

1                                   **IN THE CIRCUIT COURT OF ST. LOUIS CITY**  
2                                   **TWENTY-SECOND JUDICIAL CIRCUIT**  
3                                   **STATE OF MISSOURI**

4 BRUCE FRANKS, JR.,

5                                   Contestant,

6                                   v.

7 PENNY HUBBARD,

8                                   Contestees.

Case No. 1622-CC09996

Division 4

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10                                   **FIRST AMENDED VERIFIED PETITION FOR ELECTION CONTEST**

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12                                   INTRODUCTION

13                                   1.       On August 2, 2016, 52.7% of the voters who physically went to the polls  
14 to cast ballots for the Democratic Party's nominee to serve the 78<sup>th</sup> State House  
15 District ("the District") in the Missouri House of Representatives voted in favor of  
16 Bruce Franks, Jr., giving him a 211 vote lead over the incumbent, Penny Hubbard.

17                                   2.       But Franks knew, just as those who closely watch St. Louis politics  
18 have known for years, that even a dominant performance at the polls on election day  
19 is no guarantee of victory, due to two factors: (1) races involving a member of the  
20 Hubbard family almost always see extraordinarily high numbers of absentee ballots,  
21 and (2) no matter how strong a challenger performs in the polling places, the  
22 absentee ballots always seem to favor the Hubbards by margins that are, quite  
23 literally, unbelievable.  
24

1           3.     Even though Franks easily won the in-person balloting, Penny  
2 Hubbard won an astonishing 78.5% of the 530 absentee ballots cast in the race to  
3 become the Democratic Party's nominee to represent the District ("the Contested  
4 Election");<sup>1</sup> according to the official results announced by the St. Louis City Board of  
5 Election Commissioners ("the Board"), Hubbard won the Contested Election by a  
6 margin of 90 votes.

7           4.     But even before the Primary was held, Franks was asking hard  
8 questions about whether the Hubbards' consistent dominance in absentee balloting  
9 is legitimate, or whether it is the result of systematic, fraudulent use of the absentee  
10 ballot system by persons not lawfully authorized to cast absentee ballots.

11           5.     After reviewing the absentee ballot applications and absentee ballot  
12 envelopes retained by the Board, Franks has identified at least 130 of those absentee  
13 ballots that did not satisfy the statutory requirements to be counted as part of the  
14 Contested election.

15           6.     Because the official results of the Contested Election showed Franks  
16 trailing Hubbard by only 90 votes, if this Court finds by a preponderance of the  
17 evidence that at least 90 of the absentee ballots in the Contested Election were not  
18 counted in accordance with the statutes governing the use of absentee ballots, this  
19 Court should hold that "there were irregularities of a sufficient magnitude to cast  
20 Court should hold that "there were irregularities of a sufficient magnitude to cast  
21

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22 <sup>1</sup> For the purposes of this Petition, Franks will refer to the August 2, 2016, primary election  
23 broadly as "the Primary;" when speaking specifically to the race for the Democratic Party's  
24 nomination to serve the District in the Missouri House of Representatives, he will use the  
term "the Contested Election."

1 | doubt on the validity of the initial election,” and it should order the Board to hold a  
2 | new primary election to determine whether Bruce Franks, Jr., or Penny Hubbard  
3 | should be the Democratic Party’s nominee to serve the District in the Missouri House  
4 | of Representatives. §§ 115.539, 115.549, RSMo.

5 | **JURISDICTION AND VENUE**

6 | 7. This action is brought pursuant to §§ 115.527 to 115.601, RSMo., to  
7 | challenge the results of the Contested Election.

8 | 8. This Court has jurisdiction over this action pursuant to §§ 115.529,  
9 | 115.531, RSMo.

10 | 9. Venue for this action is proper in this Court because the Contested  
11 | Election was held in St. Louis City, which is in the Twenty-Second Judicial Circuit.  
12 | § 115.531, RSMo.

