

08 NCAC 02 .0111 ELECTION PROTEST FORM

All persons bringing an election protest under Article 15A shall complete and timely file the following form. For the purposes of this Rule, "timely" means within the time required by G.S. 163-182.9(b). Please note this form shall not be used to challenge the registration of an individual voter or to report an incident other than an irregularity affecting the outcome of an election.

ELECTION PROTEST

(Use of this form is required by G.S. 163-182.9(c))

This form must be filed with the county board of elections within the timeframes set out in G.S. 163-182.9(b)(4). Please print or type your answers. Use additional sheets if needed to answer the below questions fully. Number the pages of all additional sheets. Please note that filings will be a public record. Please redact all confidential information, such as date of birth, Social Security number, and driver's license number.

Respond to all prompts. Failure to complete this form as required may result in the dismissal of your protest. Attach additional sheets as necessary, including all exhibits and supplemental documents. All attachments are deemed incorporated and covered under the Protest Certification.

PROTESTOR

1. Provide your preferred contact information:

Name: Jerry Alan Branson County of Residence: Guilford
Email: alan@stouttrucking.com Phone: 336-451-7169
Mailing Address: 3731 Old Julian Road Julian, NC 27283

NOTE: You will be deemed to consent to service at all of the above addresses (including email), unless you attach an addendum indicating otherwise.

2. Are you represented by counsel? ☒ Yes ☐ No

NOTE: If you answered Yes, above, your counsel must complete and you must attach the Counsel Certification Addendum.

3. Mark all that describe you:

- ☒ Candidate for the office of Guilford County Commissioner District 4
☒ Registered voter eligible to participate in the protested election contest
☐ Neither of the above*

**If you select this option, you are not eligible to file a protest.*

PROTEST SCOPE

4. List all election contests subject to your protest and calculate the margin of votes separating the apparent winner from the runner-up as of the date of filing. Your response does not waive your right to contest the validity of the current vote count. If your protest concerns all contests on the ballot, you must include the vote margin for each contest.

Protested Contest(s)	Current Vote Margin (subtract runner-up totals from apparent winner's totals)
Guilford County Commissioner, District 4	72

5. This protest alleges (select at least one):

- ☐ A defect in the manner by which votes were counted or results tabulated sufficient to cast doubt on the apparent results of the election.

IN PERSON - GUIL CO BOE
RCVD DEC22020 4:10:04

- ☒ A violation of election law, irregularity, or misconduct sufficient to cast doubt on the apparent results of the election.

FACTUAL BASIS & LEGAL ARGUMENT

6. Provide all factual allegations in support of your protest. If any fact you allege is outside the scope of your personal knowledge, you may attach affidavits from those who have personal knowledge of that fact. All facts you allege in connection with this protest must be true and accurate to the best of your knowledge, and brought in the sincere belief that the facts alleged form a good faith basis to protest the conduct and results of the election.

1. The undersigned made timely request for a recount in the contest for Guilford County Commissioner, District 4. The recount was conducted and was completed at approximately 3:23 p.m. on December 1, 2020. The recount result shows the undersigned trailing by 72 votes.
2. Pursuant to 08 NCAC 09.0106(h), the undersigned hereby makes timely protest of this election.
3. Approximately 464 Absentee Ballots by Mail (ABMs) were accepted by the Guilford County Board of Elections and included in the results, as reported in both the canvass and recount, even though the ABM container envelope did not comply with applicable law. They lacked sufficient information to identify the witnesses or lacked voter signature, among other deficiencies. I am attaching an example of this type of defective ABM envelope with putative cure certificate as Exhibit A (with voter name redacted) that was, upon information and belief, accepted by the Guilford County Board of Elections. An unredacted application and cure certificate, as well as many others, is available upon request. Acceptance of these ballots was contrary to law.
4. Of these 464 ballots cast, the undersigned believes, and alleges upon information and belief, that at least 80 of these ballots were within Guilford County Commission District 4.
5. Seven unapproved provisional ballots were read into the machine tabulators, are included in the vote totals, and cannot be retrieved.
6. The Guilford County Board of Elections accepted three ballots that were mailed to the Guilford County Board of Elections by Boards of Election in Ft. Collins, Colorado, Cobb County, Georgia, and Rockingham County, North Carolina. All three ballots were received by Guilford County BOE on November 12, 2020, without any indication of who delivered the ballots to these other three offices.
7. The Guilford County Board of Elections accepted and counted 10 ballots received between November 6, 2020 and November 11, 2020, which were postmarked before November 4, 2020.

