**Florida Constitutional Law**

**Spring 2023**

**LAW 6930, Section 30530**

**3 Credit Hours**

**Tuesday & Thursday: 1:45 PM – 3:10 PM**

**Holland Hall, Room 360**

**Course Syllabus**

Professor Jon Mills

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**First Day of Class on January 17, 2023**

***Introduction and Michigan v. Long, xxxvii- lv***

# Course Syllabus

Will be posted online on CANVAS

# Student Office Hours

Tuesdays, 3-5 pm

# About this Course

Traditionally, the fundamental characteristic of state constitutions is that they are limiting documents as compared with the Federal Constitution, which is a grant of enumerated powers to Congress. The states are the fundamental and original governing units in our federal system, and therefore, are understood to have plenary power, except where this power has been limited by federal law or the state constitution. The Florida Constitution is the basic rule book for the power struggles represented by the cases contained in this book. Florida courts interpret this rule book to delineate power between branches of government, between private parties and government and between levels of government (*e.g.*, state and local).

Generally, state constitutions are more detailed and particular than is the Federal Constitution, and they are easier to amend. This is certainly true of Florida’s Constitution, and recent years have seen a plethora of highly regulatory amendments that do not really fit the traditional constitutional characteristics described above. Many of these have been adopted by popular initiative. As the introductory materials chronicle, the Florida Constitution is the sixth constitution since 1838, and the current constitution has been amended numerous times since its adoption in 1968.

Florida Constitutional Law is a survey course. As such, this course is designed to give students an overview of the various provisions of the state constitution, an understanding of how Florida courts have interpreted and applied the state constitution, and an introduction into the workings of state and local governments. The course will follow the order of the document itself, addressing: 1) the basic rights provided by the Florida Constitution; 2) Separation of Powers, as understood in Florida jurisprudence; 3) the operation of the branches of government (legislative, executive and judicial); taxing and bonding issues; 5) local government; 6) education; 7) miscellaneous issues such as homestead and eminent domain; and 8) the amendment and revision process.

# Course Materials

Mills, Adkins & McLendon, *Florida Constitutional Law: Cases in Context* (Carolina Academic Press)

Unless otherwise indicated, the reading assignments refer to the required casebook. Every student is expected to have completed the assigned readings **prior** to class. Assignment pages refer to the casebook. Otherwise, as indicated in syllabus, readings are posted on Canvas.

Students also are expected to read additional materials as indicated and as posted on the Canvas page, usually in either pdf or html format. Adobe Reader 6.0 or higher should be used to view pdfs, otherwise you may experience some difficulties.

# Course Objectives and Student Learning Outcomes

After completing this course, students should be expected to:

* 1. Understand and apply the role of state constitution in comparison with the United States constitution.
  2. Understand and apply the elements of the Bill of Rights in Florida and how they interact with Federal Law.
  3. Understand and analyze the relative authority and relationship of the Legislative, Executive, and Judicial branches.
  4. Understand and interpret the jurisdiction of Florida laws.
  5. Understand and interpret the tax and funding structure in Florida.
  6. Understand and analyze the role and authority of local government.

After completing this course, students will have been:

1. Exposed to Florida Supreme Court Justices.
2. Exposed to seeing constitutional issues argued in the Florida Supreme Court.

**Expectations:**

It is anticipated that you will spend approximately 2 hours out of class reading and/or preparing for in- class assignments. You will be devoting time to your readings for each class; please be prepared for about 80 pages of reading each week.

# Attendance and Participation

Attendance will be taken at each class meeting. Students are allowed 6 absences during the course of the semester. Students are responsible for ensuring that they are not recorded as absent if they come in late. A student who fails to meet the attendance requirement will be dropped from the course and will not be allowed to take the final examination.

Student participation in class is encouraged and will be considered in assigning a final grade. The degree of student participation will doubtless affect the quality and interest of class discussions. Students are expected to be prepared for each class.

Excused absences are consistent with university policies in the undergraduate catalog (https://catalog.ufl.edu/ugrad/currcnt/regulations/info/attendance.aspx) and require appropriate documentation.

# Courtesy

Please turn off your cell phone during class. I also request that you notify me if you know you must leave class early. Please do not play computer games or surf the Internet during class.

# Final Examination

The final examination will be a **4-hour take home, open book and open notes essay** exam and will be distributed **online on CANVAS** on the designated exam schedule. The exam will consist of 5 or 6 hypotheticals with limited space for answers. The instructions of the examination will be announced later in the semester. Please see UF Law’s policy on exam delays and accommodations [here](https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form).

# Grades

Your grade for this course will depend on how well you perform on your final exam. Examinations will be graded anonymously; however, as mentioned above, **participation will be factored into a student’s final grade as well**.

Your grade in this class will be based on your performance on an open book final exam. This grade may be adjusted upward based on exceptional classroom performance. Initial grades on the final exam are always done anonymously, and we never **lower** anyone’s grade after we turn the blind grades in. Quality of participation counts. If we call on you to contribute to classroom discussion, and you decline, we will come back to you the following day and call on you again to participate.

