

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					properly counted as the application stated the date of the voter's absence. A ballot was properly counted as the failure to date the application was cured by a time stamp. Affirmed.			
Erlandson v. Kiffmeyer	Supreme Court of Minnesota	659 N.W.2d 724; 2003 Minn. LEXIS 196	April 17, 2003	Petitioners, representing the Democratic--Farmer--Labor Party, brought an action against respondents, the Minnesota Secretary of State and the Hennepin County Auditor, seeking relief	The appellate court found that, while it may have seemed unfair to the replacement candidate to count votes for other candidates from regular absentee ballots on which the replacement candidate did not appear, those were properly cast ballots voting for a properly	No	N/A	No

006539

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>in regard to the election for United States Senator, following the death of Senator Wellstone. The issue concerned the right of absentee voters to obtain replacement ballots. Individuals intervened on behalf of the Republican Party. The instant court granted review.</p>	<p>nominated candidate. Petitioners' request that the Minnesota supreme court order that votes for United States Senator cast on regular absentee ballots not be counted was denied. A key issue was Minn. Stat. § 204B.41 (2002), which provided, in--part, that official supplemental ballots could not be mailed to absent voters to whom ballots were mailed before the official supplemental ballots were</p>			

006570

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>prepared. The supreme court held that, by treating similarly-situated voters differently, § 204B.41 violated equal protection guarantees and could not even survive rational basis review. For voters who cast their regular absentee ballots for Wellstone before the vacancy occurred, but were unable to go to their polling place on election day or pick up a replacement ballot by election day, the prohibition on</p>			

006541

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					mailing replacement ballots in § 204B.41 denied them the right to cast a meaningful vote for United States Senator. The petition of petitioners was denied in part, but granted with respect to mailing replacement ballots to all applicants for regular absentee ballots who requested a replacement ballot.			
People v. Deganutti	Appellate Court of Illinois, First District, Third Division	348 Ill. App. 3d 512; 810 N.E.2d 191; 2004 Ill. App.	May 12, 2004	Defendant appealed from a judgment of the circuit court, which convicted	Defendant went to the voters' homes and obtained their signatures on absentee ballot	No	N/A	No

006542

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		LEXIS 518		defendant on charges of unlawful observation of voting and on charges of absentee ballot violations in connection with the completion and mailing of the absentee ballots of two voters.	request forms. Once the ballots were mailed to the voters, defendant returned to the homes. With voter one, defendant sat on the couch with the voter and instructed which numbers to punch on the ballot. With voter two, defendant provided a list a numbers and stood nearby as voter two completed the ballots. Defendant then looked at the ballot and had voter two re--punch a number that had not			

006543

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>punched cleanly. Defendant then put the ballots in the mail for the voters. On appeal, she argued insufficient evidence to sustain her convictions. The court affirmed, holding that (1) the circumstantial evidence surrounding defendant's presence as the voters completed their ballots supported the unlawful observation convictions; (2) the fact that defendant knowingly took the voters ballots</p>			

006544

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					and mailed them, a violation of Illinois law supported her conviction, and (3) the fact that the statutes defendant was convicted under required only a knowing mental state rather than criminal intent did not violate substantive due process. Affirmed.			
Jacobs v. Seminole County Canvassing Bd.	Supreme Court	773 So. 2d 519; 2000 Fla. LEXIS 2404	December 12, 2000	In an election contest, the First District court of appeal certified a trial court order to be of great public importance and to require	Prior to the general election, two political parties mailed preprinted requests for absentee ballots to registered voters in Seminole County.	No	N/A	No

006545

006546

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				immediate resolution by the supreme court. The trial court denied appellants' request to invalidate absentee ballot requests in Seminole County in the 2000 presidential election.	Forms mailed by one party failed to include either a space for the voter identification number or the preprinted number. Representatives from that party were allowed to add voter identification numbers to request forms after they were returned, and absentee ballots were sent to the persons named on the request forms. The supreme court affirmed the trial court's refusal to invalidate the			

006547

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballot requests, and adopted the trial court's reasoning that the information required, which included the voter identification number, was directory rather than mandatory. The trial court properly found that the evidence did not support a finding of fraud, gross negligence, or intentional wrongdoing. Allowing one party to correct ballots did not constitute illegal disparate treatment because there was no need to correct the			

006548

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					other party's forms. Affirmed.			
Gross v. Albany County Bd. of Elections	Court of Appeals of New York	3 N.Y.3d 251; 819 N.E.2d 197; 785 N.Y.S.2d 729; 2004 N.Y. LEXIS 2412	October 14, 2004	Appellant candidates sought review from an order of the Appellate Division, which affirmed a trial court order holding that absentee ballots from a special general election were not to be canvassed because respondent Albany County Board of Elections failed to follow the set procedure for those voters.	Due to a challenge to a redistricting plan, the Board was enjoined from conducting primary and general elections for certain county districts. A special primary election was directed, with a special general election to be held "expeditiously thereafter." Absentee ballot requests for the first special election were based on prior requests, but new requests had to be	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>made for the general election. However, the Board forwarded absentee ballots for that election as well, based on the prior requests. Candidates in two close races thereafter challenged those absentee ballots, as they violated the procedure that was to be followed. The trial court held that the ballots should not be canvassed, which decision was affirmed on appeal. On further review due to dissenting opinions, the</p>			

006549

006550

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					court found that the ballots were in violation of the federal court order that directed the procedure to be followed, as well as in violation of New York election law. The court concluded that the Board's error was not technical, ministerial, or inconsequential because it was central to the substantive process, and the voters who used absentee ballots were not determined to be "duly qualified electors." Affirmed.			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
In re Canvass of Absentee Ballots of Nov. 4, 2003 Gen. Election	Supreme Court of Pennsylvania	577 Pa. 231; 843 A.2d 1223; 2004 Pa. LEXIS 431	March 8, 2004	A county elections board voided certain absentee ballots cast in the November 4, 2003, general election. The court of common pleas held that absentee ballots delivered by third persons were valid and should be counted. The commonwealth court affirmed the trial court's decision. The state supreme court granted allocatur. Appellants and appellees were certain	The absentee ballots at issue were hand-delivered to the county elections board by third persons on behalf of non--disabled voters. On appeal, the issue was whether non--disabled absentee voters could have third persons hand--deliver their ballots to the elections board where the board indicated that the practice was permitted. The state supreme court concluded that the "in person" delivery requirement was mandatory, and	No	N/A	No

006551

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				candidates and voters.	that absentee ballots delivered in violation of the provision were invalid, notwithstanding the board's erroneous instructions to the contrary. Under the statute's plain meaning, a non--disabled absentee voter had two choices: send the ballot by mail, or deliver it in person. Third--person hand--delivery of absentee ballots was not permitted. To ignore the law's clear instructions regarding in--person delivery			