7. List all individuals, if any, you may call as witnesses to substantiate facts listed in Prompt 6. If there are multiple individuals, summarize the facts of which the individual has personal knowledge.

Protestor may call as witnesses certain members and staff of the Guilford County Board of Elections who reviewed the ballot envelopes and associated cure certificates, if any, as to the writing on those ABM ballot envelopes, cure certificates, and attempts to cure the defective certifications.

8. Cite any statute or case, administrative rule or decisions, and election policy or procedure that supports your claim set out under Prompt 5.

Orders of the Court in Democracy NC v. NC State Board of Elections, No. 20 CV 457 (MDNC (2020)).
NCGS 163-231(a)(1)-(6);

RELIEF

9. What effect do you believe the facts alleged in response to Prompt 6, if proven, will have on the electoral outcome in the protested contest(s)? Your response should account for the current vote margin calculated in response to Prompt 4.

- ☐ The electoral outcome of the protested contest(s) will change.
- ☐ The electoral outcome of the protested contest(s) will not change.
- ☒ I am uncertain whether the outcome of the contest(s) will change.
- ☐ Other _____

10. What relief do you seek?

- ☒ Correct the vote count

- ☐ A new election
☐ Other: _____

ASSISTANCE

11. List all persons who assisted you in preparing the contents of this protest and indicate the nature of the assistance provided:

Counsel and volunteers assisted in the preparation of this protest, specifically gathering factual support concerning the ABM envelope deficiencies and the other alleged deficiencies.

Note: For protestors represented by an attorney, this protest is the initial filing in a proceeding as defined by N.C. State Bar Rules. *See* 27 N.C.A.C. 02 Rule 1.00(n).

12. Has any candidate, political party, organization, or person acting on behalf of the same requested that you bring this protest?

- ☐ Yes
☒ No

13. Have you received any financial or other benefit or promise of future financial or other benefit in exchange for filing this protest?

- ☐ Yes
☒ No

AFFECTED PARTIES & SERVICE

You must serve copies of all filings on every person with a direct stake in the outcome of this protest ("Affected Parties"). Affected Parties include every candidate seeking nomination or election in the protested contest(s) listed under Prompt 4, not only the apparent winner and runner-up. If a protest concerns the eligibility or ineligibility of particular voters, all such voters are Affected Parties and must be served. Address information for registered voters is available from the county board of elections or using the Voter Lookup at www.ncsbe.gov.

Materials may be served by personal delivery, transmittal through U.S. Mail or commercial carrier service to the Affected Party's mailing address of record on file with the county board of elections or the State Board, or by any other means affirmatively authorized by the Affected Party. If you know the Affected Party is represented by an attorney, service must be made on his or her counsel. Service must occur within one (1) business day of filing materials with the county board of elections. If service is by transmittal through the U.S. Mail or commercial carrier service, service will be complete when the properly addressed, postage-paid parcel is deposited into the care and custody of the U.S. Mail or commercial carrier service. It is your responsibility to ensure service is made on all Affected Parties.

14. List all Affected Parties, including their service address:

<i>Affected Party</i>	<i>Service Address</i>
Mary Beth Murphy	P.O. Box 81 Sedalia NC 27342
_____	_____
_____	_____
_____	_____
_____	_____

PROTESTOR CERTIFICATION

15. By signing this protest application, you affirm the following:

I, Jerry Alan Branson (full name), swear, under penalty of perjury, that the information provided in this protest filing is true and accurate to the best of my knowledge, and that I have read and understand the following:

(initial)

I have reviewed the statutes and administrative rules governing election protests, including all deadlines.

My protest must originate with a filing at the county board of elections.

I must timely serve all Affected Parties.