**Evaluation of Grades:**

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| **Assignment** | **Percent of Grade** |
| Participation | 10% |
| Final Exam | 90% |
| Total | 100% |

**Grading Policy:**

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| --- | --- | --- | --- |
| **Score** | **Percent** | **Grade** | **Grade Points** |
| 934-1000 | 93.4-100 | A | 4.00 |
| 900-933 | 90.0-93.3 | A- | 3.67 |
| 867-899 | 86.7-89.9 | B+ | 3.33 |
| 834-866 | 83.4-86.6 | B- | 3.00 |
| 800-833 | 80.0-83.3 | B- | 2.67 |
| 767-799 | 76.7-79.9 | C+ | 2.33 |
| 734-766 | 73.4-76.6 | C | 2.00 |
| 700-733 | 70.0-73.3 | C- | 1.67 |
| 667-699 | 66.7-69.9 | D+ | 1.33 |
| 634-666 | 63.4-66.6 | D | 1.00 |
| 600-633 | 60.0-63.3 | D- | 0.67 |
| 0-599 | 0-599 | E | 0.00 |

For more details, see this information at:

https://[www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/academic-](http://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/academic-) policies.

# Course Evaluations

Students are expected to provide feedback on the quality of instruction in this course by completing online evaluations at https://evaluations.ufl.edu. Evaluations are typically open during the last two or three weeks of the semester, but students will be given specific times when they are open. Summary results of these assessments are available to students at https://evaluations.ufl.edu/results/.

# Requesting Accommodations

Students with disabilities requesting accommodations should first register with the Disability Resource Center (352-392-8565, [www.dso.ufl.edu/drc/)](http://www.dso.ufl.edu/drc/)) by providing appropriate documentation. Once registered, students will receive an accommodation letter which must be presented to the instructor when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

# Internet Policy and Related Issues

The internet, and more generally your laptop, is a great learning tool and invaluable asset to effective advocates. It should be used during class time as you will use it in practice: responsibly and ethically, consistent with the high professional standards that will be expected of you by your clients and by those who will employ you. This is important not only to you, but also to all the students around you who are affected by how you use your computer. It can be distracting to your classmates if you use your computer for activities unrelated to class. When you are talking, you should lower your laptop to facilitate communication.

Cell phones, tablets, and other electronic equipment should be turned off and not used during class. If you need to leave your phone on vibrate to receive an emergency call, please feel free to do so.

# Recording in Class

Students are allowed to record video or audio of class lectures. However, the purposes for which these recordings may be used are strictly controlled. The only allowable purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. All other purposes are prohibited.

Specifically, students may not publish recorded lectures without the written consent of the instructor.

A “class lecture” is an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-led discussions that form part of the presentation, and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A class lecture does not include lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving solely student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or lecturer during a class session.

Publication without permission of the instructor is prohibited. To “publish” means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third party note/tutoring services. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor Code and Student Conduct Code.”

# University Honesty Policy and Academic Misconduct

UF students are bound by The Honor Pledge which states, "We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honor and integrity by abiding by the Honor Code. On all work submitted for credit by students at the University of Florida, the following pledge is either required or implied: "On my honor, I have neither given nor received unauthorized aid in doing this assignment." The Honor Code (https://[www.dso.ufl.edu/sccr/process/student-conduct-honor-](http://www.dso.ufl.edu/sccr/process/student-conduct-honor-) code/) specifies a number of behaviors that are in violation of this code and the possible sanctions. Furthermore, you are obligated to report any condition that facilitates academic misconduct to appropriate personnel. If you have any questions or concerns, please consult with the instructor or TAs in this class.

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at [http://www.dso.ufl.edu/students.php.](http://www.dso.ufl.edu/students.php)

# Counseling and Wellness Center

Counseling and Wellness Center: https://counseling.ufl.edu/

Connect & Contact: 352.392.1575

For Emergencies: University Police Department 352.392.1111 or 9-1-1

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| **Class Number** | **Date** | **Assignment / Reading** | **Overton Lectures** |
| 1 | Tuesday, January 17 | Introduction and Michigan v. Long xxxvii- lv  ARTICLE I- INTRODUCTION |  |
| 2 | Thursday, January 19 | DECLARATION OF RIGHTS -ARTICLE I  TW, Eitel, Schiavo, Bar Exam,  Pages 3- 29 |  |
| 3 | Tuesday, January 24 | Kurtz, Post-Newsweek, Rollings  Pages 29-45 | Justice George Labarga |
| 4 | Thursday, January 26 | Krisher, SEARCHES AND SEIZURES  Bernie, Wells  Pages 45-69 |  |
| 5 | Tuesday, January 31 | Hume, Elder and REVIEW  Pages 69-79 |  |
| 6 | Thursday, February 2 | RIGHT TO ASSEMBLE, WORK AND RIGHT TO BEAR ARMS  Cate, Hillsborough, UTD, Norman  Pages 80-112 |  |
| 7 | Tuesday, February 7 | PROHIBITED LAWS  Shenfield, Pomponio Pages 112-134 |  |
| 8 | Thursday, February 9 | ACCESS TO COURTS  Kluger, Laskey  Diamond, Damiano, Chevy Van  Pages 134-151 |  |
| 9 | Tuesday, February 14 | LaRosa,  RELIGIOUS LIBERTY  Bush v. Holmes  Pages 151-164 |  |
| 10 | Thursday, February 16 | EXCESSIVE PUNISHMENTS  Jones v. State, Valle,  Pages 179-196 |  |
| 11 | Tuesday, February 21 | PUBLIC RECORDS  Earnhardt, Sarasota Herald Pages 196-215 |  |
| 12 | Thursday, February 23 | SEPARATION OF  POWERS  Askew, Cross Keys, Chiles, Pages 217-245 |  |