006552

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					would undermine the statute's very purpose as a safeguard against fraud. The state supreme court concluded that its precedent was clear, and it could not simply ignore substantive provisions of the Pennsylvania Election Code. The judgment of the Commonwealth Court was reversed in so far as it held that certain absentee ballots delivered on behalf of non-disabled absentee voters were valid.			
In re Canvass of	Commonwealth Court of	839 A.2d 451; 2003	December 22, 2003	The Allegheny County	On appeal, the issue was whether	No	N/A	No

006553

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Absentee Ballots of November 4, 2003	Pennsylvania	Pa. Commw. LEXIS 963		Elections Board did not allow 74 challenged third--party hand--delivered absentee ballots to be counted in the statewide general election. The court of common pleas of Allegheny County reversed the Board's decision and allowed the 74 ballots to be counted. Appellant objecting candidates appealed the trial court's order.	non-disabled voters who voted by absentee ballots and had those ballots delivered by third parties to county election boards could have their ballots counted in the statewide general election. First, the appellate court concluded that political bodies had standing to appeal. Also, the trial court did not err by counting the 74 ballots because absentee voters could not be held responsible for following the statutory			

006554

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>requirements of Pennsylvania election law where the Board knowingly failed to abide by the statutory language regarding the delivery of absentee ballots, changed its policy to require voters to abide by the language, and then changed its policy back to its original stance that voters did not have to abide by the statutory language, thereby misleading absentee voters regarding delivery requirements.</p>			

006555

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Under the circumstances, it was more important to protect the interest of the voters by not disenfranchising them than to adhere to the strict language of the statute. However, one ballot was not counted because it was not delivered to the Board. Affirmed with the exception that one voter's ballot was stricken.			
United States v. Pennsylvania	United States District Court for the Middle District of Pennsylvania	2004 U.S. Dist. LEXIS 21167	October 20, 2004	Plaintiff United States sued defendant Commonwealth of	The testimony of the two witnesses offered by the United States did not support its	No	N/A	No

006556

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Pennsylvania, governor, and state secretary, claiming that overseas voters would be disenfranchised if they used absentee ballots that included the names of two presidential candidates who had been removed from the final certified ballot and seeking injunctive relief to address the practical implications of the final certification of the slate of candidates so</p>	<p>contention that voters protected by the Uniformed and Overseas Citizens Absentee Voting Act would be disenfranchised absent immediate injunctive relief because neither witness testified that any absentee ballots issued to UOCAVA voters were legally incorrect or otherwise invalid. Moreover, there was no evidence that any UOCAVA voter had complained or otherwise expressed concern regarding their ability or</p>			

006557

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				late in the election year.	right to vote. The fact that some UOCAVA voters received ballots including the names of two candidates who were not on the final certified ballot did not ipso facto support a finding that Pennsylvania was in violation of UOCAVA, especially since the United States failed to establish that the ballot defect undermined the right of UOCAVA voters to cast their ballots. Moreover, Pennsylvania had			

006558

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>adduced substantial evidence that the requested injunctive relief, issuing new ballots, would have harmed the Pennsylvania election system and the public by undermining the integrity and efficiency of Pennsylvania's elections and increasing election costs. Motion for injunctive relief denied.</p>			
Hoblock v. Albany County Bd. of Elections	United States District Court for the Northern District of New York	341 F. Supp. 2d 169; 2004 U.S. Dist. LEXIS 21326	October 25, 2004	Plaintiffs, candidates and voters, sued defendant, the Albany County, New York,	An election for members of the Albany County Legislature had been enjoined, and special	No	N/A	No

006559

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Board of Elections, under § 1983, claiming that the Board violated plaintiffs' Fourteenth Amendment rights by refusing to tally the voters' absentee ballots. Plaintiffs moved for a preliminary injunction.</p>	<p>primary and general elections were ordered. The order stated that the process for obtaining and counting absentee ballots for the general election would follow New York election law, which required voters to request absentee ballots. However, the Board issued absentee ballots for the general election to all persons who had applied for an absentee ballot for the cancelled election. The voters used absentee ballots</p>			

006560

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>to vote; their ballots were later invalidated. A state court determined that automatically sending absentee ballots to those who had not filed an application violated the constitution of New York. The district court found that the candidates' claims could have been asserted in state court and were barred by res judicata, but the voters were not parties to the state court action. The candidates were not entitled to joinder and had</p>			

006561

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>not filed a motion to intervene. The voters established a likelihood of success on the merits, as the Board effectively took away their right to vote by issuing absentee ballots and then refusing to count them. The voters' claims involved more than just an "unintended irregularity." The candidates' claims were dismissed, and their request for joinder or to intervene was denied. Plaintiffs' motion for a preliminary injunction preventing the</p>			

006562

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Board from certifying winners of the election was granted.			
Griffin v. Roupas	United States Court of Appeals for the Seventh Circuit	385 F.3d 1128; 2004 U.S. App. LEXIS 21476	October 15, 2004	In a suit brought by plaintiff working mothers against defendants, members of the Illinois State Board of Elections, alleging that the United States Constitution required Illinois to allow them to vote by absentee ballot, the mothers appealed from a decision of the United States District	The mothers contended that, because it was a hardship for them to vote in person on election day, the U.S. Constitution required Illinois to allow them to vote by absentee ballot. The district court dismissed the mothers' complaint. On appeal, the court held that the district court's ruling was correct, because, although it was possible that the	No	N/A	No

006563

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Court for the Northern District of Illinois, Eastern Division, which dismissed their complaint for failure to state a claim.</p>	<p>problems created by absentee voting might be outweighed by the harm to voters who would lose their vote if they were unable to vote by absentee ballot, the striking of the balance between discouraging fraud and encouraging voter turnout was a legislative judgment with which the court would not interfere unless strongly convinced that such judgment was grossly awry. The court further held that Illinois</p>			

006564

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>law did not deny the mothers equal protection of the laws, because the hardships that prevented voting in person did not bear more heavily on working mothers than other classes in the community. Finally, the court held that, although the length and complexity of the Illinois ballot supported an argument for allowing people to vote by mail, such argument had nothing to do with the problems faced by working mothers. It</p>			

006565

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					applied to everyone. Affirmed.			
Reitz v. Rendell	United States District Court for the Middle District of Pennsylvania	2004 U.S. Dist. LEXIS 21813	October 29, 2004	Plaintiff service members filed an action against defendant state officials under the Uniformed and Overseas Citizens Absentee Voting Act, alleging that they and similarly situated service members would be disenfranchised because they did not receive their absentee ballots in time. The parties entered into a	The court issued an order to assure that service members and other similarly situated service members who were protected by the UOCAVA would not be disenfranchised. The court ordered the Secretary of the Commonwealth of Pennsylvania to take all reasonable steps necessary to direct the county boards of elections to accept as timely received absentee	No	N/A	No

