00 ; Answer due on 4/26/00 for Epsom SD (mm) (Entered: 03/16/2000)
03/16/2000		ENDORSED ORDER granting [5-1] motion to Extend Time until 3/24/00 to file responsive pleading, reset Answer deadline to 3/24/00 for Education Dept NH ( signed by Magistrate Judge James R. Muirhead ) (mm) (Entered: 03/17/2000)
03/21/2000	8	MOTION by Brandon A. to Extend Time to file certificate of completion with assent. (mm) (Entered: 03/21/2000)
03/21/2000		ENDORSED ORDER granting [8-1] motion to Extend Time to file certificate of completion, reset Miscellaneous deadline for 4/24/00 re: certificate of completion ( signed by Chief Judge Paul J. Barbadoro ) (mm) (Entered: 03/22/2000)
03/21/2000	9	AMENDED COMPLAINT by Brandon A. amending [1-1] disabilities complaint claims and class action (mm) (Entered: 03/22/2000)
03/29/2000	10	MOTION by Education Dept NH to Dismiss the 1st amended complaint with memorandum and attachments. Objection to Motion Deadline 4/18/00 (mm) (Entered: 03/29/2000)
04/17/2000	11	OBJECTION with memorandum & attachments by Brandon A. to [10-1] motion to Dismiss the 1st amended complaint (mm) (Entered: 04/18/2000)
04/26/2000	12	ANSWER to Complaint [9-1], [1-1] by Epsom SD (Attorney Diane M. McCormack) (mm) (Entered: 04/26/2000)
05/09/2000	13	IDEA Certificate of Completion by Education Dept NH, Epsom SD ; Deadline set for 7/10/00 for parties to file motion for evidentiary hearing or joint statement (mm) (Entered: 05/10/2000)
05/17/2000	14	MOTION by Brandon A. to schedule a trial on the merits or evidentiary hearing with assignment to expedited trial track and pretrial discovery with memorandum. Objection to Motion Deadline 6/6/00 (mm) (Entered: 05/18/2000)

05/19/2000	15	MOTION by Brandon A. to correct the motion to schedule a trial on the merits with assent. (mm) (Entered: 05/22/2000)
05/23/2000	16	OBJECTION with memorandum by Education Dept NH to [14-1] motion to schedule a trial on the merits or evidentiary hearing with assignment to expedited trial track and pretrial discovery (mm) (Entered: 05/23/2000)
05/26/2000		ENDORSED ORDER granting [15-1] motion to correct the motion to schedule a trial on the merits ( signed by Chief Judge Paul J. Barbadoro ) (mm) (Entered: 05/30/2000)
05/26/2000		ENDORSED ORDER denying [14-1] motion to schedule a trial on the merits or evidentiary hearing with assignment to expedited trial track and pretrial discovery ( signed by Chief Judge Paul J. Barbadoro ) (mm) (Entered: 05/30/2000)
06/16/2000	17	NOTICE of appearance by Pamela Jermyn as co-counsel for Brandon A. (mm) (Entered: 06/19/2000)
07/10/2000	18	JOINT STATEMENT of Material Facts filed along with disputed and additional facts; Decision Memoranda due 8/9/00 for Epsom SD, for Brandon A. (mm) (Entered: 07/11/2000)
07/10/2000	19	JOINT STATEMENT of Material Facts filed along with disputed and additional facts; Decision Memoranda due 8/9/00 for Education Dept NH, for Brandon A. (mm) (Entered: 07/11/2000)
08/09/2000		ADDED PARTY Concord SD, Exeter School Dist, Hudson School Dist, Litchfield SD, Timberlane Reg Sch, Winnisquam Reg SD, Amherst SD, Mont Vernon School, Souhegan SD (jar) (Entered: 08/10/2000)
08/09/2000	20	MOTION by Concord SD, Exeter School Dist, Hudson School Dist, Litchfield SD, Timberlane Reg Sch, Winnisquam Reg SD, Amherst SD, Mont Vernon School, Souhegan SD for Leave to File amicus curiae brief with assent, no memorandum. (jar) (Entered: 08/10/2000)