I must prove by *substantial evidence* either the existence of a defect in the manner by which votes were counted or results tabulated or the occurrence of a violation of election law, irregularity, or misconduct, either of which were sufficient to cast doubt on the apparent results of the election.

It is a crime to interfere unlawfully with the conduct and certification of an election.

It is a crime to interfere unlawfully with the ability of a qualified individual to vote and to have that vote counted in the election.

The facts I allege in connection with this protest are true and accurate to the best of my knowledge, and I have a good faith basis to protest the conduct and results of the election.

Submitting fraudulently or falsely completed declarations is a Class I felony under Chapter 163 of the General Statutes. This notice is provided pursuant to S.L. 2013-381, s. 5.4.

Signature of Protestor: Jerry Alan Branson

Date: 12/21/20

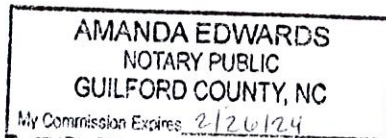
(This signature must be signed in the presence of a notary)

State of North Carolina, County of Guilford

Sworn to (or affirmed) and subscribed before me this the 2nd day of December, 2020.

(Official Seal)

Amanda Edwards
Official Signature of Notary



Amanda Edwards, Notary Public
Printed Name

My commission expires: 2/26/24

Date/Time Filed with County Board

(completed by the county board)

NOTE: The county board must provide the State Board with a complete copy of a filed protest within one business day after it is filed. In addition, the county board shall provide a copy of the election audit with this copy of the protest.

Please direct any questions to your county board of elections or the North Carolina State Board of Elections & Ethics Enforcement, PO Box 27255, Raleigh, NC 27611-7255.

COUNSEL OF RECORD ADDENDUM

If you answered Yes to Prompt 2 on the above, your attorney must complete this form and you must file it with your Election Protest Application.

Attorney Must complete all of the following:

Protestor Name: Jerry Alan Branson Protestor County: Guilford
Attorney Name: Charles H. Winfree
Attorney Email: chwinfree@adamswinfree.com Attorney Phone: (336) 273-8998

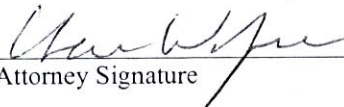
☒ I am a member in good standing with the North Carolina State Bar
☐ I am not licensed to practice law in North Carolina but am a member in good standing in _____ (State or District of Columbia), and do hereby apply to appear pro hac vice and certify that I have or will file all appropriate documents required under G.S. 84-4.1.

Law Firm: Adams & Winfree
Bar Number: 16895

I (choose one) ☐ am ☒ am not:

Subject to any order of any court or administrative agency disbaring, suspending, enjoining, restraining, or otherwise restricting me in the practice of law. If you are subject to any orders, explain in the space below.

I represent the Protestor whose name is provided above. I have read and understand the laws governing election protests in North Carolina General Statutes Chapter 163 and Title 8 of the N.C. Administrative Code. I swear/attest that the information I have provided in this Addendum is true and accurate to the best of my knowledge.


Attorney Signature

12/2/2020
Date

*History Note: Authority G.S. 163-22; 163-182.9;
Temporary Adoption Eff. April 15, 2002;
Eff. August 1, 2004;
Readopted Eff. September 1, 2018;
Amended Eff. November 1, 2020.*

EXHIBIT A (2 PAGES)

PCT-OR1

App # CIV 4/145

County Board Approval: Initial

Date **OCT 13 2020**



Ballot: 0010

Muni: OR

Election: 11/03/2020 - GENERAL

Before you
return your
ballot, make
sure:

- Your ballot is marked and inside this envelope.
- You signed and completed Step 2.
- Your witness signed and completed Step 3.
- If an assistant helped with voting or mailing, they signed and completed the Voter Assistant Certification.
- If mailing, you have applied your postage stamp.

Absentee application and certificate

Step 1: Get your witness ready.

You must have one witness who is nearby when you mark your ballot. Anyone who is 18 years of age or older can be a witness except a candidate (unless the candidate is your near relative or legal guardian).