006566

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				voluntary agreement and submitted it to the court for approval.	ballots cast by service members and other overseas voters as defined by UOCAVA, so long as the ballots were received by November 10, 2004. The ballots were to be considered solely for purposes of the federal offices that were included on the ballots. The court held that the ballot needed to be cast no later than November 2, 2004 to be counted. The court did not make any findings of liability against			

006567

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					the Governor or the Secretary. The court entered an order, pursuant to a stipulation between the parties, that granted injunctive relief to the service members.			
Bush v. Hillsborough County Canvassing Bd.	United States District Court for the Northern District of Florida	123 F. Supp. 2d 1305; 2000 U.S. Dist. LEXIS 19265	December 8, 2000	The matter came before the court on plaintiffs' complaint for declaratory and injunctive relief alleging that defendant county canvassing boards rejected overseas absentee state ballots and federal write--in ballots based	Plaintiff presidential and vise--presidential candidates and state political party contended that defendant county canvassing boards rejected overseas absentee state ballots and federal write--in ballots based on criteria inconsistent with the Uniformed	No	N/A	No

006568

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>on criteria inconsistent with federal law, and requesting that the ballots be declared valid and that they should be counted.</p>	<p>and Overseas Citizens Absentee Voting Act. Because the state accepted overseas absentee state ballots and federal write--in ballots up to 10 days after the election, the State needed to access that the ballot in fact came from overseas. However, federal law provided the method to establish that fact by requiring the overseas absentee voter to sign an oath that the ballot was mailed from outside the United States and requiring the state</p>			

006569

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>election officials to examine the voter's declarations. The court further noted that federal law required the user of a federal write--in ballot to timely apply for a regular state absentee ballot, not that the state receive the application, and that again federal law, by requiring the voter using a federal write--in ballot to swear that he or she had made timely application, had provided the proper method of proof. Plaintiffs withdrew as moot</p>			

006570

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>their request for injunctive relief and the court granted in part and denied in part plaintiffs' request for declaratory relief, and declared valid all federal write--in ballots that were signed pursuant to the oath provided therein but rejected solely because the ballot envelope did not have an APO, FPO, or foreign postmark, or solely because there was no record of an application for a state absentee ballot.</p>			
Kolb v.	Supreme Court	270	March 17,	Both petitioner	Both petitioner	No	N/A	No

006571

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Casella	of New York, Appellate Division, Fourth Department	A.D.2d 964; 705 N.Y.S.2d 746; 2000 N.Y. App. Div. LEXIS 3483	2000	and respondent appealed from order of supreme court, determining which absentee and other paper ballots would be counted in a special legislative election.	and respondent, presumably representing different candidates, challenged the validity of particular paper ballots, mostly absentee, in a special legislative election. The court affirmed most of the trial court's findings, but modified its order to invalidate ballots improperly marked outside the voting square--ballots where the signature on the envelope differed substantially from the voter			

006572

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>registration card signature----and ballots where voters neglected to supply statutorily required information on the envelopes. However, the court, seeking to avoid disenfranchising voters where permissible, held that ballots were not invalid where applications substantially complied with statute, there was no objection to the ballots themselves, and there was no evidence of fraud. Where absentee</p>			

006573

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballot envelopes contained extra ballots, the ballots were to be placed in a ballot box so that procedures applicable when excess ballots are placed in a ballot box could be followed. Order modified.			
People v. Woods	Court of Appeals of Michigan	241 Mich. App. 545; 616 N.W.2d 211; 2000 Mich. App. LEXIS 156	June 27, 2000	Defendant filed an interlocutory appeal of the decision by the circuit court, which denied defendant's request for a jury instruction on entrapment by estoppel, but stayed the proceedings to allow defendant to	Defendant distributed and collected absentee ballots in an election. Because both defendant and his brother were candidates on the ballot, defendant's assistance was illegal under Michigan law. Bound over for trial on election	No	N/A	No

006574

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				pursue the interlocutory appeal, in a criminal action alleging violations of election laws.	fraud charges, defendant requested a jury instruction on entrapment by estoppel, which was denied. On interlocutory appeal, the appellate court reversed and remanded for an entrapment hearing, holding that defendant should be given the opportunity to present evidence that he unwittingly committed the unlawful acts in reasonable reliance upon the word of the township clerk. The necessary			

006575

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>elements of the entrapment defense were: (1) a government official (2) told the defendant that certain criminal conduct was legal; (3) the defendant actually relied on the official's statements; (4) the defendant's reliance was in good faith and reasonable in light of the official's identity, the point of law represented, and the substance of the official's statement; and (5) the prosecution would be so unfair as to</p>			

006576

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					violate the defendant's right to due process. Denial of jury instruction was reversed because the trial court did not hold an entrapment hearing; remanded for an entrapment hearing where defendant could present elements of the entrapment by estoppel defense.			
Harris v. Florida Elections Canvassing Comm'n	United States District Court for the Northern District of Florida	122 F. Supp. 2d 1317; 2000 U.S. Dist. LEXIS 17875	December 9, 2000	Plaintiffs challenged the counting of overseas absentee ballots received after 7 p.m. on election day, alleging the	The court found Congress did not intend 3 U.S.C.S. § 1 to impose irrational scheduling rules on state and local canvassing officials, and did	No	N/A	No

006577

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				ballots violated Florida law.	not intend to disenfranchise overseas voters. The court held the state statute was required to yield to the Florida Administrative Code, which required the 10-day extension in the receipt of overseas absentee ballots in federal elections because the rule was promulgated to satisfy a consent decree entered by the state in 1982.			
Weldon v. Berks County Dep't of Election Servs.	United States District Court for the Eastern District of Pennsylvania	2004 U.S. Dist. LEXIS 21948	November 1, 2004	Plaintiffs, a congressman and a state representative, filed a motion seeking a preliminary	The congressman and representative sought to have the absentee ballots at issue set aside until a hearing could be held to	No	N/A	No

006578

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>injunction or temporary restraining order that would prohibit defendant county department of election services from delivering to local election districts absentee ballots received from any state, county, or city correctional facility.</p>	<p>determine whether any of the straining order denied. CASE SUMMARY: PROCEDURAL POSTURE: Plaintiffs, a congressman and a state representative, filed a motion seeking a preliminary injunction or temporary restraining order that would prohibit defendant county department of election services from delivering to local election districts absentee ballots received from any state,</p>			

006579

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>county, or city correctional facility as provided in Pa. Stat. Ann. tit. 25, § 3416.6 and Pa. Stat. Ann. tit. 25, § 3416.8.</p> <p>OVERVIEW: The congressman and representative sought to have the absentee ballots at issue set aside until a hearing could be held to determine whether any of the ballots were delivered to the county board of elections by a third party in violation of Pennsylvania law, whether any of the ballots were</p>			

