

**IN THE CIRCUIT COURT FOR THE SECOND JUDICIAL CIRCUIT  
IN AND FOR LEON COUNTY, FLORIDA  
CIVIL DIVISION**

**WILLIAM S. "BILL" ABRAMSON,**  
candidate for election to the office  
of Circuit Judge, in and for the  
Fifteenth Judicial Circuit, Group 23,

Plaintiff,

v.

Case No.: 2008-CA-2944

**ELECTIONS CANVASSING COMMISSION  
OF THE STATE OF FLORIDA; KURT S. BROWNING,**  
as SECRETARY OF STATE; **DEPARTMENT OF  
STATE, DIVISION OF ELECTIONS; PALM BEACH  
COUNTY CANVASSING BOARD; ARTHUR  
ANDERSON,** as PALM BEACH COUNTY  
SUPERVISOR OF ELECTIONS; and  
**RICHARD I. WENNET,** candidate for election to the  
office of Circuit Court Judge, in and for the  
Fifteenth Judicial Circuit, Group 23,

Defendants.

09 SEP 11 PM 2:26  
CLERK OF COURT  
LEON COUNTY FLORIDA

**STATE DEFENDANTS' ANSWER TO EMERGENCY COMPLAINT**

Defendants ELECTIONS CANVASSING COMMISSION OF THE STATE OF FLORIDA, KURT S. BROWNING, as SECRETARY OF STATE, and DEPARTMENT OF STATE, DIVISION OF ELECTIONS, collectively, the "State Defendants," pursuant to Rule 1.140(a) of the Florida Rules of Civil Procedure, answer the allegations in Plaintiff's Emergency Complaint for Declaratory Relief or, in the Alternative, to Contest Election as follows:

1. Paragraph 1 contains Plaintiff's characterization of the nature of the present action, to which no response is required.
2. Admit.



3. Admit quotation from Section 101.031(2)1, Florida Statutes. The remainder of this paragraph asserts legal conclusions, to which no response is necessary.

4. Admit.

5. Admit.

6. Admit the existence of Section 102.111, Florida Statutes, which speaks for itself.

7. Admit that Kurt S. Browning is the current Secretary of State of Florida and that his duties and responsibilities are set forth in statute, including but not limited to Chapters 97-106, Florida Statutes, which speak for themselves.

8. Admit the existence of Sections 20.10, 102.111, 102.121, 102.155, Florida Statutes, which speak for themselves.

9. Admit the existence of Section 102.141, Florida Statutes, which speaks for itself.

10. Admit that Arthur Anderson is the current Supervisor of Elections of Palm Beach County and that his duties and responsibilities are set forth in statute, including but not limited to Chapters 97-106, Florida Statutes, which speak for themselves.

11. Admit.

August 26, 2008 Election

12. Admit.

13. Admit.

14. Admit that Abramson's and Wennet's names were placed on the primary election ballot pursuant to Section 105.051, Florida Statutes.

15. Admit.

16. Admit.

17. Admit, except that although the unofficial returns were dated August 28, 2008, they were submitted to the Department of State on August 29, 2008.

18. Admit.

19. As to the first sentence, admit that the Palm Beach County Canvassing Board's first unofficial returns showed that 102,523 ballots were cast in the primary election. As to the second sentence, admit that the first unofficial returns showed that 90,733 votes, not 90,933 votes, were cast in the race for the office of Circuit Court Judge, Fifteenth Circuit, Group 23.

#### The Recounts

20. Admit.

21. Admit, except the Elections Canvassing Commission ordered the machine recount pursuant to paragraph (7) of Section 102.141, not paragraph (6).

22. Admit, except that pursuant to Section 102.141(7)(c), the deadline for submitting a second set of unofficial returns is 3:00 p.m., not noon, on the fifth day after the primary election.

23. Admit.

24. Admit.

25. Without knowledge as to the total number of ballots accounted for in the recount process. Admit that the total number of votes cast in the race for Circuit Judge, Fifteenth Circuit, Group 23, certified by the Palm Beach County Canvassing Board following the machine and manual recounts was less than the number of votes cast in that race as certified by the Palm Beach County Canvassing Board in its first unofficial returns.

26. Admit.

27. Without knowledge.

28. Admit, except as to the term "attempted." Whether the manual recount was "attempted" or was completed is a legal determination for this Court to make.

29. Admit, except as to the characterization of “incomplete efforts” and “incomplete totals.” Whether the efforts or totals were incomplete are legal determinations for this Court to make.

30. Admit that the manual recount results did not yield the same number of ballots cast in the primary election as the first unofficial results. Deny remainder; whether the manual recount was “incomplete” is a legal determination for the Court to make.

31. Deny. The Palm Beach County Canvassing Board’s certification of the results of its manual recount of the undervotes and overvotes in the race for Circuit Judge, Fifteenth Circuit, Group 23, is incorporated in the Second Unofficial Results attached to the Complaint as Exhibit “C.”