08/09/2000	21	DECISION MEMORANDUM filed by Epsom SD ; Objection to Decision Memorandum due 8/29/00 for Brandon A. (jar) (Entered: 08/10/2000)
08/09/2000	22	DECISION MEMORANDUM filed by Education Dept NH ; Objection to Decision Memorandum due 8/29/00 for Brandon A. (jar) (Entered: 08/10/2000)
08/09/2000	23	MOTION by Brandon A. for Oral Argument no memorandum. Objection to Motion Deadline 8/29/00 (jar) (Entered: 08/10/2000)
08/09/2000	24	DECISION MEMORANDUM filed by Brandon A. ; Objection to Decision Memorandum due 8/29/00 for Epsom SD, for Education Dept NH (jar) (Entered: 08/10/2000)
08/15/2000		ENDORSED ORDER granting [20-1] motion for Leave to File amicus curiae brief ( signed by Chief Judge Paul J. Barbadoro ) (mm) (Entered: 08/16/2000)
08/15/2000	25	AMICUS CURIAE BRIEF filed by Concord SD, Exeter School Dist et al. (mm) (Entered: 08/16/2000)
08/22/2000	26	MOTION by Brandon A. to Strike [25-1] amicus curiae brief Objection to Motion Deadline 9/11/00 (mm) (Entered: 08/22/2000)
08/28/2000	27	MOTION by Epsom SD to Extend Time until 9/29/00 to file objection to decision memo with partial assent (mm) (Entered: 08/28/2000)
08/29/2000	28	Addendum (Notice of late authority) by defendant Epsom SD to [21-1] disabilities memorandum (mm) (Entered: 08/29/2000)
08/29/2000	29	Addendum/Correction by defendant Epsom SD to [21-1] disabilities memorandum (mm) (Entered: 08/29/2000)
08/29/2000	30	Partial OBJECTION by Epsom SD to [23-1] motion for Oral Argument (mm) (Entered: 08/29/2000)

08/29/2000	31	OBJECTION by Brandon A. to [21-1] disabilities memorandum . (mm) (Entered: 08/29/2000)
08/30/2000		ENDORSED ORDER granting [27-1] motion to Extend Time until 9/29/00 to file objection to decision memo, Objection to IDEA Memo ddl reset to 9/1/00 for [24-1] disabilities memorandum ( signed by Chief Judge Paul J. Barbadoro ) (mm) (Entered: 08/31/2000)
09/01/2000	32	OBJECTION by Epsom SD to [24-1] disabilities memorandum with attachments. (mm) Modified on 09/05/2000 (Entered: 09/05/2000)
09/01/2000	33	OBJECTION by Education Dept NH to [24-1] disabilities memorandum . (mm) (Entered: 09/05/2000)
09/08/2000		ENDORSED ORDER granting [23-1] motion for Oral Argument ( signed by Chief Judge Paul J. Barbadoro ) (mm) (Entered: 09/11/2000)
09/11/2000	34	MOTION by Brandon A. to Strike Appendix A and B from Epsom's objection to plaintiff's decision memo [32-1] Objection to Motion Deadline 10/2/00 (mm) (Entered: 09/11/2000)
09/11/2000	35	OBJECTION with memorandum by Epsom SD to [34-1] motion to Strike Appendix A and B from Epsom's objection to plaintiff's decision memo [32-1] (mm) (Entered: 09/11/2000)
09/11/2000	36	OBJECTION by Timberlane Reg Sch, Winnisquam Reg SD to [26-1] motion to Strike [25-1] amicus curiae brief (mm) (Entered: 09/11/2000)
09/13/2000		Oral Argument set at 10:30 10/26/00 before Chief Judge Paul Barbadoro. (mm) (Entered: 09/13/2000)
10/02/2000	37	OBJECTION with memorandum by Epsom SD to [34-1] motion to Strike Appendix A and B from Epsom's objection to plaintiff's decision memo [32-1] (mm) (Entered: 10/02/2000)
10/19/2000	38	MOTION by Epsom SD to reopen joint statement of material facts if the court does not have enough information to affirm the hearing officer's order Objection to Motion Deadline 11/8/00 (mm) (Entered: 10/19/2000)
10/24/2000	39	OBJECTION by Epsom SD to [38-1] motion to reopen joint statement of material facts if the court does not have enough information to affirm the hearing officer's order (mm) (Entered: 10/25/2000)