006580

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>submitted by convicted incarcerated felons in violation of Pennsylvania law, and whether any of the ballots were submitted by qualified voters who were improperly assisted without the proper declaration required by Pennsylvania law. The court concluded that an ex parte temporary restraining order was not warranted because there were potential jurisdictional issues, substantial questions</p>			

006581

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					concerning the alleged violations, and the complaint did not allege that the department acted or threatened to act in an unlawful manner. The court denied the ex parte motion for a temporary restraining order. The court set a hearing on the motion for preliminary injunction.			
Qualkinbush v. Skubisz	Court of Appeals of Illinois, First District	822 N.E.2d 38; 2004 Ill. App. LEXIS 1546	December 28, 2004	Respondent appealed from an order of the circuit court certifying mayoral election results for a city in which the court	Respondent first claimed the trial court erred in denying his motion to dismiss with respect to 38 votes the Election Code was preempted by and	No	N/A	No

006582

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				declared petitioner mayor.	violated the Voting Rights Act and the Americans with Disabilities Act of 1990 since it restricted the individuals with whom an absentee voter could entrust their ballot for mailing. The appeals court found the trial court did not err in denying the motion to dismiss, as Illinois election law prevented a candidate or his or her agent from asserting undue influence upon a disabled voter and from manipulating that			

006583

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>voter into voting for the candidate or the agent's candidate, and was designed to protect the rights of disabled voters.</p> <p>Respondent had not established that the federal legislature intended to preempt the rights of state legislatures to restrict absentee voting, and, particularly, who could return absentee ballots.</p> <p>The Election Code did not violate equal protection principles, as the burden placed</p>			

006584

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					upon absentee voters by the restriction on who could mail an absentee ballot was slight and nondiscriminatory and substantially contributed to the integrity of the election process. Affirmed.			
Panio v. Sunderland	Supreme Court of New York, Appellate Division, Second Department	14 A.D.3d 627; 790 N.Y.S.2d 136; 2005 N.Y. App. Div. LEXIS 3433	January 25, 2005	In proceedings filed pursuant to New York election law to determine the validity of certain absentee and affidavit ballots tendered for the office of 35th District Senator, appellants, a chairperson of	The question presented was whether the county election board should count the six categories of ballots that were in dispute. After a review of the evidence presented, the appeals court modified the trial court's order by:	No	N/A	No

006585

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>the county Republican committee and the Republican candidate, both sought review of an order by the supreme court to count or not count certain ballots. Respondent Democratic candidate cross-- appealed.</p>	<p>(1) deleting an order directing the county elections board (board) to count 160 affidavit ballots tendered by voters who appeared at the correct polling place but the wrong election district, as there were meaningful distinctions between those voters who went to the wrong polling place and those voters who went to the correct polling place but the wrong election district; (2) directing that the board not count</p>			

006586

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>10 affidavit ballots tendered in the wrong election district because of a map error, as there was no evidence that the voters in this category relied on the maps when they went to the wrong election districts; and (3) directing the board to count 45 absentee ballots tendered by poll workers, as it appeared that the workers substantially complied with the statute by providing a written statement that was the functional</p>			

006587

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					equivalent of an application for a special ballot. Order modified and judgment affirmed.			
Pierce v. Allegheny County Bd. of Elections	United States District Court for the Western District of Pennsylvania	324 F. Supp. 2d 684; 2003 U.S. Dist. LEXIS 25569	November 13, 2003	Plaintiff voters sought to enjoin defendant election board from allowing three different procedures for third--party absentee ballot delivery, require the set aside of all absentee third--party delivered ballots in connection with the November 2003 election, prohibit those	Intervenor political committees also moved to dismiss for lack of standing, lack of subject matter jurisdiction, and failure to state a claim, as well as abstention. Inter alia, the court found that abstention was appropriate under the Pullman doctrine because: (1) construction of Pennsylvania election law was not clear	No	N/A	No

006588

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				ballots from being delivered to local election districts after having been commingled with other absentee ballots, and convert a temporary restraining order to an injunction.	regarding whether the absentee ballot provision requiring hand-delivery to be "in person" was mandatory or directory; (2) the construction of the provision by state courts as mandatory or directory could obviate the need to determine whether there had been a Fourteenth Amendment equal protection violation; and (3) erroneous construction of the provision could disrupt very important state voting rights policies.			

006589

006590

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					However, the court had a continuing duty to consider the motion for temporary restraining order/preliminary injunction despite abstention. The court issued a limited preliminary injunction whereby the 937 hand--delivered absentee ballots at issue were set aside as "challenged" ballots subject to the election code challenge procedure. Any equal protection issues could be heard in state			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					court by virtue of the state court's concurrent jurisdiction.			
Friedman v. Snipes	United States District Court for the Southern District of Florida	345 F. Supp. 2d 1356; 2004 U.S. Dist. LEXIS 23739	November 9, 2004	Plaintiff registered voters sued defendant state and county election officials under § 1983 for alleged violations of their rights under 42 U.S.C.S. § 1971(a)(2)(B) of the Civil Rights Act, and the First and Fourteenth Amendments to the United States Constitution. The voters	The voters claimed they timely requested absentee ballots but (1) never received the requested ballot or (2) received a ballot when it was too late for them to submit the absentee ballot. The court held that 42 U.S.C.S. § 1971(a)(2)(B) was not intended to apply to the counting of ballots by those already deemed qualified to vote. The plain meaning of §	No	N/A	No

006591

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>moved for a temporary restraining order (TRO) and/or preliminary injunction. The court granted the TRO and held a hearing on the preliminary injunction.</p>	<p>1971(a)(2)(B) did not support the voters' claim that it should cover an error or omission on any record or paper or any error or omission in the treatment, handling, or counting of any record or paper. Further, because Florida election law only related to the mechanics of the electoral process, the correct standard to be applied here was whether Florida's important regulatory interests justified the restrictions imposed on their</p>			

006592

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>First and Fourteenth Amendment rights. The State's interests in ensuring a fair and honest election and counting votes within a reasonable time justified the light imposition on voting rights. The deadline for returning ballots did not disenfranchise a class of voters. Rather, it imposed a time deadline by which voters had to return their votes. So there was no equal protection violation.</p>			

006593

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Preliminary injunction denied.			

