

08 NCAC 02 .0111 ELECTION PROTEST FORM

All persons bringing an election protest under Part 4 of Article 20 shall complete and timely file the following form. For the purposes of this Rule, "timely" means within the time required by G.S. 163A-1177(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. 163A-1177(c))

This form must be filed with the county board of elections within the timeframes set out in G.S. 163A-1177(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: **Johnny Hill** County of Residence: **Johnston**
Email: [REDACTED] Phone: [REDACTED]
Mailing Address: [REDACTED]

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 _____
☒ 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)
Johnston County Commission District 1	47

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.
- ☒ 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.

- During the Tuesday March 3rd primary, an unregistered Political Action Committee distributed a faux "Voter Guide for Johnston County" at various polling places throughout Johnston County. By State of North Carolina Law, to "Legally distribute a Voter Guide, the Political Action Committee must be registered with election officials." Since the Political Action Committee was not registered with election boards, this activity was illegal. As such, I hereby protest the conduct and results of the Republican Primary Election on March 3rd, 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.

- Lindsey Wakely, Assistant General Counsel NC State Board of Elections (Election Law Legal Expert)
- Darryl Mitchell, Chairman Johnston County Republican Party (Flyer/PAC/Party Validity Witness)
- Tony Braswell, Johnston County Commissioner (Election Law/Candidate Witness)
- Mike Powell, Candidate Johnston County Commissioner (Election Law/Candidate Witness)
- Char Nelson, Candidate District Court Judge (Election Law/Candidate Witness)
- John Sanders, Lead Pastor The Church of Clayton Crossings (Polling Station Surveillance Camera Administrator)
- Michael Steward, Associate Pastor The Church of Clayton Crossings (Polling Station Surveillance Camera Administrator)

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

- North Carolina State Board of Elections Campaign Finance Manual version 12.19 page 95.
- North Carolina General Statutes Chapter 163

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:

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>
Michelle Pace Davis	12453 Buffalo Road Clayton NC 27527
Fred Smith	2102 Prichard Road, Clayton, NC 27527

PROTESTOR CERTIFICATION

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

I, JOHNNY C HILL (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)

JCH
JCH
JCH
JCH

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 163A of the General Statutes. This notice is provided pursuant to S.L. 2013-381, s. 5.4.

Signature of Protestor:

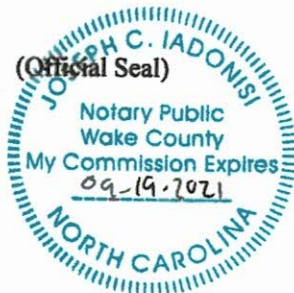
(This signature must be signed in the presence of a notary)

Date: MAR 5, 2020

State of North Carolina, County of Johnston

Sworn to (or affirmed) and subscribed before me this the 5th day of March, 2020.

(Official Seal)



Official Signature of Notary

Joseph C. Iadonisi, Notary Public
Printed Name

My commission expires: September 19, 2021

Date/Time Filed with County Board

3-6-2020 3:55 p.m.
(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.