

**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 Court Judge, in and for the
Fifteen Judicial Circuit, Group 23,

Plaintiff,

Case No. 2008 CA 002944

vs.

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.

RICHARD I. WENNET,

Counter-Plaintiff,

vs.

WILLIAM S. "BILL" ABRAMSON, *et al.*,

Counter-Defendants.

WENNET'S EMERGENCY MOTION FOR STAY PENDING APPEAL

Pursuant to Fla.R.Civ.P. 1.100(b), and to the extent applicable Fla.R.App. P. 9.310(a), Defendant, Richard I. Wennet ("Wennet"), moves for a stay of the final judgment. In support of this Motion, Wennet states as follows:



1. On October 20, 2008, this Court entered its Declaratory Judgment and Order Denying Motion for New Election (“Judgment”) granting Plaintiff’s and Counter-Plaintiff’s complaints for declaratory judgment “to the extent they request to be relieved from insecurity and uncertainty with respect to their rights and status with regards to the August 26, 2008 election for the office of Circuit Judge in and for the Fifteenth Judicial Circuit, Group 23.” Judgment, pg. 17. The Court found that the candidates were entitled to a recount and to have that recount certified by the Elections Canvassing Commission. In so holding, the Court impliedly upheld the validity of its Order Directing Recount of Ballots in Election for the Office of Circuit Court Judge, In and For the 15th Judicial Circuit, Group 23, dated September 17, 2008.

2. Wennet filed his Notice of Appeal to the First District Court of Appeal to review the Judgment on November 17, 2008. Wennet is also seeking emergency expedited treatment of the appeal so that a new election may be held, if necessary, prior to the beginning of the term of office on January 6, 2009. A swift ruling on this Emergency Motion would greatly enhance the parties’ ability to expedite resolution of the appeal.

3. This Court has discretionary authority under Fla.R.App.P. 9.310(a) to stay the Judgment pending this appeal. *Perez v. Perez*, 769 So.2d 389, 391 (Fla. 3d DCA 1999).

4. A stay pending appeal is warranted in this case as Wennet, and the voters of Palm Beach County, would be irreparably harmed by the Judgment effectively prohibiting a new election for the Group 23 race in the event the Judgment is reversed on final appeal. *See, e.g., Extending Existing Sales Tax*, 953 So.2d 471, 477 (Fla. 2007)


(counseling “extreme care, caution, and restraint” in denying voters the right to vote on proposed amendment); *State ex rel. Siegenorf v. Stone*, 266 So.2d 345 (Fla. 1972) (noting that Florida policy is to “afford the electorate the largest opportunity to select, at election, the candidate of their choice” and holding that removal “from the election ballot[] would be irremediable”) (internal citations omitted).

5. A proposed order is attached as Exhibit A.

WHEREFORE, Wennet respectfully moves the Court for an order granting a stay pending appeal of the Judgment dated October 20, 2008.

Respectfully submitted,

GREENBERG TRAUIG, P.A.



GLENN T. BURHANS, JR.
FLORIDA BAR NO. 605867
BRIDGET K. SMITHA
FLORIDA BAR NO: 0709581
101 EAST COLLEGE AVENUE
TALLAHASSEE, FLORIDA 32301
TELEPHONE (850) 222-6891
FACSIMILE (850) 681-0207
E-MAIL: burhansg@gtlaw.com
smithab@gtlaw.com

- and -

RICHMAN GREER, P.A.
GERALD F. RICHMAN
FLORIDA BAR NO. 66457
250 S. AUSTRALIAN AVENUE, SUITE
1504
WEST PALM BEACH, FLORIDA 33401-
5016
TELEPHONE: (561) 803-3500
FACSIMILE (562) 820-1608

E-MAIL:
grichman@richmangreer.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail this 6th day of October, 2008, to the following counsel of record:

Mark Herron
Messer, Caparello & Self, P.A.
2618 Centennial Place
Tallahassee, FL 32308-0572
E-mail: mherron@lawfla.com

David I. Shiner
Peter J. Sosin
Shiner & Sosin, P.A.
30 Southeast 7th Street, Second Floor
Boca Raton, FL 33432-6134
E-mail: David@SSLawGroup.com
peter@SSLawGroup.com

J. Reeve Bright
Bright, Pack & Associates
135 Southeast 5th Avenue
Delray Beach, FL 33483-5256
E-Mail: reeve@brightandchimera.com
Attorneys for Plaintiff

Lynn Hearn
General Counsel

Florida Department of State
R.A. Gray Building
500 South Bronough Street
Tallahassee, FL 32399
E-mail: lchearn@dos.state.fl.us
*Attorney for Elections Canvassing
Commission of the State of Florida;
Kurt Browning, as Secretary of State;
Department of State, Division of
Elections*

Ron Labasky
John Thomas LaVia, III
Young van Assenderp
Gallie's Hall
225 South Adams Street, Suite 200
Post Office Box 1833
Tallahassee, Florida 32302
E-mail: rlabasky@yvlaw.net
jlavia@yvlaw.net
*Attorney for Palm Beach Canvassing
Board; Arthur Anderson, as Palm Beach
County Supervisor of Election*



GLENN T. BURHANS, JR.

TAL 451,494,021v1 11-17-08
TAL 451,494,021v1 11-17-08

**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 Court Judge, in and for the
Fifteen Judicial Circuit, Group 23,

Plaintiff,

vs.

Case No. 2008 CA 002944

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.

RICHARD I. WENNET,

Counter-Plaintiff,

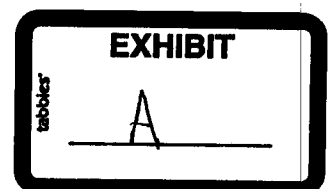
vs.

WILLIAM S. "BILL" ABRAMSON, *et al.*,

Counter-Defendants.

**ORDER GRANTING MOTION TO STAY
FINAL DECLARATORY JUDGMENT PENDING APPEAL**

This cause having come on to be heard on *Wennet's Emergency Motion for Stay Pending Appeal*, it is **ORDERED** that the Declaratory Judgment and Order Denying



Motion for New Election in this matter, dated October 20, 2008, shall be stayed pending disposition of this matter on final appeal.

DONE AND ORDERED this ____ day of _____, 2008 in Leon County, Florida.

Hon. Charles A. Francis
Chief Judge

cc: Counsel of Record

TAL 451,494,024v1 11-17-08