The Florida Senate

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Rules Subcommittee on Ethics and Elections

FLORIDA ELECTION CASE LAW AND FEDERAL PRECLEARANCE UPDATE

Statement of the Issue

Since 2000, state and federal courts have stricken or modified a number of state election statutes on free speech and other constitutional grounds. Therefore, the Florida Statutes do not always reflect the current state of the law on particular election subjects. Additionally, provisions enacted by the Florida Legislature affecting voting practices or procedures are subject to preclearance by the U.S. Department of Justice and/or the courts. Thus, some new legislation may not be effective until the preclearance process has been completed.

There are four components to this issue brief: 1) an explanation of the federal election law preclearance process and an update on the current preclearance status of last session's major election bill; 2) a brief report on implementation of the bill to date; 3) a review of case law decisions holding current provisions of Florida's Election Code unconstitutional or narrowing their scope; and, 4) an update on major pending election law cases.

Discussion

I. FEDERAL PRECLEARANCE OF ELECTION ADMINISTRATION LAWS[1]

Generally

Section 5 of the Voting Rights Act freezes election practices or procedures in covered jurisdictions until the new practices or procedures have been reviewed by either the U.S. Department of Justice or via a declaratory judgment action in the U.S. District Court for the District of Columbia. Under Section 5, any change with respect to voting in a covered jurisdiction cannot be legally enforced until the provision is approved by the Court or the U.S. Department of Justice.

To obtain preclearance, covered jurisdictions must prove that the new law does not "deny or abridge the right to vote on account of race, color, or membership in a language minority group." If the jurisdiction is unable to prove the absence of such discrimination, the Court will deny the requested judgment or the Attorney General will object. In either case, the law remains unenforceable.

Whether a jurisdiction is a covered jurisdiction is determined according to a formula in Section 4 of the Voting Rights Act. Initially, the formula consisted of a determination as to: 1) whether there was a "test or device" restricting the opportunity to register and vote; and, 2) whether less than 50% of people of voting age were registered to vote on November 1, 1968, or if less than 50% of people of voting age voted in the presidential election of 1964. In 1965, no part of the State of Florida was a covered jurisdiction subject to preclearance.

In 1975, Congress broadened Section 5 to address discrimination against members of "language minority groups." Among other changes, Congress also amended the definition of "test or device." Under the new definition, a "test or device" included the practice of providing election information, including ballots, only in English in states or political subdivisions where members of a single language minority constituted more than 5% of the citizens of voting age. These changes had the effect of covering Alaska, Arizona, and Texas in their entirety, and parts of California, Florida, Michigan, New York, North Carolina, and South Dakota." The parts of Florida which were

[1] Excerpted in part from the U.S. Department of Justice website which is located at: http://www.justice.gov/crt/about/vot/sec_5/about.php.

determined to be subject to Section 5 are: Collier County, Hardee County, Hendry County, Hillsborough County, and Monroe County.[2]

As a result of the amendment in 1975, any statewide Florida law affecting election administration practices or procedures must either be precleared by the U.S. Department of Justice or approved by the U.S. District Court for the District of Columbia, since implementation of such a law would necessarily affect Florida's five preclearance counties. Historically, such laws have not taken effect in *any* Florida county until after preclearance or approval, since election laws must be implemented uniformly throughout the state.[3]

Preclearance of Chapter 2011-40, Laws of Florida

During the 2011 Legislative Session, the Florida Legislature passed House Bill 1355, an omnibus elections act which was signed into law by Governor Scott.[4] The law contains numerous changes to various elections practices and procedures and, therefore, is subject to preclearance under Section 5 of the Voting Rights Act.

On May 19, 2011, the Secretary of State issued a binding directive to the supervisors of elections "for the purpose of ensuring that specific new changes are uniformly interpreted and implemented and that the elections are conducted in a fair and impartial manner so that no voter is disenfranchised."[5] The first portion of the directive advises the supervisors of the changes made to the early voting periods and to require that notice of the early voting hours be posted and sent to the Secretary. The second portion of the directive informs the supervisors about the changes with respect to out-of-county voters who seek to change addresses on Election Day; they must now vote a provisional ballot instead of a regular ballot, unless they are active military or family members of an active member of the military. The third portion of the directive addresses changes made to the process that poll workers use to verify a voter's address or identity at the polls.

