

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,

CASE NO.: 2008-CA-002944

Plaintiff,

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.

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**ORDER PLACING RACE ON GENERAL ELECTION BALLOT**

THIS CAUSE having come before the Court upon Defendant  
Wennet's ore tenus motion made at the telephonic hearing in this  
matter on September 16, 2008, for issuance of an order directing  
Defendant Arthur Anderson, as Palm Beach County Supervisor of  
Elections (the "Supervisor") to place the race for election for  
the office of Circuit Court Judge, in and for the Fifteenth  
Judicial Circuit, Group 23, in Palm Beach County, Florida (the  
"Judicial Race") on the ballot for the upcoming November 4, 2008

RECORDED  
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general election (the "General Election"), the Court having considered the motion, argument of counsel and being otherwise fully advised hereby finds and orders as follows:

FINDINGS:

A. This is an action by Plaintiff Abramson, a candidate in the Judicial Race, for declaratory relief, or, in the alternative, an action to contest the August 26, 2008 primary election for the Judicial Race. Defendant Wennet, also a candidate in the Judicial Race, has brought a counterclaim for declaratory relief regarding his status with respect to the August 26, primary election for the Judicial Race. Both candidates request, as alternative relief to being named the winner in the Judicial Race, that the office be declared vacant and a special election be called.

B. This action presents unique and extraordinary circumstances. Namely, 3,478 fewer ballots were counted in the machine and manual recounts for the Judicial Race than were counted on election night, causing uncertainty regarding the total number of ballots cast in the Judicial Race. Additionally, Defendant Elections Canvassing Commission of the State of Florida did not certify the results of the Judicial Race. It stated in its official certificate: "Due to an irregularity in the returns for the race of Circuit Judge, 15th Circuit, Group 23, the Elections Canvassing Commission was

unable to determine the true vote for this office and has excluded such returns from this certificate. See Section 102.131, Fla. Stat. (2008)."

C. Accordingly, the Court finds it necessary to preserve all potential remedies, including ordering a special election for the Judicial Race.

D. If a special election for the Judicial Race is ultimately deemed by the Court the appropriate remedy for either candidate, it will be significantly more cost effective to conduct such special election in conjunction with the General Election than to conduct a special election for the Judicial Race by itself.

E. The Court has been advised by counsel for the Supervisor that in order for the Judicial Race to be added to the General Election ballot, the Court must issue an appropriate order no later than September 16, 2008. After September 16, 2008, it will no longer be possible to add the Judicial Race to the General Election ballot.

F. If the Court determines that a special election is not an appropriate remedy for either candidate, the Court will order that any results from that race not be certified or reported and that voters be notified that any votes cast in that race will be of no effect.

ACCORDINGLY, THE COURT ORDERS:


1. The Supervisor shall format and cause to be printed all ballots for the General Election with the Judicial Race included.

2. The Supervisor shall apprise the Court of any additional printing costs incurred as a result of this Order.

3. The Court reserves jurisdiction to determine further issues related to inclusion of the Judicial Race on the General Election ballot, including whether the results from the Judicial Race will be certified or reported.

4. This Order is entered nunc pro tunc as of September 16, 2008, at 6:00 p.m. and shall remain in effect until altered or modified by this Court.

DONE AND ORDERED in Chambers in Leon County, Florida this 17th day of September, 2008.

  
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Circuit Court Judge

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