

**Role of the Attorney General
University of Florida College of Law
Syllabus: Spring 2021**

Bill McCollum

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Former Florida Attorney General (2007-2011)

Note: Syllabus is subject to change depending on developing issues and the schedules of visiting speakers.

Meeting Time and Location

Monday, Tuesday, Wednesday, Thursday, Jan. 11 - 14, from 9:00am - 12:00pm

Friday, Jan. 15, from 9:00am - 11:00am

Classroom: Holland Hall 284

Required Texts

Emily Myers, State Attorneys General Powers and Responsibilities (2018) (Fourth Edition), published by the National Association of Attorneys General (NAAG). This book may be purchased online at the NAAG website in paperback or hardcover. Students will be expected to have acquired this book and read the assigned chapters for the first three class periods prior to attending the first class.

Gilbert King, Devil in the Grove (2012) Harper Collins.

Students are urged to read Devil in the Grove before the compressed course week begins. It will be the basis for the civil rights class discussions. Gilbert King's follow-on book, Beneath the Ruthless Sun (2018) Riverhead Books, is highly recommended reading, but optional for this course

Learning Outcomes

After completing this course students should:

- understand the powers and duties of state attorneys general;
- know the relationship of attorneys general with federal and state government;
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- be aware of the role of AGs in consumer protection, antitrust, criminal law, litigation, issuing legal opinions, non-profit governance and civil rights;
- have a working knowledge of current policy and legal issues being addressed by AGs from participation with other AGs in multistate investigations to filing amicus briefs to promoting specific legislation;
- know and understand uniquely Florida AG responsibilities including service on the Florida Cabinet, educating state and local government entities on the requirements of Florida's Sunshine Laws, appointing and working with the Statewide, Prosecutor and handling all appeals from state court felony convictions.

Canvas

I will use Canvas to post documents related to this course.

Class Participation

Twenty-five percent (25%) of your final grade will be based on your class participation. Each day I expect that you will have read the assigned materials and that you will be prepared to discuss those materials. Class assignments are in the syllabus following each class description. If assigned material is followed by "(review)" you will only be expected to scan the material. Otherwise you will be expected to have read it. There may be case studies and problems that we will evaluate together. The expectation is that you will be prepared to meaningfully participate in each of those case studies and problems. There will be several guest lecturers, and you will be expected to be prepared and participate in interaction with and questions for the guest.

Office Hours

I will arrange to be available by appointment. I encourage students to call or email me if you are having difficulties with, or simply want to clarify your understanding of, any of the materials covered in the reading or class. My cell number is 407-353-4640. My email is bill.mccollum@dentons.com.

Common Courtesy

Please do not arrive late to class, leave early, or leave to take a break during class absent extenuating circumstances. Please turn off your cell phone during class. I reserve the right to deduct points from your final grade if you engage in behavior that disrupts the learning environment for your classmates.

Class Attendance Policy

Attendance in class is required by both the ABA and the Law School. I will take attendance and keep a record of it. If you miss more than two classes, your grade for the semester may be adversely affected. If you have a medical reason for missing class, you should contact me before or soon after class for your absence to be excused. Students who miss class for religious holidays must contact me beforehand by email to be excused from class. I will consider it a

violation of the honor code if you have someone else sign you in and you are not present, and I reserve the right to lower your final grade.

Evaluation

60% of your grade will be based on a final typewritten paper of no more than 5,000 words on a topic to be assigned the final class period. It will be a research and analysis paper, not an exam. You will be asked to submit it to me by email. The paper will be due no later than 11:59 pm, January 29, 2021. In addition, for 15% of your grade you will be expected to write three reflection papers (5% each) of no more than 500 words on a specific reading assignment in the syllabus as specified in the class period description for which the reading assignment is listed. Each reflection paper will be due at or before the commencement of the class period for which it is assigned and must be submitted to me by email. The other 25% of your grade will be class participation as discussed above.

Information on UF Law Grading Policies

The Levin College of Law's mean and mandatory distributions are posted on the College's website, and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
E (Failure)	0.0

The law school grading policy is available at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>.