On June 9, 2011, the Secretary of State submitted the provisions of the new law to the U.S. Department of Justice for preclearance. While preclearance was pending, by letter dated July 29, 2011, the Secretary withdrew four sections of the law from consideration by the U.S. Department of Justice.[6] On August 1, 2011, the Secretary filed suit seeking a declaratory judgment in the U.S. District Court for the District of Columbia in which the Secretary seeks a judgment from the Court that those four provisions do not deny or abridge the right to vote on account of race, color, or membership in a language minority group.[7] The U.S. Department of Justice did not object to any of the remaining changes. Thus, 76 of 80 sections of Chapter 2011-40 are now enforceable law in Florida.

While it is uncertain how long the litigation will be pending, it is anticipated that it will be handled expeditiously.

II. IMPLEMENTATION OF FLORIDA'S 2011 ELECTION LAW[8]

The Florida State Association of Supervisors of Elections updated committee staff on the implementation of the new election law.[9] Presently, counties not subject to the preclearance requirement have been working on implementing all of the changes made in that law. The counties subject to preclearance have begun implementing the 76 provisions of the law that were precleared by the Justice Department. Concerning the remaining four provisions, implementation will be impacted by several factors such as the date of the presidential preference

[2] The determinations for Collier and Hendry County are recorded in the Federal Register at 41 FR 34329 (August 13, 1976). The determinations for the remaining counties are recorded in the Federal Register at 40 FR 43746 (September 23, 1975).
[3] Section 97.012, F.S.
[4] HB 1355 became Chapter 2011-40, LAWS OF FLA., upon the Governor's signature.
[5] Directive 2011-01.
[6] The four sections withdrawn from the Attorney General's consideration are: Section 4 (amending the procedures for third party voter registration organizations' registration and conduct of voter registration drives in s. 97.0575, F.S.); Section 23 (amending the initiative petition procedures in s. 100.371, F.S.); Section 26 (providing that most out-of-county voters changing their addresses on voting day must vote a provisional ballot in s. 101.045, F.S.); and Section 39 (amending the early voting provisions in s. 101.657, F.S.).
[7] The litigation is styled *Florida v. Holder*, D.C. Cir. Case No. 11-1428.
[8] Ch. 2011-40, LAWS OF FLA.
[9] Via telephone conversations on August 11, 2011 and August 18, 2011 with David Stafford, President of the Association.

primary; whether the Court grants the declaratory judgment in *Florida v. Holder*; the date that the declaratory judgment, if granted, becomes final; and, the amount of time between the date the order is final and the date of the presidential preference primary.

III. CASE LAW REVIEW FINDINGS

The scope of this case law review is limited to significant cases that found current provisions of Florida's Election Code unconstitutional or applied a narrowing construction to save the provisions from constitutional infirmity. Within those parameters, courts have addressed a wide variety of issues over the past decade, including advertising sponsorship disclaimers and the excess spending subsidy for publicly-financed candidates. The most recent court decision on Florida's 2010 electioneering laws is also included for general informational purposes.

Political Advertising

***Doe v. Mortham,* 708 So. 2d 929 (Fla. 1998)**

Issues: Anonymous Political Advertising; Sponsorship Identification Disclaimers
Florida Statutes affected: Sections 106.071, 106.143, and 106.144, F.S.
Impact: Affirmed the constitutionality of Florida's political advertising disclaimer laws, while attempting to carve out a narrow exemption for *individuals* acting *independently* using only *their own modest resources.*

Discussion:
In *Doe v. Mortham*,[10] the Florida Supreme Court was faced with a challenge to the constitutionality of two sections of Florida Statutes involving sponsorship identification in political advertisements[11] and independent expenditures,[12]and another section requiring the filing of a detailed statement by groups endorsing candidates or issues.[13] The Court upheld the facial constitutionality of the State's laws while creating a narrow, as-applied exemption to the sponsorship identification requirement for personal pamphleteering by an *individual* who acts *independently* and who funds the political messages exclusively with his or her *own modest resources*.

The *Doe* plaintiffs were individuals seeking to engage in anonymous political advocacy. They sought to make independent expenditures supporting and opposing candidates and referendums during the 1996 election cycle, either individually, in association with each other, or in association with other individuals or groups. They planned to publish their ads in several different communications mediums, including billboards, direct mail, radio, television, newspapers and periodicals. The specific independent expenditures were to exceed $100 in the aggregate for each individual election.