10/26/2000		Oral Argument held in courtroom 4 ebfore Judge Barbadoro. Discussion of case. Plaintiff to file stipulation in 14 days, amended complaint to be filed 28 days. Status conference to be held after that. Answer to complaint not due until after status conference (mm) (Entered: 10/27/2000)
10/26/2000	40	Exhibit list by Brandon A., Epsom SD for the oral arguments (mm) (Entered: 10/27/2000)
10/31/2000	41	TRANSCRIPT for Oral Argument held on 10/26/00; Court Reporter: Sandy K. (mm) (Entered: 10/31/2000)
11/01/2000	42	ORDER parties have agreed to settle Brandon A.'s individual claims. Stipulation to be filed. The time to answer the amended complaint shall be stayed until further order of the court. The clerk shall schedule a status conference after the amended complaint is filed. All pending motions are dismissed without prejudice [38-1] [34-1] [32-1], [26-1] [25-1] [10-1] set Miscellaneous deadline for 11/9/00 re: settlement stipulation , set Amended complaint deadline to 11/24/00 ( signed by Chief Judge Paul J. Barbadoro ) (mm) (Entered: 11/03/2000)
11/13/2000	43	Stipulation by Brandon A., Education Dept NH, Epsom SD re: remanding matter to a hearing officer of NH dept. of Education (mm) (Entered: 11/13/2000)
11/14/2000		ENDORSED ORDER granting [43-1] stipulation ( signed by Chief Judge Paul J. Barbadoro ) (mm) (Entered: 11/14/2000)
11/22/2000	44	SECOND AMENDED COMPLAINT by Brandon A. amending [9-1] amended complaint, [1-1] disabilities complaint parties, allegations (mm) (Entered: 11/22/2000)

		11/24/2000)
11/22/2000		Terminated party Epsom SD not listed as a party in the second amended complaint (#44) (mm) (Entered: 11/24/2000)
12/06/2000		Status conference set at 3:30 12/21/00 before: Chief Judge Barbadoro (mm) (Entered: 12/06/2000)
12/08/2000		Original Administrative transcript [2-1] returned to NH Dept. of Education per request of Stephen Berwick. Copy kept for file. (mm) (Entered: 12/08/2000)
12/21/2000		Status conference held before: Chief Judge Barbadoro Defendant to respond to Amended complaint on or before 1/21/01. (mm) (Entered: 12/22/2000)
12/21/2000		ENDORSED ORDER, set Answer deadline to 1/22/01 for Education Dept NH , Response deadline set for 2/21/01 to Motion to Dismiss, if filed ( signed by Chief Judge Paul J. Barbadoro ) (mm) (Entered: 12/22/2000)
01/22/2001	45	MOTION by Education Dept NH to Dismiss with memorandum. Objection to Motion Deadline 2/21/01 (mm) (Entered: 01/23/2001)
01/26/2001	46	MOTION by Epsom SD to appear as amicus curiae with assent. (mm) (Entered: 01/26/2001)
01/29/2001		ENDORSED ORDER granting [46-1] motion for Epsom School District to appear as amicus curiae ( signed by Chief Judge Paul J. Barbadoro ) (mm) (Entered: 01/30/2001)
02/21/2001	48	MOTION by Brandon A. for Leave to File third amended complaint with cites. Objection to Motion Deadline 3/13/01 (mm) (Entered: 02/22/2001)
02/21/2001	49	MOTION by Brandon A. to Intervene by Justin C. with memorandum attached to document #48.. Objection to Motion Deadline 3/13/01 (mm) (Entered: 02/22/2001)
02/21/2001	50	OBJECTION with memorandum by Brandon A. to [45-1] motion to Dismiss (mm) (Entered: 02/22/2001)
03/12/2001	51	OBJECTION by Education Dept NH to [48-1] motion for Leave to File third amended complaint. Memo in support is document #53. (mm) (Entered: 03/13/2001)
03/12/2001	52	OBJECTION by Education Dept NH to [49-1] motion to Intervene by Justin C. Memo in support is document #53 (mm) (Entered: 03/13/2001)