Academic Honesty

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>.

Statement Related to Accommodations for Students with Disabilities

Students requesting accommodation for disabilities must first register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>). Once registered, students will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs (Dean Mitchell) when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

Recordings of Class Discussions

Students may not take, circulate, or post photos or videos of classroom discussions, whether they are in-person, hybrid, or completely online. Students failing to follow this rule will be referred to the College of Law Honor Code Council and the University's Office of Student Conduct and Conflict Resolution.

COVID Policies

Many students will have face-to-face instructional sessions to accomplish the student learning objectives of this course. In response to COVID-19, the following policies and requirements are in place to maintain your learning environment and to enhance the safety of our in-classroom interactions. I may take noncompliance into account when grading students or determining if a student may remain in the course.

- You are required to wear approved face coverings at all times during class and within buildings. Following and enforcing these policies and requirements are all of our responsibility. Failure to do so will lead to a report to the Office of Student Conduct and Conflict Resolution. You also will no longer be permitted on the UF Law campus. Finally, Dean Inman will also report your noncompliance to the relevant state board of bar examiners.
- This course has been assigned a physical classroom with enough capacity to maintain physical distancing (6 feet between individuals) requirements. Please utilize designated seats and maintain appropriate spacing between students. Please do not move desks or stations.
- Sanitizing supplies are available in the classroom if you wish to wipe down your desks prior to sitting down and at the end of the class.
- Be mindful of how to properly enter and exit the classroom. Practice physical distancing to the extent possible when entering and exiting the classroom.
- If you are experiencing COVID-19 symptoms (<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>), please do not come to campus or, if you are already on campus, please immediately leave campus. Please use the UF Health screening system and follow the instructions about when you are able to return to campus. <https://coronavirus.uflhealth.org/screen-test-protect/covid-19-exposure-and-symptoms-who-do-i-call-if/>.

- Course materials will be provided to you with an excused absence, and you will be given a reasonable amount of time to make up [work.https://catalog.ufl.edu/UGRD/academic-regulations/attendance-policies/](https://catalog.ufl.edu/UGRD/academic-regulations/attendance-policies/).

Online Course Evaluation Process

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens and can complete evaluations through the email they receive from GatorEvals in their Canvas course menu under GatorEvals or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.

Course Workload and Class Preparation

Students should expect to spend at least two hours outside of class reading and preparing for every hour of class. Due to the compressed nature of the course the Gilbert King book, Devil in the Grove, should be read before the course begins as well as the lesson readings for the first three class periods. The readings listed after the class descriptions are required unless “(review)” or “(recommended)” appears at the end of the listing. “Review” means you will be expected to have scanned the listed case, document, or article to be familiar with it for class discussion, but you will not be expected to have read it so as to know all its details. Difficult to locate articles or documents will be posted on Canvas the day before the class for which the assignment pertains if not sooner. Highly relevant court decisions or articles that appear after the syllabus is posted may be added. Students will be expected to check Canvas for additions or changes in reading assignments before the course begins and each day of the course week.

Introduction

This Syllabus is for a one week, one credit, compressed course to be taught January 11 -15, 2021. It contains federal and state statutes and case law, and articles from a variety of sources, that describe the nature and function of the Office of State Attorney General with special emphasis on the Office of the Attorney General of Florida. Select chapters or pages from the course textbook will be assigned for some, but not all, class hours.

The roots of the Office of State Attorney General run deep in American jurisprudence. All thirteen American colonies had an attorney general and today all fifty states and the District of Columbia have opted for providing legal services through an office of state attorney general.

Each office possesses extraordinarily broad jurisdiction and to varying degrees is independent from the executive branch of state government. Attorneys general in forty-three states are elected statewide on a partisan basis. The sweeping jurisdiction and constitutional independence has given rise to a unique American legal institution of growing importance.

