

IN THE CIRCUIT COURT OF CHRISTIAN COUNTY, MISSOURI

RAY T. SPEAK, SR., )  
 )  
 Plaintiff/Contestant, )  
 )  
 vs. )  
 )  
 CHRISTIAN COUNTY CLERK, )  
 KAY BROWN, )  
 )  
 Defendant/Contestee. )

Case No. 06CT-CW00364

**FILED**  
RICHARD D. LAMB

APR 10 2006

CIRCUIT CLERK  
CHRISTIAN COUNTY, MO

JUDGMENT ORDER

Plaintiff/Contestant's Petition for recount of the Ozark City Ward II Alderman election held on April 4, 2006, and the Answer to said Petition filed by Christian County Clerk, Kay Brown, having come before the Court on this date, and the Court, being fully and completely apprized in the premises by the verified Petition and verified Answer and the arguments of counsel, and the Court finding that the Plaintiff/Contestant's Petition for recount of the ballots pertaining to the said election is meritorious and that the Defendant/Contestee Christian County Clerk does not dispute same, the Court does, hereby

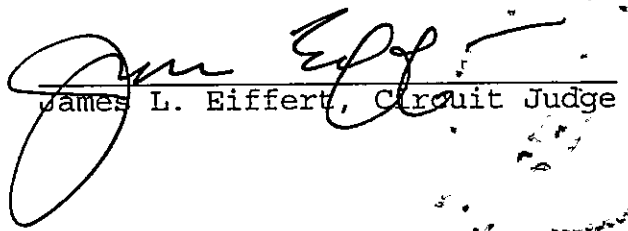
ORDER AS FOLLOWS:

1. That the Christian County Clerk shall forthwith appoint a minimum of four (4) election judges to perform the recount;
2. That the Christian County Clerk shall cause all ballots cast including absentee ballots and ballots cast at the poll in the Ozark City Ward II Alderman election on April 4, 2006, to be recounted by hand by the appointed election judges;
3. That the Christian County Clerk account to the Court and to counsel for the Plaintiff/Contestant the results of the recount as ordered by this Court and certify said election results only

after the recount has been completed.

4. This cause shall remain open for further adjudication as necessary.

Date: 4-10-06

  
James L. Eiffert, Circuit Judge



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PETITION

COMES NOW Plaintiff/Contestant and for his cause of action against Defendant/Contestee states to the Court as follows:

1. That Plaintiff/Contestant is a resident of the City of Ozark, Christian County, Missouri residing for more than twelve (12) years at 408 S. 10<sup>th</sup> Avenue prior to the date of April 4, 2006, and that said residence is located in Ozark's Ward II for voting purposes and that Plaintiff/Contestant was a candidate for election to the Ozark Board of Alderman in the April 4, 2006, municipal election and is, therefore, a proper Plaintiff/Contestant to challenge the correctness of the returns for said office and to charge that irregularities occurred in the election pursuant to Section 115.553 RSMo.

2. Defendant/Contestee is the duly elected and sitting Clerk for Christian County, Missouri and is the election authority for the city election that occurred on April 4, 2006, and is the custodian of the ballots that were voted on that date.

3. That the Ozark City Ward II election held on April 4, 2006, was a write-in election only because there were no candidates who filed for the office in the proper time frame in order to be listed on the ballot.

**FILED**  
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4. That candidate Jacob Archer received forty-three (43) write-in votes and that this Plaintiff/Contestant received forty-one (41) write-in votes, however, not all of the ballots which were cast were in fact counted and that at least three (3) absentee votes were not counted in the Ozark City Ward II race thereby making the results of the race questionable and that the true winner in the race is not known at this time.

5. That this election contest is timely in accordance with Section 115.577 RSMo.

6. That the Plaintiff/Contestant is seeking a recount pursuant to Section 115.585 of all of the ballots for Ward II alderman including absentee ballots to be opened and counted by hand to determine the true winner of the election.

