

# **BREWTON PLANTE P.A.**

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## **LEGAL UPDATE**

**To: Supervisors of Elections**

**From: Ron Labasky, Esquire**

**Date: August 17, 2012**

**Re: State of Florida v. United States of America, et al.  
United States District Court of District of Columbia**

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This case was filed by the State of Florida in an effort to obtain preclearance for three provisions that were adopted in CS/CS/HB 1355 in 2011 by the Florida Legislature. Those sections related to changes in early voting, county to county address changes by parties at a polling place on election day, and regulation of third-party voter registration entities.

The United States District Court concluded that the State of Florida failed to satisfy its burden of proving that changes to early-voting adopted by the Legislature in 2011 would not have a retrogressive effect on minority voters if the covered counties offer only a minimum number of early-voting hours required under the new statute. In its Opinion, the Court states, however:

“if Florida and the covered counties were to submit a preclearance plan that offered early voting for the maximum number of hours authorized by the new statute, which would be exactly the same number as under the prior law, and did so on a standard 7 a.m. to 7 p.m. schedule, Florida likely would satisfy its burden of proving that the overall effect of its changes in law would not be non-retrogressive.”

The Court concluded that Florida had satisfied its burden of proof on the changes to procedures for inter-county movers and the proposal limiting address changes at the polling place on election day was precleared. U.S. District Judge Hinkle had previously entered an Order dealing with the constitutionality of the third-party voter registration changes. This Court did not

enter an Order on those provisions, since the state has adopted new rules in light of Hinkle's ruling and will submit those for preclearance.

The Opinion is 119 pages long. I am reviewing it and will provide any further thoughts early next week. Also, there are a number of lawsuits that have been filed that focus on the early voting changes and those are progressing through the Court system. The case filed in the Division of Administrative Hearings dealing with the Department's "directive" on early voting went to hearing last Friday and will have an Order entered next Friday. I will provide an update on those, as well.