13 | **PARTIES**

14 |  
15 | 10. Contestant Bruce Franks, Jr., is a candidate for the 2016 Democratic  
16 | Party nomination to serve the District in the Missouri House of Representatives; he  
17 | lives in the District.

18 |  
19 | 11. Contestee Penny Hubbard is the incumbent Representative for the  
20 | District in the Missouri House of Representatives and the candidate declared the  
21 | winner of the Contested Election; she and her husband, Rodney Hubbard, Sr., live  
22 | in the District and St. Louis City’s 5<sup>th</sup> Ward.

23 | **FACTS**

1           12.    On August 2, 2016, the Board conducted the Contested Election in St.  
2 Louis, Missouri.

3           13.    Contestant Franks and Contestee Hubbard were the only two  
4 candidates in the Contested Election.

5           14.    On August 16, 2016, the Board officially announced that the corrected  
6 returns of its verification board showed Hubbard receiving 2,203 (51.04%) of the total  
7 votes cast in the Contested Election and Franks receiving 2,113 (48.96%) of the votes.  
8 A copy of these official results are attached as Contestant's Exhibit 1.

9           15.    The corrected returns show that Franks won 1,997 (52.79%) of the votes  
10 cast at the polls, while Hubbard won 1,786 (47.21%) of the votes cast at the polls,  
11 giving Franks a 5.58% advantage in votes cast at the polls on election day.

12           16.    The corrected returns show that Hubbard won 416 (78.49%) of the votes  
13 cast via absentee ballot while Franks won 114 (21.51%) of the votes cast via absentee  
14 ballot.  
15

16                           **A History of Suspicious Absentee Ballot Patterns**

17           17.    When Franks decided to run against Hubbard to represent the District,  
18 several people warned him that when a member of the Hubbard family is involved  
19 in an election, absentee ballots become an unusually large factor in the race.

20           18.    Several weeks before the Primary, Franks and two other candidates,  
21 who were running against Penny Hubbard and Rodney Hubbard, Sr., for the offices  
22 of 5<sup>th</sup> Ward Committeewoman and Committeeman, respectively, asked an attorney  
23 to review the detailed election data available on the Board's website to determine  
24

1 the legitimacy of the concerns the candidates had heard about irregularities in the  
2 use of absentee ballots in Hubbard-related political races.

3 19. Research revealed that, from 2008 to the present (the only years for  
4 which the Board has posted precinct-by-precinct election data on its website),  
5 various precincts in St. Louis City routinely see absentee ballots comprise an  
6 extraordinarily high percentage of the total votes cast in those precincts. A copy of  
7 a spreadsheet containing precinct-by-precinct data drawn from official election  
8 results announced by the Board from 2008 to the present is attached as Contestant's  
9 Exhibit 2.

10 20. There are 221 voting precincts in St. Louis City, spread across twenty-  
11 eight wards.

12 21. For the vast majority of St. Louis City election precincts, absentee  
13 ballots make up between zero and 15% of the total number of ballots cast in any  
14 given election, but in certain election precincts (particularly in the 5<sup>th</sup> Ward, where  
15 Penny and Rodney Hubbard live) it is common for absentee ballots to comprise more  
16 than 30% of all votes cast in some of those precincts, and occasionally absentee  
17 ballots make up more than **60%** of all the votes cast in a given precinct.

18 22. Furthermore, in political races involving a member of the Hubbard  
19 family, the absentee ballots almost always favor the Hubbard much more heavily  
20 that would be expected in light of the votes cast at the polls on election day.

21 23. On July 12, 2016, at Franks' request, his attorney sent a letter to each  
22 of the Board's members detailing the extreme irregularities regarding the use of  
23

1 absentee ballots in St. Louis City elections and asking the Board to investigate and  
2 to take action to ensure that the Primary would be conducted lawfully, without any  
3 candidate having an unfair advantage. A copy of one of these letters is attached as  
4 Contestant's Exhibit 3; the Contestant hereby incorporates the contents of this letter  
5 for the purpose of arguing that the irregularities identified in the body of this  
6 Petition are merely a continuation of a long-established pattern of election fraud in  
7 the form of abuse of the absentee ballot system.