006594

**Deliberative Process
Privilege**

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Spencer v. Blackwell	United States District Court for the Southern District of Ohio	347 F. Supp. 2d 528; 2004 U.S. Dist. LEXIS 22062	November 1, 2004	Plaintiff voters filed a motion for temporary restraining order and preliminary injunction seeking to restrain defendant election officials and intervenor State of Ohio from discriminating against black voters in Hamilton County on the basis of race. If necessary, they sought to restrain challengers from being allowed at the	The voters alleged that defendants had combined to implement a voter challenge system at the polls that discriminated against African--American voters. Each precinct was run by its election judges but Ohio law also allowed challengers to be physically present in the polling places in order to challenge voters' eligibility to vote. The court held that the injury asserted, that allowing	No	N/A	No

006595

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				polls.	challengers to challenge voters' eligibility would place an undue burden on voters and impede their right to vote, was not speculative and could be redressed by removing the challengers. The court held that in the absence of any statutory guidance whatsoever governing the procedures and limitations for challenging voters by challengers, and the questionable enforceability of the State's and			

006596

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>County's policies regarding good faith challenges and ejection of disruptive challengers from the polls, there existed an enormous risk of chaos, delay, intimidation, and pandemonium inside the polls and in the lines out the door. Furthermore, the law allowing private challengers was not narrowly tailored to serve Ohio's compelling interest in preventing voter fraud. The court enjoined all</p>			

006597

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					defendants from allowing any challengers other than election judges and other electors into the polling places throughout the state on Election Day.			
MARIAN SPENCER, et al., Petitioners v. CLARA PUGH, et al. (No. 04A360) SUMMIT COUNTY DEMOCRATIC CENTRAL and EXECUTIVE COMMITTEE, et al., Petitioners v. MATTHEW HEIDER, et al. (No. 04A364)	United States Supreme Court	125 S. Ct. 305; 160 L. Ed. 2d 213; 2004 U.S. LEXIS 7400	November 2, 2004	In two separate actions, plaintiffs sued defendant members of a political party, alleging that the members planned to mount indiscriminate challenges in polling places which would disrupt voting. Plaintiffs applied to	Plaintiffs contended that the members planned to send numerous challengers to polling places in predominantly African--American neighborhoods to challenge votes in an imminent national election, which would allegedly cause	No	N/A	No

006598

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				vacate orders entered by the United States Court of Appeals for the Sixth Circuit which entered emergency stays of injunctions restricting the members' activities.	voter intimidation and inordinate delays in voting. A district court ordered challengers to stay out of polling places, and another district court ordered challengers to remain in the polling places only as witnesses, but the appellate court stayed the orders. The United States Supreme Court, acting through a single Circuit Justice, declined to reinstate the injunctions for			

006599

009900

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					prudential reasons, despite the few hours left until the upcoming election. While the allegations of abuse were serious, it was not possible to determine with any certainty the ultimate validity of the plaintiffs' claims or for the full Supreme Court to review the relevant submissions, and voting officials would be available to enable proper voting by qualified voters.			
Charles H. Wesley Educ.	United States	324 F. Supp. 2d	July 1, 2004	Plaintiffs, a voter, fraternity	The organization participated in	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Found., Inc. v. Cox	District Court for the Northern District of Georgia	1358; 2004 U.S. Dist. LEXIS 12120		members, and an organization, sought an injunction ordering defendant, the Georgia Secretary of State, to process the voter registration application forms that they mailed in following a voter registration drive. They contended that by refusing to process the forms defendants violated the National Voter	numerous non-partisan voter registration drives primarily designed to increase the voting strength of African-Americans. Following one such drive, the fraternity members mailed in over 60 registration forms, including one for the voter who had moved within state since the last election. The Georgia Secretary of State's office refused to process them because they			

006601

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Registration Act and U.S. Const. amends. I, XIV, and XV.</p>	<p>were not mailed individually and neither a registrar, deputy registrar, or an otherwise authorized person had collected the applications as required under state law. The court held that plaintiffs had standing to bring the action. The court held that because the applications were received in accordance with the mandates of the NVRA, the State of Georgia was not free to reject them. The court found that:</p>			

006602

006603

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>plaintiffs had a substantial likelihood of prevailing on the merits of their claim that the applications were improperly rejected; plaintiffs would be irreparably injured absent an injunction; the potential harm to defendants was outweighed by plaintiffs' injuries; and an injunction was in the public interest. Injunction granted.</p>			
Jacksonville Coalition for Voter Prot. v. Hood	United States District Court for	351 F. Supp. 2d 1326; 2004 U.S.	October 25, 2004	Plaintiffs, voter protection coalition, union, and	The coalition, the union, and the voters based their claim on	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	the Middle District of Florida	Dist. LEXIS 26522		voters, filed an emergency motion for a preliminary injunction and argued that African Americans in the county had less opportunity than other members of the state's electorate to vote in the upcoming election, and that defendants, elections officials', implementation of early voting procedures violated the Voting Rights	the fact that the county had the largest percentage of African--American registered voters of any major county in the state, and, yet, other similarly-sized counties with smaller African--American registered voter percentages had more early voting sites. Based on that, they argued that African--American voters in the county were disproportionately affected. The			

006604

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Act and their constitutional rights.	court found that while it may have been true that having to drive to an early voting site and having to wait in line may cause people to be inconvenienced, inconvenience did not result in a denial of meaningful access to the political process. Thus, the coalition, the union, and the voters had not established a likelihood of success on the merits of their claim that the county's implementation			

006605

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					of early voting procedures violated § 2 of the Voting Rights Act. Moreover, the coalition, the union, and the voters failed to establish a likelihood of success on the merits of their § 1983 Fourteenth and Fifteenth Amendment claims, which required a higher proof of discriminatory purpose and effect. Injunction denied.			
Taylor v. Howe	United States Court of Appeals	225 F.3d 993; 2000 U.S. App. LEXIS	August 31, 2000	Plaintiffs, African American voters, poll	The court of appeals affirmed--in--part, reversed--	No	N/A	No

909900

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	for the Eighth Circuit	22241		<p>watchers, and candidates appealed from a judgment of the United States District Court for the Eastern District of Arkansas in favor of defendants, elections commissioners and related individuals, on their § 1983 voting rights claims and contended the district court made erroneous findings of fact and law and failed to appreciate evidence of</p>	<p>in--part, and remanded the district court's judgment. The court found that the district court's finding of a lack of intentional discrimination was appropriate as to many defendants. However, as to some of the individual voters' claims for damages, the court held "a definite and firm conviction" that the district court's findings were mistaken. The court noted that the argument that a</p>			

006607

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				discriminatory intent.	voter's name was misspelled in the voter register, with a single incorrect letter, was a flimsy pretext and, accordingly, held that the district court's finding that defendant poll workers did not racially discriminate in denying the vote to this plaintiff was clearly erroneous. Affirmed in part and reversed in part.			
Stewart v. Blackwell	United States District Court for the	356 F. Supp. 2d 791; 2004 U.S. Dist. LEXIS	December 14, 2004	Plaintiffs, including African--American voters, alleged	The primary thrust of the litigation was an attempt to federalize	No	N/A	No