After initially disposing of the plaintiff's facial overbreadth challenge,[14] the Court determined that the statutes could be narrowed to exclude personal pamphleteering of *individuals* who act *independently* and expend only

[10] 708 So. 2d. 929 (Fla. 1998).

[11] § 106.143, F.S. (1997). Section 106.011(17), F.S., defines the term "political advertisement" to mean:
> [A] paid expression in any communications media… or by means other than the spoken word in direct conversation, which shall support or oppose any candidate, elected public official, or issue.

[12] § 106.071, F.S. (1997). Section 106.011(5)(a), F.S., defines "independent expenditure" to mean:
> [A]n expenditure…for the purpose of advocating the election or defeat of a candidate or…issue, which… is not controlled by, coordinated with, or made upon consultation with, any candidate, political committee, or agent of such candidate or committee.

[13] The Legislature repealed the other challenged statute, section 106.144, F.S., in 2005. See Ch. 2005-277, LAWS OF FLA., § 77, at 2690 (repealing statute relating to candidate and issue endorsements).

[14] A statute is overbroad if, in addition to proscribing activities which may be constitutionally forbidden, it also sweeps within its coverage speech or conduct which is protected by the guarantees of free speech and association. *Thornhill v. Alabama*, 310 U.S. 88 (1940). To uphold a facial challenge, the overbreadth of the statute must not only be real, but also *substantial*,

their own *modest resources* (the *McIntyre* exemption).[15] So read, the Court found that the disclaimer statutes at issue were not overbroad, and that "any alleged infirmity left uncured by our construction…is insubstantial and can be dealt with on an 'as applied' basis."[16] That ruling was clear and is probably where the *Doe* Court should have stopped; instead, it chose to re-write and strike language from the statutes. The *Doe* Court specifically held that s. 106.143(1)(b), F.S., requiring sponsors of *political advertisements* to identify themselves, does not apply to:

> …the *personal pamphleteering of individuals* acting *independently* and using only *their own modest resources*. As for section 106.071, only to the extent that the last sentence in this section requires identification of *independent advertisements* made by individuals does it run afoul of the First Amendment, … The generic requirement in both section 106.071 and 106.143 that all communications be marked with the phrase "paid political advertisement" in no way violates the anonymity concerns underlying *McIntyre*.[17]

The Court proceeded to strike and re-write the last sentence of s. 106.071, F.S., to eliminate the need for a sponsorship disclaimer on independent expenditures by ALL individuals, not just those who fit the *McIntyre* exemption: "Any political advertisement paid for by an independent expenditure shall prominently state 'Paid political advertisement.'"[18] As a result, a wealthy individual can run *anonymous* independent expenditure advertisements in Florida.

Public Campaign Financing; Excess Spending Subsidy Provision

***Scott v. Roberts*, 612 F.3d 1279 (11th Cir. 2010)**

Issue: Excess spending subsidy for publicly-financed campaigns
Florida Statute affected: 106.355, F.S.
Impact: Though the Court did not rule on the constitutionality of Section 106.355, F.S., by granting the preliminary injunction the Court hinted that the statute may be unconstitutional.

Discussion:
In 2010, Rick Scott campaigned for the Republican Party nomination for Governor of the State of Florida. As a candidate, Mr. Scott opted not to participate in the public campaign financing system.[19] His most competitive opponent, Bill McCollum, opted to participate in the public campaign financing system.

"In 1986, the Legislature found that the costs of running an effective campaign for statewide office had reached a level tending to discourage persons from running for office. Public financing laws were enacted to encourage qualified persons to seek statewide office who may not otherwise do so and to protect the effective competition by candidates using public funding."[20] Public financing is available to a candidate who is not running unopposed and agrees to certain limits on making expenditures, receiving contributions, and agrees to certain reporting and audit

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when judged in relation to the statute's plainly legitimate sweep. *Doe*, 708 So. 2d at 931 (Fla. 1998), quoting *Broadrick v. United States*, 93 S.Ct. 2908, 2915-18 (1973).

[15] The *Doe* Court also rejected a vagueness challenge to the statutes. A statute will be held *void for vagueness* if it fails to clearly define the conduct prohibited, such that persons "of common intelligence must necessarily guess at its meaning and differ as to its application." *Connally v. General Construction Co.*, 269 U.S. 385 (1926). However, the Court did find vague the phrase "with respect to any candidate or issue" in s. 106.071, F.S., governing reporting requirements for independent expenditure ads exceeding $100. The Court cured this vagueness problem by requiring the reporting of only those independent expenditures exceeding $100 which "*expressly advocate* the election or defeat of a clearly identified candidate or referendum issue." *Doe*, 708 So.2d at 933.