8           24. A few days later, the Board's attorney sent a letter in response stating  
9 that because Franks had not asserted "definite violations of the law," the Board  
10 would not take action to address Franks' concerns. A copy of this letter is attached  
11 as Contestant's Exhibit 4.

12           25. The Board having declined to take his concerns seriously, Franks asked  
13 his attorney to submit to the Board an open records request that would allow a  
14 review of this year's absentee ballot applications and envelopes for signs of "definite  
15 violations of the law."

16           26. Although no Missouri statute deems either absentee ballot applications  
17 or envelopes to be "closed" records for the purposes of the Sunshine Law, the Board  
18 refused to produce copies of those records for Franks and his attorney to review.

19           27. The dearth of information available in these lists made it extremely  
20 challenging for Franks to discern whether or not the applicants satisfied the  
21 statutory qualifications to apply for or to cast an absentee ballot.

22           28. The list indicated that approximately 4,750 voters in St. Louis City  
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1 requested absentee ballots in advance of the Primary.

2 29. Of the 4,750 St. Louis City voters who applied for absentee ballots,  
3 Franks discerned that 940 of those applicants (19.8% of the citywide total) listed  
4 addresses within the District and 3,810 of those applicants listed addresses outside  
5 of the District.

6 30. Citywide, there were approximately 178,369 registered voters eligible  
7 to vote in the Primary; 18,504 of St. Louis City's registered voters (10.4% of the  
8 citywide total) are located in the District.

9 31. Even though the District only accounts for 10.4% of St. Louis City's  
10 registered voters, it accounted for *nearly 20%* of the absentee ballot applications  
11 related to the Primary.

### 12 The Primary and Its Results

13 32. The Board's official election results indicate that St. Louis City voters  
14 cast a total of 50,401 ballots in the Primary, 3,818 of which (7.6%) were absentee  
15 ballots. A copy of the relevant portion of the Board's official election results for the  
16 Primary is attached as Contestant's Exhibit 5.

17 33. The Board counted 4,316 total votes in the Contested Election, 530  
18 (12.3%) of which came via absentee ballot.

19 34. To put that in perspective, out of the 221 election precincts in St. Louis  
20 City, only 32 of those precincts saw absentee ballots make up more than 12.3% of all  
21 ballots cast in that precinct during the Primary.

22 35. Election precincts in the District made up *five of the top ten* precincts  
23  
24

1 in terms of absentee ballots accounting for the largest percentage of the final vote.

2 36. Ward 5, Precinct 3, the precinct in which Hubbard lives, recorded 268  
3 total votes in the Contested Election, 120 (44.8%) of which were cast via absentee  
4 ballots.

5 37. Ward 5, Precinct 8, recorded 102 total votes in the Contested Election,  
6 32 (31.4%) of which were cast via absentee ballots.

7 38. Ward 6, Precinct 3, recorded 234 total votes in the Contested Election,  
8 69 (29.5%) of which were cast via absentee ballots.

9 39. Ward 5, Precinct 6, recorded 240 total votes in the Contested Election,  
10 60 (25%) of which were cast via absentee ballots.

11 40. Ward 3, Precinct 9, recorded 128 total votes in the Contested Election,  
12 28 (21.9%) of which were cast via absentee ballots.

13 41. Franks received 1,997 (52.8%) of the votes cast in the Contested  
14 Election at the polls on August 2, 2016, 211 more than the 1,786 (47.2%) cast in favor  
15 of Hubbard.  
16

17 42. But the Board's official numbers indicate that Hubbard received 416  
18 (78.5%) of the 530 absentee ballots cast in her race against Franks.

19 43. Consequently, the Board has officially announced Hubbard as the  
20 winner of the Contested Election, by a margin of just 90 votes.