WHEREFORE, Plaintiff/Contestant, Ray T. Speak, Sr., herewith prays the Court to order Defendant/Contestee Kay Brown to recount all of the ballots including absentee ballots cast for Ozark City Ward II alderman on April 4, 2006; to open any sealed ballots or absentee ballots for recount; to appoint election judges as are necessary to perform the recount; to account to the Court and to the Plaintiff/Contestant as to the results of the recount and for such other and further relief as the Court deems just in the premises.

STATE OF MISSOURI     )  
                                  )   ss.  
COUNTY OF CHRISTIAN )

Ray T. Speak, Sr., being of lawful age and first duly sworn, states and deposes that he has read the foregoing instrument and that the facts and statements contained therein are true and correct to his best knowledge, information and belief.

Ray T. Speak Sr.  
Ray T. Speak, Sr.

Subscribed and Sworn to before me, a notary public, this 10th day of April, 2006.

Cheryl A. Stewart  
Notary Public



CHERYLA A. STEWART  
My Commission Expires  
July 13, 2009  
Greene County  
Commission #05486243

James L. Bowles  
James L. Bowles #27590  
Attorney for Plaintiff/Contestant

James L. Bowles  
Attorney at Law  
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(417) 581-1400  
(417) 581-1744 (FAX)

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ANSWER OF DEFENDANT/CONTESTEE, KAY BROWN

COMES NOW the undersigned Defendant/Contestee and for her Answer to Plaintiff/Contestant's Petition states that she admits the allegations contained in the Petition and specifically the allegations contained in paragraphs 1, 2, 3, 4, 5 and 6.

Defendant/Contestee requests that the Court make such orders as are necessary and just to ensure the correctness and accuracy of the Ozark City Ward II election of April 4, 2006, for city alderman.

WHEREFORE, having fully answered, Defendant/Contestee herewith prays the Court to make such orders as are necessary and equitable with respect to the Petition now pending.

STATE OF MISSOURI )  
 ) ss.  
COUNTY OF CHRISTIAN )

Kay Brown, being of lawful age and first duly sworn, states and deposes that she has read the foregoing instrument and that the facts and statements contained therein are true and correct to her best knowledge, information and belief.

Kay Brown  
Kay Brown

Subscribed and Sworn to before me, a notary public, this 10<sup>th</sup>  
day of April, 2006.

Lana J. Wilson  
Notary Public

LANA J WILSON  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Christian County - Comm.#08438454  
My Commission Expires Feb. 4, 2010

WRITE IN WARD II ALDERMAN	
	VOTES
ALLISON MAGNES	1
BILL PHILLIPS	1
BOB POTTBERG	1
BRAD ELDRIDGE	1
BRETT ROSSER.	1
BRYON SALMON	1
CONKLE	1
DARRELL CALVERT	1
DARRELL MCGUIRE	1
DARREN ELLINGSWORTH	1
DENNIS SPARROW	1
DIXIE CRENSHAW	1
DIXIE WILLIAMS	1
DON SHORT	1
GALE MCGUIRE	1
GEREMOTH	1
GERI SMITH	1
HARLAND SCHRODER	1
JAMES LANGFORD	1
JANICE MORRIS	1
JOHN COBB	1
JOHN DILLON	1
JOHN JAGER	1
JOYCE SCHOOLER	1
KAREN RAY	1
KEITH JONES	1
KEN DAVIS	1
LREUIE KISSEE	1
PAM COOPER	1
ROGER PRAI	1
RONNIE SHIVLER	1
ROY MATTHEWS	1
CORY CHANDLER	2
DALE SHORTT	2
DON STARK	2
JEFF KENKEL	2
JOHN HOLZSCHULER	2
KATE SMITH	2
NEIL GRUBAUGH	2
TIMOTHY SEBOLT	2
VIRGINIA FARNSWORTH	2
DALE ROBERTSON	3
JERRY SMITH	3
SCOTT BILYEU	18
RAY SPEAK	41
JAKE ARCHER	43

158

*Marginal Count*