03/13/2001	53	MEMORANDUM by Education Dept NH in Support of/to [52-1] & [51-1] objections to motions to amend and intervene (mm) (Entered: 03/13/2001)
03/15/2001	54	MOTION by Brandon A. for Leave to File reply to objection to motion to intervene Justin C Objection to Motion Deadline 4/4/01 (mm) (Entered: 03/16/2001)
03/27/2001	55	OBJECTION by Education Dept NH to [54-1] motion for Leave to File reply to objection to motion to intervene Justin C (mm) (Entered: 03/27/2001)
03/27/2001		ENDORSED ORDER granting [54-1] motion for Leave to File reply to objection to motion to intervene Justin C ( signed by Chief Judge Paul J. Barbadoro ) (mm) (Entered: 03/28/2001)
03/27/2001	56	REPLY by Brandon A. to objection to [49-1] motion to Intervene by Justin C. (mm) (Entered: 03/28/2001)
08/08/2001	57	MEMORANDUM AND ORDER denying [45-1] motion to Dismiss ( signed by Chief Judge Paul J. Barbadoro ) (jar) (Entered: 08/09/2001)
08/08/2001	58	ORDER denying [49-1] motion to Intervene by Justin C., denying [48-1] motion for Leave to File third amended complaint ( signed by Chief Judge Paul J. Barbadoro ) (jar) (Entered: 08/09/2001)
08/09/2001		Terminated party Justin C. (jar) (Entered: 08/09/2001)



09/04/2001	59	MOTION by Education Dept NH to Extend Time until 9/6/01 to answer with assent. (mm) (Entered: 09/05/2001)
09/06/2001		ENDORSED ORDER granting [59-1] motion to Extend Time until 9/6/01 to answer, reset Answer deadline to 9/6/01 for Education Dept NH ( signed by Chief Judge Paul J. Barbadoro ) (mm) (Entered: 09/06/2001)
09/06/2001	61	ANSWER to Complaint [44-1] by Education Dept NH (mm) (Entered: 10/10/2001)
09/18/2001	60	NOTICE of substitute attorney for Epsom SD . Terminated attorney Diane M. McCormack for Epsom SD **Substituted attorney Gerald M. Zelin. (mm) (Entered: 09/18/2001)
12/21/2001	62	Proposed Discovery Plan (mm) (Entered: 12/21/2001)
12/21/2001		ENDORSED ORDER DISCOVERY PLAN ***Case track set--STNDRD granting [62-1] discovery plan . Length of Trial: 2 days ( signed by Chief Judge Paul J. Barbadoro ). (mm) (Entered: 12/21/2001)
01/03/2002		TRIAL NOTICE: Final Pretrial Statements Due 12/6/02 ; Final Pretrial Conference set for 2:00 12/23/02 ; Bench Trial set for 2-week period beginning 9:30 1/7/03 before Chief Judge Paul J. Barbadoro . LR 16.2(d) Objections Due 12/20/02. (mm) (Entered: 01/03/2002)
02/08/2002	63	MOTION by Brandon A. for Leave to File Motion for Class Certification late with assent. (mm) (Entered: 02/08/2002)
02/15/2002		ENDORSED ORDER granting [63-1] motion for Leave to File Motion for Class Certification late ( signed by Chief Judge Paul J. Barbadoro ) (mm) (Entered: 02/15/2002)
02/15/2002	64	MOTION by Brandon A. to Certify class with memorandum and attachments. Objection to Motion Deadline 3/7/02 (mm) (Entered: 02/15/2002)
02/22/2002	65	MOTION by Education Dept NH to Extend Time until 3/7/02 to file objection to motion for class certification with assent. (mm) (Entered: 02/22/2002)
02/28/2002		ENDORSED ORDER granting [65-1] motion to Extend Time until 3/7/02 to file objection to motion for class certification, Objection to Motion reset to 3/7/02 for [64-1] motion to Certify class ( signed by Chief Judge Paul J. Barbadoro ) (mm) (Entered: 03/01/2002)
03/07/2002	66	OBJECTION with memorandum and attachments by Education Dept NH to [64-1] motion to Certify class (mm) (Entered: 03/08/2002)