The course will cover the day to day challenges faced by attorneys general and their staffs in delivering high quality legal advice that will guide state and local governments in a constitutional and ethical manner. The course also will cover the relationship of attorneys general with the federal and state governments, the private bar and a myriad of advocacy organizations. It will focus on some of the most controversial of legal issues - challenges to the constitutionality of the Affordable Care Act; climate litigation; opioid litigation; antitrust lawsuits against Google and Facebook, and clemency; to name a few. In addition it will examine Florida's unique Cabinet System where the attorney general shares powers with the governor and two other statewide elected officials with regard to a number of state agencies and boards and Florida's Open Government laws.

Although each state is unique, the course will demonstrate the remarkable congruence that exists among state attorneys general when addressing similar challenges and issues. Unlike private and other government lawyers who work subject to ethical rules that defer decision making to agency "clients," for the 13,000 men and women lawyers in offices of state attorneys general it is representing the "public interest" that is the day to day reality of their professional lives.

Jan. 11- Period 1

The Authority and Role of the Attorney General

This first class period explores the nature of the authority and culture that pervades offices of attorneys general. The origins of the office of attorney general from England through the colonies and the states will be examined. Florida constitutional and statutory provisions related to the powers and authority of the attorney general will be reviewed and discussed. The significant common law powers of the attorney general that remain today will be a focus of this class period

1. Emily Myers, State Attorneys General Powers and Responsibilities (2018) (Fourth Edition), published by the National Association of Attorneys General (Chapters 1-4, Edited)
2. Florida Statutes, Title IV, Chapter 16 (2019)
3. Richard P. Leyoub and Theodore Eisenberg, "State Attorney General Actions, the Tobacco Litigation, and the Doctrine of Parens Patriae," Tulane Law Review, June, 2000
- Link: https://heinonline.org/HOL/Page?handle=hein.journals/tulr74&div=58&g_sent=1&casa_token=&collection=journals
4. State of Florida v Exxon Corporation, 526 F.2d 266 (5th Cir. Ct. App 1976)
5. Diana Novak Jones, "Ballot Measure Can't Legalize Pot, Fla. Legislators Say," Law360 (Nov. 4, 2019) - Link: <https://www.law360.com/articles/1216726/ballot-measure-can-t-legalize-pot-fla-legislators-say>

Jan. 11 - Period 2

Structure of the AG Office and Litigation. Discussion of the organization and structure of the office of the Florida Attorney General; the role of the Chief Deputy; how investigations are begun; how and by whom decisions are made; relationships with the Governor and state agencies and boards; litigation - representing state agencies and the public interest. The question “Who is the client?” will be explored as will the ethics of client representation. The long running Florida litigation against Georgia over water and the role of the Attorney General in the Deepwater Horizon oil spill will be examined.

REFLECTION PAPER: After reviewing the departments, programs and services on the Florida Attorney General website, write a 500 word paper and briefly describe the work of the State Programs Bureau and the Child Support Enforcement Bureau in the Civil Litigation Division and the work of the Criminal Appeals Division.

1. myfloridalegal.com (go to web page, click on “About the Office” and review each of the listed departments, programs and services by clicking on the links to each)
2. Myers, Emily, State Attorneys General Powers and Responsibilities (2018) (Fourth Edition), Chapter 6
3. Florida v. Georgia, 585 U.S. ____ (2018) (June 27, 2018 decision) (review)
4. Georgia v. Florida, Report of the Special Master, Dec. 11, 2019, No. 142, Original, U.S. Supreme Court (review)
5. Florida v Georgia, Exceptions to the Report of the Special Master and Brief in Support filed by Florida, April 13, 2020 (locate on SCOTUS homepage by clicking on Docket Search and typing in “Florida, Plaintiff, v. Georgia proceedings and orders and scrolling down) (review)
6. Florida v Georgia, Georgia’s Reply to Florida’s Exceptions to Report of the Special Master (SCOTUS homepage under Docket Search) (review)
7. Florida v. BP, et al , U.S. Dist. Ct., Northern Dist. Of Fla., Panama City Div., Case No.: 5:13-CV-00123 , Complaint (filed April 20, 2013) (review)
8. Settlement Agreement Between Gulf States and the BP Entities (filed October 5, 2015) (review) (copy posted on Canvas)
9. Deepwater Horizon Response Timeline (copy posted on Canvas)
10. Deepwater Horizon Oil Spill Settlement Fact Sheet - October 5, 2015 (Office of the Florida Attorney General) (copy posted on Canvas)
11. Gulf Environmental Fund: Five Year Report, 2013 -2018 (review) (copy posted on Canvas)
12. John W. Suthers, “A ‘Veto’ Attorneys General Shouldn’t Wield,” The Washington Post, Feb, 2, 2014 (copy posted on Canvas)