- An owner, manager, director, or employee, of a hospital, clinic, nursing home or rest home in which you are a patient or resident.
- A person who holds any federal, state, or local elective office.
- A person who holds office in a state, congressional district, county or precinct political party or organization, or who is a campaign manager or treasurer for any candidate or political party.

If you are a patient or resident in a hospital, clinic, nursing home or adult care home, your witness certifies they are not:

Step 2: Voter, sign and complete below.

As a Voter, my signature below means I certify that I:

- am registered to vote in this county.
- will have lived at my address listed here at least 30 days before this election.
- am a US citizen.
- am at least 18, or will be by this election.
- have not been convicted of a felony or if I have been convicted of a felony I have completed my sentence, including probation, post release supervision and parole.
- understand it is a felony to vote more than once in an election.

I marked the enclosed ballot or it was marked for me according to my instructions.

Voter, sign here

Voter Signature Here

Step 3: Witness, sign and complete below.

As the Witness, my signature below means I certify that I:

- meet the qualifications outlined in Step 1.
- confirm the Voter marked the enclosed ballot in my presence, or caused it to be marked in my presence according to their instructions.
- respected the secrecy of the ballot and the Voter's privacy, unless I assisted the Voter at their request.

Witness, print name:

Address:

Witness signature: x

If needed, Voter assistant certification.

Only required if the Voter has received assistance in marking the ballot or needs assistance mailing the ballot.

As the Voter's Assistant, my signature below means I certify that:

- the Voter asked for my help.
- I helped mark the ballot and/or the Absentee Application and Certificate according to the Voter's instruction.
- I assisted only while in the Voter's presence.
- I am the Voter's near relative or verifiable legal guardian, or I am providing assistance because a near relative or legal guardian is unavailable to assist the Voter and I am not disqualified from assisting the Voter.
- I understand that individuals who are disqualified from serving as a witness as described in Step 1 are also disqualified from serving as the Voter's assistant.
- If the Voter indicated they have a disability that prevents them from mailing the ballot, I will place the sealed absentee return envelope in the closest U.S. Mail depository or mailbox.

Assistant, print name:

Address:

Fraudulently or falsely completing this form is a Class I Felony under Chapter 163 of the NC General Statutes. If you have questions about completing your absentee ballot, you may call 336-641-6876 or 336-641-6874.

COPY



GUILFORD COUNTY
BOARD OF ELECTIONS
October 22, 2020

COPY

Absentee Cure Certification

There is a problem with your absentee ballot – please sign and return this form.

Instructions

You are receiving this certification because your absentee ballot envelope is missing information. For your absentee ballot to be counted, complete and return this certification as soon as possible. **The certification must be received by your county board of elections by no later than 5 p.m. on Thursday, November 12, 2020.** You, your near relative or legal guardian, or a multipartisan assistance team (MAT), can return the certification by:

- Email: absentee@guilfordcountync.gov (you can email a picture of the form)
- Fax: 336-641-4454
- Delivering it in person to the county board of elections office
- Mail or commercial carrier P.O. Box 3427 Greensboro, NC 27402-3427

If this certification is not returned to the county board of elections by the deadline, your absentee ballot will not count. If you decide not to return this certification, you may still vote in person during the early voting period (October 15-October 31) or on Election Day, November 3, 2020. To find the hours and locations for in-person voting in your county, visit <http://www.ncsbe.gov>.

READ AND COMPLETE THE FOLLOWING:

I am submitting this certification to correct a problem with missing information on the ballot envelope. I am an eligible voter in this election and registered to vote in Guilford County, North Carolina. I solemnly swear or affirm that I voted and returned my absentee ballot for the November 3, 2020 general election and that I have not voted and will not vote more than one ballot in this election. I understand that fraudulently or falsely completing this certification is a Class I felony under Chapter 163 of the North Carolina General Statutes.

(Print name and sign below)

Voter's Printed Name (Required)

Voter's Signature Here

Voter's Signature (Required)

CIV Number (to be entered by county board office): CIV - 47145

Absentee Correspondence ID

ABS-41-1014214



* A B S - 4 1 - 1 0 1 4 2 1 4 *