

**IN THE MARION SUPERIOR COURT  
STATE OF INDIANA  
2004 TERM**

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**STATE OF INDIANA, ex rel. INDIANA STATE  
REPUBLICAN CENTRAL COMMITTEE,**  
*Plaintiff,*

v.

**MARY C. BROWN, HOLLY FRODERMAN,  
and GARY WOLFE, in their Official Capacities  
as Members of the Clay County Election Board;  
et al.,**

*Defendants.*

**Cause No. 49D05-0410-MI-001912**

**Division No. 5**

**Room No. W-507**

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**MOTION FOR NUNC PRO TUNC ORDER**

Plaintiff, by counsel, hereby respectfully requests this court to issue a nunc pro tunc order clarifying paragraph 3 of the mandate and in support thereof states as follows:

1. On October 21, 2004, this Court entered its Findings of Fact, Conclusions of Law and Order of Mandate.
2. Paragraph 3 of the order of mandate states as follows:

In addition, the Defendant County Election Boards are hereby mandated to immediately send notice and replacement ballots to all absentee voters who have been provided absentee ballots advising them that their previously completed ballots are void and will not be counted.
3. This paragraph is being misinterpreted by some to mean that the entire ballot is void and should be clarified to state that only the votes in House District 46 will not be counted.
4. Plaintiff respectfully suggests that the following language would make the intent of paragraph 3 more clear

so that it will not be misinterpreted:

In addition, the Defendant County Election Boards are hereby mandated to immediately send notice and replacement ballots to all absentee voters, who have been provided absentee ballots with Jeff Lee's name on them, advising them that their

**Motion for Nunc Pro Tunc**

previously cast vote in House District 46 is void and will not be counted, that if they would like to vote for a candidate in House District 46, they need to send in the replacement ballot, and further that, if the voter chooses to utilize the replacement ballot, he or she should complete the replacement ballot as if voting for the first time.

WHEREFORE, Plaintiff respectfully requests this court issue a NUNC PRO TUNC order clarifying paragraph 3 of the Order of Mandate.

Dated: October 22, 2004

Respectfully Submitted,

Bopp, Coleson & Bostrom

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served on October 22, 2004, by U.S. Mail, first class postage prepaid on the following individual(s) at the following address(es):

<p>Stephen R. Eichholtz LOCK REYNOLDS LLP 201 North Illinois Street, Suite 1000 P.O. Box 44961 Indianapolis, IN 46244-0961</p> <p>William R. Groth Geoffrey S. Lohman FILLENWARTH DENNERLINE GROTH &amp; TOWE 1213 N. Arlington Ave., Suite 204 Indianapolis, IN 46219</p> <p>Eric A. Frey FREY LAW FIRM 400 Wabash Avenue, Ste. 215 P.O. Box 1760 Terre Haute, IN 47808-1760</p>	<p>Michael K. Bonnell Attorney at Law P.O. Box 533 Spencer, IN 47460</p> <p>David B. Schilling Courthouse, Room 220 Bloomington, IN 47404</p> <p>Mary C. Brown Holly Froderman Gary Wolfe Clay County Election Board 609 E. National Avenue, Room 211 Brazil, IN 47834</p>
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Raeanna S. Moore