04/05/2002	67	ORDER denying [64-1] motion to Certify class, set Motion To Dismiss Filing deadline to 4/19/02 for Education Dept NH or a statement re: subject metter jurisdiction , ( signed by Chief Judge Paul J. Barbadoro ) (mm) (Entered: 04/08/2002)
04/18/2002	68	MOTION by Education Dept NH to Dismiss second amended complaint with memorandum and attachments. Objection to Motion Deadline 5/8/02 (mm) (Entered: 04/19/2002)
05/08/2002	69	MOTION by Brandon A. to Extend Time until 5/10/02 to file objection to Motion to Dismiss with assent (mm) (Entered: 05/09/2002)
05/10/2002		ENDORSED ORDER granting [69-1] motion to Extend Time until 5/10/02 to file objection to Motion to Dismiss, Objection to Motion reset to 5/10/02 for [68-1] motion to Dismiss second amended complaint ( signed by Chief Judge Paul J. Barbadoro ) (mm) (Entered: 05/10/2002)
05/10/2002	70	OBJECTION with separate memorandum and attachments by Brandon A. to [68-1] motion to Dismiss second amended complaint (mm) (Entered: 05/13/2002)
05/10/2002	71	MOTION by Brandon A. for Summary Judgment with separate memorandum and attachments. Objection to summary judgment deadline 6/12/02 (mm) (Entered: 05/13/2002)

05/10/2002	72	MEMORANDUM by Brandon A. in Support of/to [71-1] motion for Summary Judgment, [70-1] objection to motion to dismiss (mm) (Entered: 05/13/2002)
05/20/2002	73	OBJECTION with memorandum by Education Dept NH to [71-1] motion for Summary Judgment (mm) (Entered: 05/20/2002)
05/20/2002	74	REPLY by Education Dept NH to objection to [68-1] motion to Dismiss second amended complaint (mm) (Entered: 05/20/2002)
05/29/2002	75	REPLY by Brandon A. to objection to [71-1] motion for Summary Judgment (mm) (Entered: 05/30/2002)
05/30/2002	76	CORRECTED AFFIDAVIT of Pamela Jermyn-Kaley by Brandon A. Re: [75-1] objection reply (mm) (Entered: 05/30/2002)
06/06/2002	77	SUPPLEMENT/Addendum by defendant Education Dept NH to [68-1] motion to Dismiss second amended complaint regarding new administrative changes effective 7/1/02. (mm) (Entered: 06/06/2002)
06/19/2002	78	ORDER denying [71-1] plaintiff's motion for Summary Judgment, granting [68-1] defendant's motion to Dismiss second amended complaint which is treated as a motion for summary judgment. ( signed by Chief Judge Paul J. Barbadoro ) (mm) (Entered: 06/20/2002)
06/20/2002	79	JUDGMENT is hereby entered in accordance with the Memorandum and Order dated June 19, 2002, by Chief Judge Paul Barbadoro. (Signed by Clerk James R. Starr) (mm) (Entered: 06/20/2002)
06/20/2002		Case closed – summary judgment (dismiss) (mm) (Entered: 06/20/2002)
07/19/2002	80	NOTICE OF APPEAL by Brandon A. . Filing fee \$ 105.00 ; receipt # 022061. Appeal Record Transmittal Due 7/25/02 File-stamped copy to parties/CCA with Appeal Information Sheet. (mm) (Entered: 07/19/2002)
07/22/2002		Appeal record sent to CCA with Clerk's certificate on [80-1] appeal by Brandon A. — transmitting documents: 1-80 (mm) (Entered: 07/22/2002)
09/26/2002	81	MANDATE OF CCA Re: [80-1] appeal: it is ordered that this appeal be voluntarily dismissed pursuant to FRAP 42(b) with each party bearing its own costs. (mm) (Entered: 09/26/2002)
09/26/2002		Record on appeal returned from U.S. Court of Appeals: [80-1] appeal by Brandon A. (mm) (Entered: 09/26/2002)
09/27/2002		RETURN OF EXHIBIT(S) [40-1] to Ronald K. Lospennato for Brandon A. . (mm) (Entered: 09/27/2002)
01/13/2004		File located at National Archives and Records Administration (NARA), Waltham, MA. Transfer No. 021-04-0018, Location No. A63620, Box No. 5(rs, ) (Entered: 01/13/2004)