Certification of Results of the Election of August 26, 2008

32. Admit.

33. Admit.

34. Admit.

Count One

35. Admit.

36. Because paragraph 36 contains typographical errors, the State Defendants deny this paragraph but admit the existence of Section 102.141(7)(c), Florida Statutes, which speaks for itself.

37. Admit only that the total number of votes cast in the race for Circuit Judge, Fifteenth Circuit, Group 23, certified by the Palm Beach County Canvassing Board following the machine and manual recounts was less than the number of votes cast in that race as certified by the Palm Beach County Canvassing Board in its first unofficial returns. Deny remainder; whether the Palm Beach County Canvassing Board “failed to complete” the machine recount, or was required

to submit as its second set of unofficial returns the initial returns, or failed to comply with Section 102.141(7)(c), Florida Statutes, are legal determinations for this Court to make.

38. Admit only that the total number of votes cast in the race for Circuit Judge, Fifteenth Circuit, Group 23, certified by the Palm Beach County Canvassing Board following the machine and manual recounts were less than the number of votes cast in that race as certified by the Palm Beach County Canvassing Board in its first unofficial returns. Deny remainder; whether the Palm Beach County Canvassing Board “failed to complete” the manual recount is a legal determination for this Court to make.

39. Deny. The Palm Beach County Canvassing Board’s certification of the results of its manual recount of the undervotes and overvotes in the race for Circuit Judge, Fifteenth Circuit, Group 23, is incorporated in the Second Unofficial Results attached to the Complaint as Exhibit “C.”

40. Deny. Whether Abramson is the “winner” of the race for Circuit Judge, Fifteenth Circuit, Group 23, is a legal determination for this Court to make.

Prayer for Relief With Respect to Count One

The prayer for relief with respect to Count One contains only a characterization of the relief sought, to which no response is required.

Count Two

41. The responses to paragraphs 1 through 34 are realleged as if fully and completely set forth herein.

42. Paragraph 42 contains Plaintiff’s characterization of the nature of the present action, to which no response is required.

43. Paragraph 43 identifies legal grounds that Plaintiff relies upon for the present action, to which no response is required.

44. Admit.

45. Admit only that the total number of votes cast in the race for Circuit Judge, Fifteenth Circuit, Group 23, certified by the Palm Beach County Canvassing Board following the machine and manual recounts was less than the number of votes cast in that race as certified by the Palm Beach County Canvassing Board in its first unofficial returns. Deny remainder; whether this difference constitutes “a failure” of Defendant Arthur Anderson or the Palm Beach County Canvassing Board to account for all legal votes cast in the race, or whether the difference “constitutes a rejection of a number of legal votes sufficient to place in doubt, and likely change, the outcome of the election,” are legal determinations for this Court to make.

46. Deny. Whether “the number of uncounted legal votes in Palm Beach County is sufficient to place in doubt the outcome of the election,” is a legal determination for this Court to make.

Prayer for Relief With Respect to Count Two

The prayer for relief with respect to Count Two contains only a characterization of the relief sought, to which no response is required.

Count Three

47. Paragraphs 1 through 34 are realleged as if fully and completely set forth herein.

48. Paragraph 48 contains Plaintiff’s characterization of the nature of the present action to which no response is required. Without knowledge as to the total number of ballots accounted for in the recount process. Deny remainder; whether the vote totals are “incomplete” or whether “[t]he number of accounted for ballots is more than sufficient to call into doubt the results of the election” are legal determinations for this Court to make.

49. Admit, except Section 102.168, Florida Statutes states that an unsuccessful candidate may contest “the certification of election or nomination of any person to office,” not “the outcome of the election” as stated in Paragraph 49.

50. Admit.

51. Deny. Whether Arthur Anderson failed to account for all legal votes cast for the office of Circuit Court Judge, Fifteenth Judicial Circuit, Group 23, whether the Palm Beach County Canvassing Board failed to count all legal votes cast for such office, and whether these alleged failures constitute “a rejection of a number of legal votes sufficient to place in doubt, and likely change, the outcome of the election” are legal determinations for this Court to make.

52. Deny. Whether “the number of uncounted legal votes in Palm Beach County is sufficient to place in doubt the outcome of the election” is a legal determination for this Court to make.

#### Prayer for Relief With Respect to Count Three

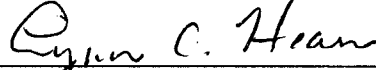
The prayer for relief with respect to Count Three contains only a characterization of the relief sought, to which no response is required.

#### **DEFENSES**

All allegations not specifically admitted herein are denied.

The State Defendants take no position on the merits of this dispute between the candidates for Circuit Judge, Fifteenth Circuit, Group 23 in the August 26, 2008 Primary Election.

Respectfully submitted,



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Kurt S. Browning, Secretary of State,  
and Department of State, Division of Elections

### Certificate of Service

I HEREBY CERTIFY that a true copy of the foregoing has been furnished to the following by e-mail and by U. S. Mail this 11th day of September 2008, to:

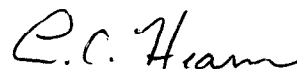
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