Jan. 11 - Period 3

Open Government and Sunshine Laws - Attorney General Opinions

Special Guest: Florida Lottery Deputy General Counsel and former Deputy General Counsel for the Florida Attorney General Alexis Lambert. Florida enacted the Government in the Sunshine law in 1967, and reinforced it with a constitutional amendment in 1992. To this day Florida has one of the strongest open government laws in the country. The Florida Attorney General advises state agencies and local governmental bodies on these laws. Separately the Attorney General in his/her discretion when requested by state agencies and local governments issues opinions interpreting state laws. This is one of the earliest functions of state attorneys general. These opinions are published and today may be found online. While these opinions are non-binding on courts they have long been relied upon by local governments and state agencies in their deliberations and determinations. This class period will examine the Florida Sunshine Law with special attention to the concerns attorneys should have with regard to these laws when representing both governmental and private clients. And the role of AG opinions will be discussed including who may request an opinion, how it is prepared, reviewed and issued and how opinions impact the deliberations and decisions of local and state governmental bodies and agencies.

Note: Attorney General Opinions may be found chronologically by date or by opinion number and year at myfloridalegal.com, the Florida Attorney General website.

1. Florida Government in the Sunshine Manual (copy may be found at myfloridalegal.com, the Florida AG website)
2. Art Levy, “Attorney: Open Government Laws Go Beyond the Computer,” Florida Trend, Nov. 1, 2008 - Link: <https://www.floridatrend.com/article/6646/attorney-open-government-laws-go-beyond-the-computer>
3. NCAA v. Associated Press, 18 So. 3d 1201
4. AGO 09-19, April 23, 2009, “Municipalities - Records - Government in the Sunshine Law - Internet”
5. AGO - 09 -51, Nov. 24, 2009, “School Districts - Insurance - Workers Compensation”
6. Emily Myers, State Attorneys General Powers and Responsibilities, Chapter 5, pp80 -90, Chapter 26, pp 502 - 511

Jan. 12 - Period 4

Relationship with Federal Government - The Affordable Care Act - Medicaid Fraud

State attorneys general have a complex relationship with the federal government, including the Department of Justice, local U.S. Attorneys, and other federal agencies. In most cases, attorneys general cooperate with federal agencies to carry out federal policy, but in some cases state attorneys general attempt to either challenge or prompt federal action. This class period will explore and analyze this complex and changing relationship.

Cooperation is common with the investigation and prosecution of Medicaid fraud, human trafficking, internet child predators and all kinds of scams. But state AGs regardless of political party resist federal pre-emption of state laws and the AG enforcement powers in such areas as privacy and data breach. This class will examine *NFIB v. Sebellius* and *Texas v United States* which both involve the Affordable Care Act. These cases illustrate the complexity of the issues involved, the limit of federal ability to require state action, division among attorneys general and the increasing involvement of state attorneys general in issues of great national concern.