21 **Legal Requirements Regarding the Use of Absentee Ballots**

22 44. The statutes directly governing the absentee voting process are §§  
23 115.275 to 115.304, RSMo.  
24



1           45. Section 115.277.1, RSMo., states that “any registered voter in the state  
2 may vote by absentee ballot for all candidates and issues for which such voter would  
3 be eligible to vote at the polling place *if such voter expects to be prevented from*  
4 *going to the polls to vote on election day* due to:

5           (1) Absence on election day from the jurisdiction of the election authority in  
6           which such voter is registered to vote;

7           (2) Incapacity or confinement due to illness or physical disability, including a  
8           person who is primarily responsible for the physical care of a person who  
9           is incapacitated or confined due to illness or injury;

10          (3) Religious belief or practice;

11          (4) Employment as an election authority, as a member of an election  
12          authority, or by an election authority at a location other than such voter’s  
13          polling place;

14          (5) Incarceration, provided all qualifications for voting are retained.

15           46. Section 115.279.1, RSMo, allows a voter to apply for an absentee ballot  
16 “in person, or by mail” or a voter’s guardian or close relative may apply on behalf of  
17 the voter for an absentee ballot in person.

18           47. Section 115.279.2, RSMo., states in relevant part that “[e]ach  
19 application shall be in writing and shall state the applicant’s name, address at which  
20 he or she is or would be registered, his or her reason for voting an absentee ballot  
21 and the address to which the ballot is to be mailed, if mailing is requested.”

22           48. Section 115.283, RSMo., requires the voter to make four statements on  
23  
24

1 a ballot envelope:

- 2 (1) The voter's name,  
3 (2) The voter's voting address,  
4 (3) The voter's mailing address, and  
5 (4) The voter's reason for voting an absentee ballot.

6 49. Section 115.283, RSMo., also requires the voter to swear to a statement  
7 under penalties of perjury that the voter is qualified to vote in the election, that the  
8 voter has personally marked the voter's ballot in secret or supervised the marking of  
9 the voter's ballot if the voter is unable to mark it, that the ballot has been placed in  
10 the envelope and sealed by the voter or under the voter's supervision if the voter is  
11 unable to seal it, and that all of the information contained in the statement is true;  
12 this section then goes on to prescribe a form to be used on absentee ballot envelopes,  
13 which leaves blank spaces for the voter's name, voting address, mailing address (if  
14 different), the reason the voter is qualified to cast an absentee ballot, and a space for  
15 these statements to be confirmed by a notary or another officer authorized to  
16 administer oaths.  
17

18 50. Section 115.283.7, RSMo., states that if a voter indicates that their  
19 reason for voting absentee is pursuant to § 115.277.1(2)—“incapacity or confinement  
20 due to illness or physical disability”—the voter is not required to have a notary or  
21 other officer attest to the voter's signature.

22 51. Section 115.287.1, RSMo., requires an election authority, upon receipt  
23 of a signed application for an absentee ballot, to deliver to the voter “an absentee  
24

1 ballot, ballot envelope and such instructions as are necessary for the applicant to  
2 vote.” The statute allows the election authority to deliver these items to the voter  
3 personally in the office of the election authority or by bipartisan teams appointed by  
4 the election authority, or by first class, registered, or certified mail at the direction  
5 of the election authority.

6 52. Section 115.291, RSMo., provides clear instructions for how an absentee  
7 ballot is to be prepared and delivered to the election authority:

- 8 1. Upon receiving an absentee ballot, the voter shall mark the ballot  
9 in secret, *place the ballot in the ballot envelope, seal the*  
10 *envelope and fill out the statement on the ballot envelope.*

11 The affidavit of each person voting an absentee ballot shall be  
12 subscribed to and sworn before the election official receiving the  
13 ballot, a notary public or other public officer authorized by law to  
14 administer oaths, unless the voter is voting absentee due to  
15 incapacity or confinement due to the provisions of section  
16 115.284...

- 17 2. Each absentee ballot shall be returned to the election authority  
18 *in the ballot envelope* and shall only be returned by the voter  
19 in person, or in person by [a close relative of the voter], by mail or  
20 registered carrier or by a team of deputy election authorities[.]