809900

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Northern District of Ohio	26897		that use of punch card voting and "central--count" optical scanning devices by defendants, the Ohio Secretary of State et al., violated their rights under the Due Process Clause, the Equal Protection Clause, and (African--American plaintiffs) their rights under § 2 of the Voting Rights Act.	elections by judicial rule or fiat via the invitation to the court to declare a certain voting technology unconstitutional and then fashion a remedy. The court declined the invitation. The determination of the applicable voting process had always been focused in the legislative branch of the government. While it was true that the percentage of residual or non-voted ballots in the 2000			

609900

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>presidential election ran slightly higher in counties using punch card technology, that fact standing alone was insufficient to declare the use of the system unconstitutional. Moreover, the highest frequency in Ohio of residual voting bore a direct relationship to economic and educational factors, negating the Voting Rights Act claim. The court further stated that local variety</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					in voting technology did not violate the Equal Protection Clause, even if the different technologies had different levels of effectiveness in recording voters' intentions, so long as there was some rational basis for the technology choice. It concluded that defendants' cost and security reasons for the use of punch card ballots were plausible.			
Taylor v. Currie	United States District	386 F. Supp. 2d 929; 2005	September 14, 2005	Plaintiff brought an action against	This action involved issues pertaining to	No	N/A	No

006611

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Court for the Eastern District of Michigan	U.S. Dist. LEXIS 20257		defendants, including a city elections commission, alleging defects in a city council primary election pertaining to absentee balloting. The case was removed to federal court by defendants. Pending before the court was a motion to remand, filed by plaintiff.	absentee ballots. Plaintiff alleged that defendants were not complying with state laws requiring certain eligibility checks before issuing absentee ballots. The state court issued an injunction preventing defendants from mailing absentee ballots. Defendants removed the action to federal court and plaintiff sought a remand. Defendants argued that not mailing the absentee ballots			

006612

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>would violate the Voting Rights Act, because it would place a restriction only on the City of Detroit, which was predominately African--American. The court ordered the case remanded because it found no basis under 28 U.S.C.S. §§ 1441 or 1443 for federal jurisdiction. Defendants' mere reference to a federal law or federal right was not enough to confer subject matter</p>			

006613

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>jurisdiction where the complaint sought to assert only rights arising under state statutes against state officials in relation to a state election. The court stated that it would not allow defendants to take haven in federal court under the guise of providing equal protection for the citizens of Detroit but with a goal of perpetuating their violation of a non-discriminatory state law.</p>			

006614

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Motion to remand granted.			

006615

**Deliberative Process
Privilege**

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Weber v. Shelley	United States Court of Appeals for the Ninth Circuit	347 F.3d 1101; 2003 U.S. App. LEXIS 21979	October 28, 2003	Plaintiff voter brought an suit against defendants, the secretary of state and the county registrar of voters, claiming that the lack of a voter--verified paper trail in the county's newly installed touchscreen voting system violated her rights to equal protection and due process. The United States District Court for the Central District of California granted the	On review, the voter contended that use of paperless touch--screen voting systems was unconstitutional and that the trial court erred by ruling her expert testimony inadmissible. The trial court focused on whether the experts' declarations raised genuine issues of material fact about the relative accuracy of the voting systemat issue and excluded references to news--paper articles and unidentified studies absent any indication that	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				secretary and the registrar summary judgment. The voter appealed.	experts normally relied upon them. The appellate court found that the trial court's exclusions were not an abuse of discretion and agreed that the admissible opinions which were left did not tend to show that voters had a lesser chance of having their votes counted. It further found that the use of touchscreen voting systems was not subject to strict scrutiny simply because this particular balloting system might make the possibility of some kinds of fraud more difficult to detect. California			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					made a reasonable, politically neutral and non--discriminatory choice to certify touchscreen systems as an alternative to paper ballots, as did the county in deciding to use such a system. Nothing in the Constitution forbid this choice. The judgment was affirmed.			
Am. Ass'n of People with Disabilities v. Shelley	United States District Court for the Central District of California	324 F. Supp. 2d 1120; 2004 U.S. Dist. LEXIS 12587	July 6, 2004	Plaintiffs, disabled voters and organizations representing those voters, sought to enjoin the directives of defendant California	The voters urged the invalidation of the Secretary's directives because, allegedly, their effect was to deprive the voters of the opportunity to vote using touch--screen technology. Although it was not	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Secretary of State, which decertified and withdrew approval of the use of certain direct recording electronic (DRE) voting systems. One voter applied for a temporary restraining order, or, in the alternative, a preliminary injunction. of a preliminary injunction in a number of ways, including a four--part test that considers (1) likelihood of success on</p>	<p>disputed that some disabled persons would be unable to vote independently and in private without the use of DREs, it was clear that they would not be deprived of their fundamental right to vote. The Americans with Disabilities Act, did not require accommodation that would enable disabled persons to vote in a manner that was comparable in every way with the voting rights enjoyed by persons without disabilities. Rather, it mandated that voting programs be made</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>the merits; (2) the possibility of irreparable injury in the absence of an injunction; (3) a balancing of the harms; and (4) the public interest.</p>	<p>accessible. Defendant's decision to suspend the use of DREs pending improvement in their reliability and security of the devices was a rational one, designed to protect the voting rights of the state's citizens. The evidence did not support the conclusion that the elimination of the DREs would have a discriminatory effect on the visually or manually impaired. Thus, the voters showed little likelihood of success on the merits. The</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					individual's request for a temporary restraining order, or, in the alternative, a preliminary injunction, was denied. Ninth Circuit's tests for a preliminary injunction, although phrased differently, require a court to inquire into whether there exists a likelihood of success on the merits, and the possibility of irreparable injury; a court is also required to balance the hardships.			
Fla. Democratic Party v. Hood	Court of Appeal of Florida, First	884 So. 2d 1148; 2004 Fla. App.	October 28, 2004	Petitioner, the Florida Democratic Party, sought	The Party argued that: (1) the Florida Administrative Code, recast	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	District	LEXIS 16077		review of an emergency rule adopted by the Florida Department of State, contending that the findings of immediate danger, necessity, and procedural fairness on which the rule was based were insufficient under Florida law, which required a showing of such circumstances, and Florida case law. This matter followed.	language from the earlier invalidated rule prohibiting a manual recount of overvotes and undervotes cast on a touchscreen machine; (2) the rule did not call for the manual recount of votes to determine voter intent; and (3) the rule created voters who were entitled to manual recounts in close elections and those who were not. The appeals court disagreed. The Department was clearly concerned with the fact that if no rule were in place, the same confusion and inconsistency in			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>divining a voter's intent that attended the 2000 presidential election in Florida, and the same constitutional problems the United States Supreme Court addressed then, might recur in 2004. It was not the court's responsibility to decide the validity of the rule or whether other means were more appropriate. But, the following question was certified to the Supreme Court: Whether under Fla. Stat. ch. 120.54(4), the Department of</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					State set forth sufficient justification for an emergency rule establishing standards for conducting manual recounts of overvotes and undervotes as applied to touchscreen voting systems? The petition was denied, but a question was certified to the supreme court as a matter of great public importance.			
Wexler v. Lepore	United States District Court for the Southern District of	342 F. Supp. 2d 1097; 2004 U.S. Dist. LEXIS 21344	October 25, 2004	Plaintiffs, a congressman, state commissioners, and a registered voter, brought	The officials claimed that the state had established an updated standard for manual recounts in counties using	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Florida			<p>a § 1983 action against defendants, state officials, alleging that the manual recount procedures for the state's touchscreen paperless voting systems violated their rights under U.S. Const. amends. V and XIV. A bench trial ensued.</p>	<p>optical scan systems and touchscreen voting systems, therefore, alleviating equal protection concerns. The court held that the rules prescribing what constituted a clear indication on the ballot that the voter had made a definite choice, as well the rules prescribing additional recount procedures for each certified voting system promulgated pursuant to Florida law complied with equal protection requirements under U.S. Const. amends. V and XIV because the rules</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>prescribed uniform, nondifferential standards for what constituted a legal vote under each certified voting system, as well as procedures for conducting a manual recount of overvotes and undervotes in the entire geographic jurisdiction. The court further held that the ballot images printed during a manual recount pursuant to Florida Administrative Code did not violate Florida law because the manual recount scheme properly reflected a voter's choice.</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Judgment was entered for the officials. The claims of the congressman, commissioners, and voter were denied.			