[16] *Doe*, 708 So. 2d at 931-32.

[17] *Id.* at 934-35.

[18] *Id*. at 934-35.

[19] The Florida Election Campaign Financing Act is found in ss. 106.30-106.36, F.S.

[20] 2010 Public Campaign Financing Handbook, located on the website for the Division of Elections at: http://election.dos.state.fl.us/publications/pdf/2010/PublicCampaignFinancingHB2.pdf.

requirements.[21] In order to qualify for public financing, the candidate must raise a certain amount of contributions and submit documentation to the Division that the candidate meets the threshold to receive public financing.[22] When a candidate who has chosen not to participate in public financing exceeds the expenditure limit in Section 106.34, F.S., all opposing participating candidates receive a dollar-for-dollar match from the State for every dollar over the limit up to two times the expenditure limit. [23]

In early July 2010, Mr. Scott had almost spent enough funds to trigger the excess spending subsidy. Prior to reaching the threshold to trigger the subsidy, Mr. Scott filed suit against the Secretary of State asking the U.S. District Court for the Northern District of Florida to declare the statute unconstitutional and to preliminarily enjoin the Secretary from enforcing it. Scott alleged that the subsidy chilled his right to free speech by imposing a substantial burden on his own well-established right to spend his own funds in support of his candidacy in violation of the First and Fourteenth Amendments of the U.S. Constitution.[24]

The U.S. District Court for the Northern District of Florida denied Mr. Scott's request for a preliminary injunction finding that the Governor did not demonstrate that he was likely to prevail on the merits. The Eleventh Circuit reversed and granted the preliminary injunction because, in its view, there was a substantial likelihood that the excess spending provisions are unconstitutional. The Court found that the excess spending subsidy imposes a burden on nonparticipating candidates by making the nonparticipating candidate's campaign more costly.[25] This burden, the Court concluded, was not outweighed by the State's interest in reducing corruption or the appearance of corruption.[26] While the Court did not expressly rule the subsidy to be unconstitutional, it granted the preliminary injunction to Mr. Scott because "Florida has not…proved that the excess spending subsidy furthers the anticorruption interest in the least restrictive manner.[27]

Author's Note: In June 2011, the U.S. Supreme Court ruled that a similar Arizona excess spending subsidy was unconstitutional.[28] In overturning that statute, the Court held that the Arizona excess spending subsidy was a substantial burden on political speech which was not justified by the state's interest in preventing corruption.

Electioneering

***National Organization for Marriage, Inc. v. Roberts,* Case No. 1:10-cv-00192-SPM/GRJ (August 8, 2011, N.D. Fla. 2011)**

Issues: Electioneering communication, electioneering communications organizations
Florida Statutes affected: Sections 106.011(18)(a) and 106.011(19), F.S.

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[21] Section 106.33, F.S.
[22] Section 106.35, F.S.
[23] Section 106.355, F.S., provides:

> **Nonparticipating candidate exceeding limits.**—Whenever a candidate for the office of Governor or member of the Cabinet who has elected not to participate in election campaign financing under the provisions of ss. 106.30-106.36 exceeds the applicable expenditure limit provided in s. 106.34, all opposing candidates participating in such election campaign financing are, notwithstanding the provisions of s. 106.33 or any other provision requiring adherence to such limit, released from such expenditure limit to the extent the nonparticipating candidate exceeded the limit, are still eligible for matching contributions up to such limit, and shall not be required to reimburse any matching funds provided pursuant thereto. In addition, the Department of State shall, within 7 days after a request by a participating candidate, provide such candidate with funds from the Election Campaign Financing Trust Fund equal to the amount by which the nonparticipating candidate exceeded the expenditure limit, not to exceed twice the amount of the maximum expenditure limits specified in s. 106.34(1)(a) and (b), which funds shall not be considered matching funds.

[24] Gov. Scott also alleged that the system violated the Equal Protection Clause. However, as with other similar cases, the Court declined to address the equal protection argument.
[25] *Scott v. Roberts*, 612 F.3d 1279, 1290-91 (11th Cir., 2010).
[26] *Id*. at p. 1293.
[27] *Id*. at p. 1294.
[28] *Arizona Free Enterprise Club's Freedom Club PAC v. Bennett*, 131 S. Ct. 2806 (2011).