21 53. The relevant statutes do not authorize election authorities to accept or  
22 count an absentee ballot that is not in a ballot envelope.  
23  
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1 54. Section 115.295.2, RSMo., states, "If the statements on any ballot  
2 envelope have not been completed, the absentee ballot in the envelope shall be  
3 rejected."

4 55. Section 115.294, RSMo., states, "Other provisions of law to the contrary  
5 notwithstanding, no absentee ballot shall be rejected for failure of the voter to state  
6 on the ballot envelope his reason for voting an absentee ballot."

7 56. Section 115.295.3, RSMo., states, "All ballot envelopes received by the  
8 election authority shall be kept together in a safe place and shall not be opened  
9 except as provided in this subchapter."

10 57. Section 115.300, RSMo., describes how absentee ballot envelopes are to  
11 be prepared and handled prior to their counting at the appropriate time.

12 58. Section 115.299, RSMo., specifically describes how absentee ballots are  
13 to be counted; subsection 4 of that section states in relevant part that "one member  
14 of each [vote counting] team, closely observed by another member of the team from  
15 a different political party, shall *open each envelope* and call out the voter's name  
16 in a clear voice..."

17 59. Section 115.303, RSMo., allows any election authority personnel, any  
18 registered voter, or any duly authorized challenger to challenge absentee ballots or  
19 votes on absentee ballots, in accordance with § 115.429, RSMo.

20  
21 **In the Contested Election, the Board**  
22 **Counted Numerous Unlawful Ballots**

23 60. Although the above statutes clearly require all absentee ballots to be  
24 placed in envelopes that contain specific statements by the person casting the ballot,

1 and in many cases require the voter's statements to be attested by a notary public or  
2 another officer authorized to administer oaths, in connection with the Primary the  
3 Board allowed many voters to apply in person for an absentee ballot, and then to  
4 cast a ballot that day either by paper ballot or by use of a touch-screen.

5 61. By allowing these voters to submit ballots in this manner, the voter  
6 would not be required to place their ballot in a ballot envelope.

7 62. By allowing these voters to submit ballots in this manner, the voter  
8 would not be required to make the statements Missouri law requires voters to make  
9 on absentee ballot envelopes.

10 63. By allowing these voters to submit ballots in this manner, the voter  
11 would not be required to submit an affidavit affirming the truth of the statements  
12 Missouri law requires voters to make on absentee ballot envelopes.

13 64. By allowing these voters to submit ballots in this manner, the ballot  
14 cast, from that point forward, would not be held or counted in accordance with the  
15 requirements of §§ 115.295, 115.299, and 115.300.

16 65. Once an "absentee ballot" has been cast in-person at the Board's offices  
17 and has been accepted without being placed in an absentee ballot envelope, there is  
18 no way to connect the ballot cast to the voter who cast it; consequently, there is no  
19 way for a person authorized to challenge a ballot or a voter under §§ 115.303 and  
20 115.429, RSMo.

21 66. In the Contested Election, between 130 and 143 of the 530 absentee  
22 ballots that were counted *were not ever* placed into absentee ballot envelopes, and  
23  
24

1 were not counted in accordance with the statutes identified above.

2       67. In the Contested Election, at least several dozen of the absentee ballots  
3 received by the Board in absentee ballot envelopes and counted by the Board in the  
4 final vote tally came from absentee ballot envelopes in which the voter had not  
5 provided all of the statements that § 115.283, RSMo., requires the voter to make on  
6 an absentee ballot envelope.

7       68. Under §115.295.2, the voter's failure to state their name, their voting  
8 address, and their mailing address (if different from the voting address), requires  
9 the absentee ballot in the envelope to be rejected.

10       69. The Board's unlawful counting of at least 130 "absentee ballots" that,  
11 by law, should not have been counted in the Contested Election, constitutes an  
12 irregularity that calls into question the legitimacy of the result of the Contested  
13 Election.