006627

**Deliberative Process
Privilege**

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Powers v. Donahue	Supreme Court of New York, Appellate Division, First Department	276 A.D.2d 157; 717 N.Y.S.2d 550; 2000 N.Y. App. Div. LEXIS 12644	December 5, 2000	Petitioner appealed an order of the supreme court, which denied his motion to direct the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to count only the absentee ballot listing correct candidates' names.	When the New York County Board of Elections learned some absentee ballots mailed to voters in one district listed the wrong candidates for state senator it sent a second set of absentee ballots to absentee voters informing them the first ballot was defective and requesting they use the second ballot. The board agreed if two ballots were received from the same voter, only the corrected ballot would be counted. Appellant candidate moved in support of the board's determination. Respondent candidate opposed the application, contending that only the first ballot received should have been canvassed. The trial court denied appellant's motion, ruling that pursuant to New York law, where two ballots were received from the same voter, only the ballot with the earlier date was to be accepted. The court found the local board officials should have resolved the dispute as they proposed. The order was modified and the motion granted to the extent of directing the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to accept only the corrected	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballot postmarked on or before November 7, 2000, and otherwise affirmed.			
Goodwin v. St. Thomas--St. John Bd. of Elections	Territorial Court of the Virgin Islands	43 V.I. 89; 2000 V.I. LEXIS 15	December 13, 2000	Plaintiff political candidate alleged that certain general election absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the election results tabulated without such ballots.	Plaintiff alleged that defendants counted unlawful absentee ballots that lacked postmarks, were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The court held that plaintiff was not entitled to relief since he failed to establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election requirements. Further, while defendants improperly counted one ballot where a sealed ballot envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result.	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and ballots without notarized signatures were proper. Request for declaratory and injunctive relief denied.			
Townson v. Stonicher	Supreme Court of Alabama	2005 Ala. LEXIS 214	December 9, 2005	The circuit court overturned the results of a mayoral election after reviewing the absentee ballots cast for said election, resulting in a loss for appellant incumbent based on the votes received from appellee voters. The incumbent appealed, and the voters cross--appealed. In the meantime, the trial court stayed enforcement of its judgment pending resolution of the appeal.	The voters and the incumbent all challenged the judgment entered by the trial court arguing that it impermissibly included or excluded certain votes. The appeals court agreed with the voters that the trial court should have excluded the votes of those voters for the incumbent who included an improper form of identification with their absentee ballots. It was undisputed that at least 30 absentee voters who voted for the incumbent provided with their absentee ballots a form of identification that was not proper under Alabama law. As a result, the court further agreed that the trial court erred in allowing those voters to somewhat "cure" that defect by providing a proper form of identification at the trial of the election contest, because, under those	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched further
					<p>circumstances, it was difficult to conclude that those voters made an honest effort to comply with the law. Moreover, to count the votes of voters who failed to comply with the essential requirement of submitting proper identification with their absentee ballots had the effect of disenfranchising qualified electors who choose not to vote but rather than to make the effort to comply with the absentee-voting requirements. Affirmed.</p>			
Gross v. Albany County Bd. of Elections	Supreme Court of New York, Appellate Division, Third Department	10 A.D.3d 476; 781 N.Y.S.2d 172; 2004 N.Y. App. Div. LEXIS 10360	August 23, 2004	Appellant candidates appealed from a judgment entered by the supreme court, which partially granted the candidates' petition challenging the method used by respondent Albany County Board of Elections for counting absentee applications and ballots for the office of Albany County	The candidates argued that the Board violated a federal court order regarding the election. The appellate court held that absentee ballots that were sent to voters for the special general election based solely on their applications for the general election were properly voided. The Board had no authority to issue the ballots without an absentee ballot application for the special general election. Two ballots were properly invalidated as the Board failed to retain the envelopes. Ballots were properly counted for voters who failed to identify their physician on their applications. A ballot was	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Legislator, 26th and 29th Districts, in a special general election required by the federal courts.	properly counted where the Board failed to scrutinize the sufficiency of the reason for the application. A ballot containing two signatures was properly rejected. A ballot was properly rejected due to extraneous marks outside the voting square. A ballot was properly counted despite the failure of the election inspector to witness the voter's signature. A ballot was properly counted as the application stated the date of the voter's absence. A ballot was properly counted as the failure to date the application was cured by a time stamp. Affirmed.			
Erlandson v. Kiffmeyer	Supreme Court of Minnesota	659 N.W.2d 724; 2003 Minn. LEXIS 196	April 17, 2003	Petitioners, representing the Democratic--Farmer--Labor Party, brought an action against respondents, the Minnesota Secretary of State and the Hennepin County Auditor, seeking relief in regard to the election for United States Senator, following	The appellate court found that, while it may have seemed unfair to the replacement candidate to count votes for other candidates from regular absentee ballots on which the replacement candidate did not appear, those were properly cast ballots voting for a properly nominated candidate. Petitioners' request that the Minnesota supreme court order that votes for United States Senator cast on regular absentee ballots not be counted was denied. A key issue was Minn. Stat. § 204B.41 (2002), which provided, in--	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further?
				the death of Senator Wellstone. The issue concerned the right of absentee voters to obtain replacement ballots. Individuals intervened on behalf of the Republican Party. The instant court granted review.	part, that official supplemental ballots could not be mailed to absent voters to whom ballots were mailed before the official supplemental ballots were prepared. The supreme court held that, by treating similarly-situated voters differently, § 204B.41 violated equal protection guarantees and could not even survive rational basis review. For voters who cast their regular absentee ballots for Wellstone before the vacancy occurred, but were unable to go to their polling place on election day or pick up a replacement ballot by election day, the prohibition on mailing replacement ballots in § 204B.41 denied them the right to cast a meaningful vote for United States Senator. The petition of petitioners was denied in part, but granted with respect to mailing replacement ballots to all applicants for regular absentee ballots who requested a replacement ballot.			