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| 13 | Tuesday, February 28 | Improper delegation and encroachment by one branch on another  EY, Carnegie, Crist, Jones v. Chiles, Schiavo  Pages 245-270 |  |
| 14 | Thursday, March 2 | ARTICLE III – LEGISLATURE  Santos, Loxahatchee, Florida Defenders, Moffit, Expedia, Florida League of Women Voters.  Pages 271-309 |  |
| 15 | Tuesday, March 7 | VETO  Martinez v. Legislature Pages 309-313 Ophthalmology  Pages 332-339  LOCAL GOVERNMENT –  Special Laws  Deseret Ranch, Cesary Pages 339-347 |  |
| 16 | Thursday March 9 | APPORTIONMENT  **SKIM**–In re Joint Resolution Pages 348-405  Detzner Pages 405-426 | Justice Barbara Pariente (tentative) |
| **SPRING BREAK** | **MARCH 13-17** | **NO ASSIGNED READINGS** |  |
| 17 | Tuesday, March 21 | ARTICLE IV– EXECUTIVE  Kirk, Women’s Emergency Network, Scott, Ayala Pages 427-441  Florida House of Rep v. Christ  Whiley v. Scott Pages 442-463  In re Advisory Opinion to Governor  Pages 464-466 |  |
| 18 | Thursday, March 23 | Suspensions  Israel, Bruner, Pizzi Pages 467-477 Attorney General Pages 477-482 |  |
| 19 | Tuesday, March 28 | ARTICLE V– JUDICIARY |  |

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|  |  | Laborers’, State v. Johnson, In re Clarification of FRPP, Treadwell, Payret  Pages 483-498  Jurisdiction  DMT v. TMH, Raising Florida’s Minimum Wage, Jenkins, Dodi, Jollie, Harrison, State v. Vickery Pages 499-530 |  |
| 20 | Thursday, March 30 | Writ Jurisdiction Crist, Dezner, Special Apportionment  Pages 531-541  District Courts of Appeal Creighton, Amendments to FRAP, State v. MK  Pages 541-557 |  |
| 21 | Tuesday, April 4 | Binding Authority Pardo, Pleus, Thompson Pages 558-570 |  |
| 22 | Thursday, April 6 | ARTICLE VII–FINANCE  St. Johns River Water Mgmt., Reedy Creek, Alachua County v. Adams, Garcia, Zingale, Sebring Airport Authority, Town of Palm Beach  Pages 621-678  **SKIM**– Contractors of Pinellas County, City of Port Orange, Collier County, Morris  Pages 678-704 |  |
| 23 | Tuesday, April 11 | **SKIM**-Sale Leaseback School Board of Sarasota County, City of Largo, Strand, County of Volusia, City of Palatka  Pages 705-732  Tax Rates and Assessments Straughn, Southern Bell, Northern Palm Beach County Water Control District  Pages 733-771 | Justice James Perry |
| 24 | Thursday, April 13 | ARTICLE VIII–LOCAL  GOVT |  |

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|  |  | Volusia County, Sarasota County, Broward County, City of Coconut Creek, City of St. Petersburg, Alsdorf, City of Miami Beach, City of Ocala, City of Long Beach, Capella  Pages 772-822 | Josh Kohler, City Attorney, City of Boca Raton, Florida |
| 25 | Tuesday, April 18 | Preemption  City of Palm Bay, Barragan, City of Hollywood  Pages 823-838  Consolidation  Albury, Town of Baldwin, Metropolitan Dade County, BCC of Dade County, Brock, Demings  Pages 839-862 | McLendon |
| 26 | Thursday, April 20  (Last Day of Classes) | ARTICLE IX–EDUCATION  St. Johns County, Coalition for Adequacy, Bush, Citizens for Strong Schools  Pages 863-944  **SKIM-** Duval County School Board, School Board of Collier County, Graham Pages 944-966  ARTICLE XI – AMENDMENTS  Fine, Standards for Establishing Legislative District Boundaries, Voting Restoration Amendment, Prohibits Possession of Defined Assault Weapons Pages 1063-1096  **SKIM-** Raising Florida’s Minimum Wage, Armstrong, Florida State Conference of NAACP Branches, Detzner  v. League of Women Voters of Florida.  Pages 1096-1134 | Justice Charles Canady |
| 27 | \*May 2 (Zoom) | REVIEW |  |
|  | May 4 at 8:30 AM | FINAL EXAM |  |