14       70. Because the Board unlawfully counted at least 130 "absentee ballots"  
15 that *did not comply* with the statutes governing the lawful use of absentee ballots,  
16 and because the Contestee only won the Contested Election by virtue of at least 90  
17 absentee ballots, the legitimacy of the election's outcome is in doubt.

18       71. In addition to the above allegations, upon information and belief, a  
19 large number of the absentee ballots cast in the Contested Election were submitted  
20 by persons who did not fulfill the qualifications established by § 115. 277, RSMo., as  
21 a prerequisite to casting an absentee ballot.  
22

23                   **Violation of Absentee Ballot Laws**  
24                   **Justifies Overturning an Election Result**

1  
2 72. Missouri courts have made clear that voters' failure strictly to comply  
3 with the laws governing the use of absentee ballots is sufficient grounds to justify  
4 ordering a new election. *Barks v. Turnbeau*, 573 S.W.2d 677 (Mo. App. 1978).

5 73. "The opportunity to vote by absentee ballot is clearly a privilege and  
6 not a right. Compliance with the statutory requirements is mandatory." *Id.* at 681.

7 74. Violation of the statutory requirements regarding the use of absentee  
8 ballots is a matter of great import, and the legislature has designated as a class one  
9 election offense any making, delivery, or mailing of a fraudulent absentee ballot  
10 application. § 115.279, RSMo.

11 75. Section 115.277, RSMo., identifies five justifications that will allow a  
12 voter to qualify to cast an absentee ballot:

- 13 (1) Absence on election day from the jurisdiction of the election authority  
14 in which such voter is registered to vote;
- 15 (2) Incapacity or confinement due to illness or physical disability,  
16 including a person who is primarily responsible for the physical care of  
17 a person who is incapacitated or confined due to illness or disability;
- 18 (3) Religious belief or practice;
- 19 (4) Employment as an election authority, as a member of an election  
20 authority, or by an election authority at a location other than such  
21 voter's voting place;
- 22  
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1 (5) Incarceration, provided all qualifications for voting are retained.<sup>2</sup>

2 76. If a voter cannot truthfully assert that they expect to be “prevented  
3 from going to the polls to vote on election day due to” one of those five reasons,<sup>3</sup> they  
4 are not authorized to cast an absentee ballot.

5 77. If, upon inspection, it appears that a voter who applied for an absentee  
6 ballot was not lawfully authorized to do so, the ballot must be considered “illegally  
7 and improperly cast.” *See id.*

8 **Additional Irregularities Also Cast Doubt on the Validity of**  
9 **This Contested Election’s Outcome**

10 78. Upon information and belief, the vast majority of the absentee ballot  
11 applications from the District indicated that the applicant was requesting an  
12 absentee ballot on the grounds that they would not be able to go to the polls on  
13 August 2, 2016, because they were “incapacitated or confined due to illness or  
14 injury.”

15 79. Upon information and belief, many of the persons with residential  
16 addresses in the District who applied to use absentee ballots in the Primary and  
17 indicated as their justification for doing so that they are “incapacitated or confined  
18 due to illness or injury” are actually relatively healthy persons under the age of 65  
19 who are able to travel around town without significant assistance or difficulty; these  
20 persons cannot legitimately be considered “incapacitated or confined due to illness  
21

22 <sup>2</sup> Section 115.133.2, RSMo., excludes from eligibility to vote any person “confined under  
23 sentence of imprisonment.”

24 <sup>3</sup> Persons authorized to participate in an address confidentiality program under §§ 589.660  
to 589.681, RSMo., are also permitted to utilize absentee ballots.



1 or injury.”

2 80. Upon information and belief, some of the voters with residential  
3 addresses in the District who applied to use absentee ballots in the Primary and  
4 indicated that their justification for doing so was that they employed “as an election  
5 authority, as a member of an election authority, or as a member of an election  
6 authority at a location other than [their] polling place” were not actually employed  
7 as an election authority, were not members of an election authority, and were not  
8 members of an election authority at a location other than their polling place.

