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## Another Strike Against PPACA

A second court has ruled that the individual mandate to maintain health insurance coverage under the Patient Protection and Affordable Care Act (PPACA) is unconstitutional. [State of Florida v. U.S. Dept. of Health and Human Services](#) (Case No.: 3:10-cv-91RV/EMT). With this decision by the U.S. District Court for the Northern District of Florida (Pensacola Division) on January 31, 2011, there are now two decisions upholding the individual mandate as constitutional and two rulings that it is unconstitutional because it exceeds Congressional authority under the Commerce Clause.

This latest decision is noteworthy for two reasons. First, the plaintiffs include the Attorneys General and/or Governors of 26 states, making it the most prominent of the 19 or more cases challenging PPACA. Second, the court held that the individual mandate and related provisions could not be severed from the remainder of PPACA; thus, the court ruled that the entire statute is unconstitutional. This finding contrasts with the decision by the court in *Virginia v. Sebelius*, discussed in our [Legal Alert](#) of December 16, 2010. The *Virginia* court held that, although the individual mandate is unconstitutional, only the mandate itself and “directly dependent” provisions should be stricken from the law; therefore, the entire law is not void. The decision in *Virginia*, and an earlier decision by the U.S. District Court for the Western District of Virginia that the individual mandate is constitutional, are both on appeal to the U.S. Court of Appeals for the Fourth Circuit. The *Florida* decision can be appealed to the Eleventh Circuit, and the fourth decided case is on appeal to the Sixth Circuit.



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