1. *NFIB v. Sebellius*, 132 S. Ct. 2566 (2012)
2. *State of Florida, et al. v. United States Department of Health and Human Services, et al., Order and Memorandum Opinion, Case No.:10 -cv-91-RV/EMT*, U.S. Dist. Ct., N. Dist, Fla., October 14, 2010 (review)
3. *State of Florida, et al. v. United States Department of Health and Human Services, et al., Order Granting Summary Judgment, Case No.: 3: 10-cv-91-RV/EMT*, U.S. Dist. Ct., N. Dist. Of Fla., January 31,2011 (review)
4. *Texas, et al. v. United States of America, et al., Memorandum Opinion and Order, Civil Action No. 4:18-cv-00167-O*, U.S. Dist. Ct App., N. Dist. of Texas, December 14, 2018
5. Emma Platoff, “ Individual Mandate is Unconstitutional Federal Court Rules in Texas-led Affordable Care Act Lawsuit,” *Texas Tribune* (Dec. 18, 2019) <https://www.texastribune.org/2019/12/18/5th-circuit-strikes-down-individual-mandate-obamacare/>
6. *California, et al v, Texas, et al*, U.S. Supreme Court, Petition for Writ of Cert., Docket 19-840 (review)
7. *California, et al v. Texas, et al*, U.S. Supreme Court, Oral Argument Transcript, Nov., 10, 2020 (review)
8. Emily Myers, *State Attorneys General Powers and Responsibilities*, Chapter 18, pp 378 - 398

Jan. 12 - Period 5

AGs and U.S. Supreme Court Practice

Special Guest: Florida First District Court of Appeals Judge and former Florida Solicitor General Scott Makar. Other than the U.S. Solicitor General, state government is by far the most frequent litigant in the U.S. Supreme Court. This class will study states' practice before the U.S. Supreme Court, including the important role played by attorneys general submitting amici curiae briefs. It will also explore the rise and growth of the office of Solicitor General in state AG offices. And there will be a discussion of the role of the Florida AG in all appeals of felony convictions in the state.

1. Kevin C. Newsom, "The State Solicitor General Boom," 32 Appellate Practice J. 6 (2013)
2. Rachel E. Nordby, "Florida's Office of the Solicitor General: The First Ten Years," 37 F.S.U. L. Rev. 215 (2009); S. Makar, "introductory Remarks," 37 F.S.U. L. Rev. 216 (2009)
<https://heinonline.org/HOL/Page?handle=hein.journals/flsulr37&id=217&collection=journals&index=journals/flsulr>
3. Michelle Casady, "CFPB's Structure Isn't Constitutional, 11 States Tell High Court," Law 360 (November 1, 2019) - Link: <https://www.law360.com/articles/1216191/cfpb-s-structure-isn-t-constitutional-11-states-tell-high-court>
4. Emily Myers, State Attorneys General Powers and Responsibilities, Chapter 23, pp 476-484

Jan. 12 - Period 6

The Florida Cabinet

Special Guest: Deputy Executive Director of the Florida State Board of Administration and former Florida Deputy Attorney General and General Counsel Kent Perez (appearing virtually). This class period will focus on the Florida Cabinet where the Florida Attorney General shares power with the Governor, the Chief Financial Officer and the Commissioner of Agriculture and Consumer Affairs on a dozen boards and commissions. The history of the Cabinet will be covered as will the voting powers of members and the nature of the business conducted at Cabinet meetings with respect to these boards and commissions. Florida's attorney general is the only AG in the country who shares such powers with the governor and other state-wide elected officers of the state. Among the boards are the Board of Trustees of the Internal Improvement Fund, the Florida Department of Law Enforcement, the Board of Executive Clemency, the Department of Highway Safety and Motor Vehicles, the Financial Services Commission and the Florida Land and water Adjudicatory Commission. Only the Governor, Attorney general and Chief Financial Officer oversee the State Board of Administration.