Impact: Though still subject to appellate review, the Northern District's ruling affirms the constitutionality of the changes the Legislature made to Florida's electioneering laws in Chapter 2010-167, L.O.F.

Discussion:
The National Organization for Marriage, Inc., ("NOM"), a nonprofit organization, planned to disseminate radio and TV communications, along with direct mail pieces, just prior to the 2010 election. The targeted communications would identify specific candidates and the offices they were running for, state their views on same-sex marriage, state whether the candidates were good or bad for Floridians, and exhort constituents to call the candidate and ask whether the candidate "supports marriage only between one man and one woman."[29]

Under Florida law, advertisements are "electioneering communications" if they are publicly distributed by television, radio, cable television, satellite system, newspaper, magazine, direct mail, or telephone, refer to or depict a candidate without advocating for or against him or her within 30 days before a primary election or 60 days before any other election, and are targeted toward the people the candidate would represent.[30] Thus, the Court ruled that NOM's communications would squarely fit within the definition of "electioneering communications" in s. 106.011(18)(a), F.S.

In Chapter 2010-167, L.O.F., the Legislature amended the electioneering provisions to incorporate "disclosure and reporting requirements for organizations that receive more than $5,000 for communications if those communications are publicly distributed (by television, radio, newspaper, magazine, mail, or telephone) shortly before an election (30 days for primaries, 60 days for general elections) identify a candidate, target the geographic area the candidate would represent if elected, and are 'susceptible of no reasonable interpretation other than an appeal to vote for or against the specific candidate.'"[31]

NOM argued that three provisions[32] of Florida's new electioneering law "violated the First Amendment because they were unconstitutionally vague or overbroad, because "they are driven by the 'appeal to vote' test."[33] The

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[29] *National Organization for Marriage, Inc. v. Roberts*, Slip Opinion at p. 2.

[30] Section 106.011(18)(a), F.S. (2010), defined "electioneering communication" to mean:

> [A]ny communication that is publicly distributed by a television station, radio station, cable television system, satellite system, newspaper, magazine, direct mail, or telephone and that:
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> 1. Refers to or depicts a clearly identified candidate for office without expressly advocating the election or defeat of a candidate but that is susceptible of no reasonable interpretation other than an appeal to vote for or against a specific candidate;
> 2. Is made within 30 days before a primary or special primary election or 60 days before any other election for the office sought by the candidate; and,
> 3. Is targeted to the relevant electorate in the geographic area the candidate would represent if elected.

[31] *National Organization for Marriage, Inc. v. Roberts*, Slip Opinion at pp. 3-4.

[32] Specifically, NOM challenged ss. 106.011(18)(a) (*see, supra* note 20), 106.011(19), and 106.03(1)(b), F.S. (2010). Section 106.011(19), F.S., provided:

> "Electioneering communications organization" means any group, other than a political party, affiliated party committee, political committee, or committee of continuous existence, whose election-related activities are limited to making expenditures for electioneering communications or accepting contributions for the purpose of making electioneering communications and whose activities would not otherwise require the group to register as a political party, political committee, or committee of continuous existence under this chapter.

Section 106.03(1)(b)1., F.S. (2010), provided in relevant part:

> Each electioneering communications organization that receives contributions or makes expenditures during a calendar year in an aggregate amount exceeding $5,000 shall file a statement of organization as provided in subparagraph 2. by expedited delivery within 24 hours after its organization or, if later, within 24 hours after the date on which it receives contributions or makes expenditures for an electioneering communication in excess of $5,000.

appeal to vote test is in the definition of "electioneering communication" and narrows the scope of that term to include only communications that are "susceptible of no reasonable interpretation other than an **appeal to vote** for or against a specific candidate."[34]

As the *NOM* Court stated,

> The 'appeal to vote' language was specifically incorporated into the statute to ensure that regulations would only affect organizations engaged in electioneering communications for or against a particular candidate, which the Government has a compelling interest to regulate.[35]

The Court ruled that the "appeal to vote" test had been met by the communications and that the communications were unambiguously campaign-related. The Court stated that the government has a compelling interest in regulating election communications that are unambiguously campaign-related and concluded that there is no vagueness concerning the application of the statutes to NOM's communications.