People v. Deganutti	Appellate Court of Illinois, First District, Third Division	348 Ill. App. 3d 512; 810 N.E.2d 191; 2004 Ill.	May 12, 2004	Defendant appealed from a judgment of the circuit court, which convicted defendant on charges of unlawful	Defendant went to the voters' homes and obtained their signatures on absentee ballot request forms. Once the ballots were mailed to the voters, defendant returned to the homes. With voter one, defendant sat on the couch	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		App. LEXIS 518		observation of voting and on charges of absentee ballot violations in connection with the completion and mailing of the absentee ballots of two voters.	with the voter and instructed which numbers to punch on the ballot. With voter two, defendant provided a list a numbers and stood nearby as voter two completed the ballots. Defendant then looked at the ballot and had voter two re--punch a number that had not punched cleanly. Defendant then put the ballots in the mail for the voters. On appeal, she argued insufficient evidence to sustain her convictions. The court affirmed, holding that (1) the circumstantial evidence surrounding defendant's presence as the voters completed their ballots supported the unlawful observation convictions; (2) the fact that defendant knowingly took the voters ballots and mailed them, a violation of Illinois law supported her conviction, and (3) the fact that the statutes defendant was convicted under required only a knowing mental state rather than criminal intent did not violate substantive due process. Affirmed.			
Jacobs v. Seminole County Canvassing Bd.	Supreme Court	773 So. 2d 519; 2000 Fla. LEXIS	December 12, 2000	In an election contest, the First District court of appeal certified a	Prior to the general election, two political parties mailed preprinted requests for absentee ballots to registered voters in Seminole County.	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		2404		trial court order to be of great public importance and to require immediate resolution by the supreme court. The trial court denied appellants' request to invalidate absentee ballot requests in Seminole County in the 2000 presidential election.	Forms mailed by one party failed to include either a space for the voter identification number or the preprinted number. Representatives from that party were allowed to add voter identification numbers to request forms after they were returned, and absentee ballots were sent to the persons named on the request forms. The supreme court affirmed the trial court's refusal to invalidate the ballot requests, and adopted the trial court's reasoning that the information required, which included the voter identification number, was directory rather than mandatory. The trial court properly found that the evidence did not support a finding of fraud, gross negligence, or intentional wrongdoing. Allowing one party to correct ballots did not constitute illegal disparate treatment because there was no need to correct the other party's forms. Affirmed.			
Gross v. Albany County Bd. of Elections	Court of Appeals of New York	3 N.Y.3d 251; 819 N.E.2d 197; 785 N.Y.S.2d 729;	October 14, 2004	Appellant candidates sought review from an order of the Appellate Division, which affirmed a trial court order	Due to a challenge to a redistricting plan, the Board was enjoined from conducting primary and general elections for certain county districts. A special primary election was directed, with a special general election to be	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		2004 N.Y. LEXIS 2412		holding that absentee ballots from a special general election were not to be canvassed because respondent Albany County Board of Elections failed to follow the set procedure for those voters.	held "expeditiously thereafter." Absentee ballot requests for the first special election were based on prior requests, but new requests had to be made for the general election. However, the Board forwarded absentee ballots for that election as well, based on the prior requests. Candidates in two close races thereafter challenged those absentee ballots, as they violated the procedure that was to be followed. The trial court held that the ballots should not be canvassed, which decision was affirmed on appeal. On further review due to dissenting opinions, the court found that the ballots were in violation of the federal court order that directed the procedure to be followed, as well as in violation of New York election law. The court concluded that the Board's error was not technical, ministerial, or inconsequential because it was central to the substantive process, and the voters who used absentee ballots were not determined to be "duly qualified electors." Affirmed.			
In re Canvass of	Supreme Court of	577 Pa.	March 8,	A county elections	The absentee ballots at issue were	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Absentee Ballots of Nov. 4, 2003 Gen. Election	Pennsylvania	231; 843 A.2d 1223; 2004 Pa. LEXIS 431	2004	board voided certain absentee ballots cast in the November 4, 2003, general election. The court of common pleas held that absentee ballots delivered by third persons were valid and should be counted. The commonwealth court affirmed the trial court's decision. The state supreme court granted allocatur. Appellants and appellees were certain candidates and voters.	hand-delivered to the county elections board by third persons on behalf of non--disabled voters. On appeal, the issue was whether non--disabled absentee voters could have third persons hand--deliver their ballots to the elections board where the board indicated that the practice was permitted. The state supreme court concluded that the "in person" delivery requirement was mandatory, and that absentee ballots delivered in violation of the provision were invalid, notwithstanding the board's erroneous instructions to the contrary. Under the statute's plain meaning, a non--disabled absentee voter had two choices: send the ballot by mail, or deliver it in person. Third--person hand--delivery of absentee ballots was not permitted. To ignore the law's clear instructions regarding in--person delivery would undermine the statute's very purpose as a safeguard against fraud. The state supreme court concluded that its precedent was clear, and it could not simply ignore substantive provisions of the Pennsylvania Election Code. The judgment of the Commonwealth Court was reversed in so far as it held that			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					certain absentee ballots delivered on behalf of non--disabled absentee voters were valid.			
In re Canvass of Absentee Ballots of November 4, 2003	Commonwealth Court of Pennsylvania	839 A.2d 451; 2003 Pa. Commw. LEXIS 963	December 22, 2003	The Allegheny County Elections Board did not allow 74 challenged third--party hand--delivered absentee ballots to be counted in the statewide general election. The court of common pleas of Allegheny County reversed the Board's decision and allowed the 74 ballots to be counted. Appellant objecting candidates appealed the trial court's order.	On appeal, the issue was whether non-disabled voters who voted by absentee ballots and had those ballots delivered by third parties to county election boards could have their ballots counted in the statewide general election. First, the appellate court concluded that political bodies had standing to appeal. Also, the trial court did not err by counting the 74 ballots because absentee voters could not be held responsible for following the statutory requirements of Pennsylvania election law where the Board knowingly failed to abide by the statutory language regarding the delivery of absentee ballots, changed its policy to require voters to abide by the language, and then changed its policy back to its original stance that voters did not have to abide by the statutory language, thereby misleading absentee voters regarding delivery requirements. Under the circumstances, it was more important to protect the interest of the voters by not disenfranchising them	No	N/A	No