1. Kent J. Perez, "The Florida Cabinet System," Presentation to the Constitution Revision Commission (Oct. 4, 2017)
2. Edwin A. Bayo & Kent J. Perez, Florida's Cabinet System YK and Beyond, 74 FLA. Bar Journal 68 (November 2000) - Link:

<http://search.ebscohost.com/login.aspx?direct=true&AuthType=ip,uid&db=aph&AN=3797042&site=ehost-live>

3. Kent Perez, The New Constitutional Cabinet - "Florida's Four", 82 Fla. Bar Journal 62 (April 2008) - Link:
<http://search.ebscohost.com/login.aspx?direct=true&AuthType=ip,uid&db=aph&AN=31708192&site=ehost-live>
4. Ira William McCollum, Jr, The Florida Cabinet System - A Critical Analysis, 43 Fla Bar Journal 156 (March 1969) - Link:
https://heinonline.org/HOL/Page?public=true&handle=hein.barjournals/florbarj0043&div=19&start_page=156&collection=barjournals&set_as_cursor=0&men_tab=srchresults
5. Florida Constitution, Article 4, Sections 4, 8 and 11
6. Florida Constitution, Article 10, Sections 10 and 11

Jan. 13 - Period 7

Consumer Protection

Since the passage of Unfair and Deceptive Practices Acts (UDAP) in the late 1970s, all state attorneys general have responsibility in the area of consumer protection. This is usually considered to be the "white hat" division, fighting scammers and businesses that make misrepresentations or otherwise engage in unfair or deceptive practices that could be harmful to consumers. Students will be asked to visit the websites of two or three AGs before class and identify and be prepared to discuss one consumer protection action of note. There will be a discussion of what is "unfair" and what is "deceptive." There will also be a discussion of remedies including Assurances of Voluntary Compliance (AVC).

REFLECTION PAPER: After reading the Billotti case assigned in item 3 below, write a 500 word or less paper and summarize the facts of the case, the question on appeal, the legal arguments and the ruling of the court

1. Henry N. Butler & Joshua D. Wright, Are State Consumer Protection Acts Really Little FTC Acts, 63 Fla. L. Rev. 163 (2011) (review) - Link:
https://heinonline.org/HOL/Page?handle=hein.journals/uflr63&div=8&g_sent=1&casa_token=&collection=journals
2. Florida Statutes Title XXXIII, ss501.201 - 501.213 (Florida Deceptive and Unfair Trade Practices Law)
3. Office of the Attorney General, State of Florida v. Billotti, et al., 4th DCA FL, (Feb. 20, 2019), Case No. 4018 - 1645
4. State of Florida Office of Attorney General, In the Matter of Cingular Wireless LLC, Assurance of Voluntary Compliance, Feb. 28, 2008 (posted on Canvas)

5. Press Release “McCollum Retrieves Millions for Florida AT&T Wireless Customers Billed for “Free” Ringtones,” Feb. 29, 2008 (posted on Canvas)
6. myfloridalegal.com - Locate under “News” on General Moody’s website and review the following press releases: “Attorney General Moody Takes Action Against Local Pet Store Alleged to be Selling Sick Puppies,” May 18, 2020; Attorney General Moody Secures Refunds and penalties from Florida Pharmacy Offering At-Home COVID-19 Test Kits,” May 27, 2020; “Attorney General Moody Takes Court Action to Stop A/C Company Ripping Off Florida Seniors,” October 5, 2020; “Attorney General Moody Secures More than \$11 Million to Address Ocwen Mortgage Servicing and Foreclosure Issues,” October 15, 2020; “Attorney General Moody Secures More Than \$2 Million In COVID-19 Recoveries for Florida Consumers,” December 2, 2020
7. Office of the Attorney General, State of Florida v. Equifax, Final Judgment and Consent Decree, 17th DCA FL (July 18, 2019), Case No. 19 - 015227 (review)
8. Emily Myers, State Attorneys General Powers and Responsibilities, Chapter 13, pp 247-288

Jan. 13 - Period 8

Multistate Investigations and Litigation - Part I - Antitrust

Special Guest: Former Florida Chief Deputy Attorney General Trish Conners. While states had worked together, particularly in antitrust enforcement, prior to the 1990s, it was when state attorneys general banded together to investigate and sue the tobacco industry in the mid-1990s that multistate enforcement by attorneys general became more common. The coordinated action resulted in the 1998 Master Settlement Agreement with 46 states requiring payment of \$206 billion to the states over the first 25 years (Florida, Texas, Mississippi and Minnesota settled separately for a total of another \$35 billion). Over the years since, multistate AG investigations have become more frequent, growing in number, size and importance. Most involve UDAP or antitrust matters, but can also involve Medicaid fraud, false claims, environmental, or even common law claims. This class period and the next two will examine and discuss the growth of the multistate investigations and several recent examples including the enormously complex opioid multistate. Part I focuses on antitrust and multistate antitrust enforcement.