The Court also rejected NOM's claim that the "appeal to vote" test was facially vague. In order for such a claim to proceed, the plaintiff has to prove that the law can *never* be applied in a valid manner and that every application creates an impermissible risk of suppression of ideas. The Court stated:

> The "appeal to vote" test adopted by Florida is not facially vague. It provides an objective standard that was created and applied by the U.S. Supreme Court.[36]

Finally, the Court rejected NOM's argument that the statute is unconstitutionally overbroad. The Court stated that the test was specifically designed to avoid restriction of protected speech by erring on the side of the speaker in close calls. Therefore, the "appeal to vote" test does not substantially restrict protected speech and is not facially overbroad.

IV. PENDING ELECTION LAW LITIGATION

In addition to *Florida v. Holder*, there are approximately 12 other suits pending concerning the Florida Election Code. Some of those suits are pending mandate from the court, others are still in the early stages of litigation. The following is a brief description of a few of the more significant suits pending:

- *Sullivan v. Browning*: The Secretary of State issued Directive 2011-01, which addresses implementation of the provisions of Chapter 2011-40, L.O.F.[37] The plaintiffs are suing to obtain a declaratory judgment alleging that the supervisors of election are implementing the provisions of Chapter 2011-40 prior to receiving the required preclearance. They allege that the provisions cannot, therefore, be implemented. The plaintiffs seek an order from the Court stating that the Governor and Secretary of State failed to seek preclearance prior to enforcing Chapter 2011-40 in violation of the Voting Rights Act. They also seek an injunction delaying implementation of Chapter 2011-40, L.O.F., until preclearance occurs. The suit is pending in the Southern District of Florida. The plaintiffs have filed a motion for preliminary injunction while the defendants have filed a motion to dismiss. At this time, no hearing has been requested or ordered. The parties await a ruling on the pending motions.[38]
- *Bray v. Browning*: Several judges from the Sixth Judicial Circuit of Florida are seeking a declaratory judgment and reimbursement of qualifying fees and elections assessments they paid for the 2008 election. Each of the plaintiffs ran in the 2008 election without opposition. They allege that because they ran

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[33] *National Organization for Marriage, Inc. v. Roberts*, Slip Opinion at pp. 4-5.
[34] *Id.* at p. 3 (citing, s. 106.11(18)(a), F.S. (2010)).
[35] *Id.* (citing, *McConnell v. FEC*, 540 U.S. 93, 190 (2003)).
[36] *Id.* at p. 6.
[37] *See, supra* note 5 and accompanying text (discussing the Directive).
[38] *Sullivan v. Browning*, U.S. District Court, Southern District of Florida, Case No.: 4:11-cv-10047 KMM.

without opposition the supervisors of election did not have to place them on the ballot and, therefore, incurred no expense for those races. The plaintiffs further allege that appellate judges and those who withdraw their candidacy do not have to pay qualifying fees and elections assessments. The plaintiffs claim that since they were not put on the ballot they should not be required to pay the fees and assessments. The crux of their argument is that the collection of those monies violates their constitutional right to equal protection under Article I, Section 2, Florida Constitution. The Court heard the Secretary's Motion to Dismiss on August 18, 2011, but has not yet ruled.[39]

- *Worley v. Roberts*: A group of individuals who would like to join together to run political ads that would constitute independent expenditures have filed a declaratory judgment action seeking to strike the Election Code provisions concerning political committees as unconstitutional.[40] They allege that the reporting, registration, and disclosure requirements applicable to political committees violate their First Amendment rights because they are a prior restraint that burdens protected speech. The plaintiffs also argue that the funding restrictions, expenditure restrictions, and required disclaimers violate their First Amendment speech and association rights. Finally, the plaintiffs allege that the laws treat them differently than other corporations in violation of their right to equal protection under the Fourteenth Amendment. On July 27, 2011, the Court heard motions for summary judgment from both the plaintiffs and the defendants. The parties are waiting for a ruling on the motions.[41]

If any of these cases results in an adverse ruling, staff will bring it to the subcommittee's attention.

[39] *Bray v. Browning*, Second Judicial Circuit of Florida, Case No.: 2011-CA-00071.
[40] Because the individuals would like to join together to engage in political advertising, they would be required to register and report as a political committee. *See*, Section 106.011(1)(a), F.S.
[41] *Worley v. Roberts*, U.S. District Court, Northern District of Florida, Case No.: 4:10-cv-00423-RH-WCS.