9 81. Upon information and belief, many of the persons applying to use  
10 absentee ballots in the Primary were either asked or encouraged to do so by a  
11 member of the Hubbard family or a member of the Fifth Ward Democratic  
12 Organization, without regard to whether the voter met the statutory qualification  
13 for doing so.

14 82. Upon information and belief, the Board failed to comply with § 115.299,  
15 RSMo., by failing to maintain records of the delivery of absentee ballots to teams of  
16 election judges for the purpose of counting the votes. A copy of a letter in which the  
17 Board’s attorney acknowledges that it has not retained records reflecting the  
18 delivery of absentee ballots to teams of election judges in accordance with § 115.299,  
19 RSMo., is attached as Contestant’s Exhibit 6.

20 83. Given that Franks lost the Contested Election by only 90 votes, if he  
21 shows by the preponderance of the evidence that at least 90 of the 530 absentee  
22 ballots counted by the Board in connection with the Contested Election were not  
23

1 | lawfully cast, received, or counted by the Board he will have demonstrated  
2 | irregularities of a sufficient magnitude to cast doubt on the validity of the contested  
3 | election.

4 |       84.     At the hearing in this contest, Franks will show that more than 90 of  
5 | the 530 absentee ballots counted by the Board in connection with the Contested  
6 | Election were not lawfully cast, received, or counted by the Board.

7 |       85.     Consequently, this Court should order the Board to conduct a new  
8 | primary election to take place no later than September 15, 2016, at which the  
9 | registered voters of the District will vote to determine whether Bruce Franks, Jr., or  
10 | Penny Hubbard should be the Democratic Party's nominee to serve the District in  
11 | the Missouri House of Representatives.

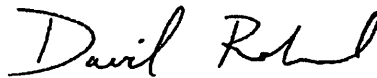
12 |       86.     Section 115.535, RSMo., requires the trial court to conclude its review  
13 | of this case no later than August 30, 2016, the tenth Tuesday prior to the general  
14 | election.

15 |       87.     Section 115.125.2, RSMo., forbids any court "to order an individual or  
16 | issue to be placed on the ballot less than six weeks before the date of the election; in  
17 | this situation, the date six weeks before the General Election is September 27, 2016.

18 |       WHEREFORE, the Contestant asks this Court (1) to allow the Contestant to  
19 | conduct discovery in order to gather additional evidence of the irregularities noted  
20 | in this Petition, (2) to grant the Contestant leave to present his evidence before the  
21 | Court at a hearing, (3) to find that the Contestant has shown irregularities of a  
22 | sufficient magnitude to cast doubt on the validity of the initial election;" (4) to order  
23 |  
24 |

1 the Board to hold a new primary election in the District no later than September  
2 15, 2016, at which the District's registered voters will choose either Bruce Franks,  
3 Jr., or Penny Hubbard as the Democratic Party's nominee to serve the District in  
4 the Missouri House of Representatives, (5) set a nominal bond of no more than  
5 \$10.00 in regard to the special primary election, and (6) to grant any other relief as  
6 in the opinion of the Court may be just and proper under the circumstances.

7 Respectfully submitted,


8 

9 \_\_\_\_\_  
10 David Roland Mo. Bar #60548  
11 14779 Audrain Road 815  
12 Mexico, MO 65265  
13 Phone: (314) 604-6621  
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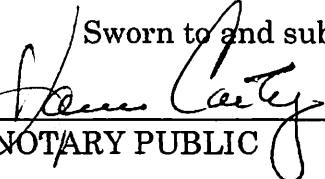
VERIFICATION

I, Bruce Franks, Jr., verify that I have read the foregoing verified petition and declare that, to the best of my knowledge, information, and belief, the allegations therein are true and correct.

By:   
Bruce Franks, Jr.

STATE OF MISSOURI           )  
  )  
CITY OF ST. LOUIS           )

Sworn to and subscribed to me this 26<sup>th</sup> day of August, 2016.

  
NOTARY PUBLIC