1. Jurisdictional Basis for AG’s Federal Antitrust Enforcement Authority: [Antitrust 101 National Association of Attorneys General \(naag.org\)](#)
 - [15 U.S. Code § 15c - Actions by State attorneys general | U.S. Code | US Law | LII / Legal Information Institute \(cornell.edu\)](#)
 - [15 U.S. Code § 26 - Injunctive relief for private parties; exception; costs | U.S. Code | US Law | LII / Legal Information Institute \(cornell.edu\)](#)
2. Overview of Latest Developments in AG Multistate Antitrust Enforcement and the Impact:

[State Attorneys General Jolt Antitrust Enforcement – Cadwalader Expands A.G. Practice - Anti-trust/Competition Law - United States \(mondaq.com\)](#)

- [Indivior stumbles as US states file antitrust suit | BioPharma Dive](#)
- [Generic drug companies, executives slapped with price-fixing lawsuit - CNN](#)
- [Facebook, Google face off against a formidable new foe: State attorneys general - The Washington Post](#)
- [U.S. DOJ, State Attorneys General File Antitrust Complaint Against Google \(orrick.com\)](#)
- [Google will soon face two new multistate antitrust suits, led by Colorado, Nebraska, Texas | MLex Blog \(mlexmarketinsight.com\)](#)
- [New York Attorney General Leads 48 States In File Antitrust Lawsuit Against Facebook – Deadline](#)

3. Merger Enforcement:

- [State Attorneys General and Their Influence on Merger Enforcement - Bruning Law Group](#)
- [State Attorneys General Ramping up Merger Enforcement | Orrick - Antitrust Watch - JDSupra](#)
- [Sprint and T-Mobile Merger Faces New Hurdle With Lawsuit by States - The New York Times \(nytimes.com\)](#)

4. AG Advocacy in Antitrust:

- [031220_NonCompeteClausesWorkplace.pdf \(marylandattorneygeneral.gov\)](#)
- Comments to the EU regarding AG federal authority to pursue damages on behalf of natural persons pursuant to parens patriae authority: [Corel Office Document \(europa.eu\)](#)

5. Examples of AG Impact on U.S. Antitrust Jurisprudence (briefly review the issue and holding to understand the big picture import):

- [HARTFORD FIRE INS. CO. v. CALIFORNIA | FindLaw \(review\)](#)
- [California v. American Stores Co. :: 495 U.S. 271 \(1990\) :: Justia US Supreme Court Center \(review\)](#)
- [12-1036 Mississippi Ex Rel. Hood v. AU Optronics Corp. \(1/14/2014\) \(supremecourt.gov\) \(review\)](#)
- [16-1454 Ohio v. American Express Co. \(06/25/2018\) \(supremecourt.gov\)](#)
Cited as: 138 S.Ct. 2274 (2018) (review)

Jan. 13 - Period 9

Multistate Investigations and Litigation - Part II - Consumer Protection

Special Guest: Former Florida Chief Deputy Attorney General Trish Conners. Part II focuses on multistate consumer protection enforcement.

1. Jurisdictional Basis for State Attorneys General Multistate Consumer Protection Enforcement:
2. Coordinated Enforcement of State Consumer Protection Laws in Coordination:
 - Tobacco: [Summary of Key Points in the Master Settlement Agreement – PA Office of Attorney General](#)
 - Mortgage Servicing Settlement: [NATLSETEXECSUM\(2\).PDF \(hud.gov\)](#)
 - Defect/Failure to Disclose Cases: [Honda Will Pay \\$85 Million in Takata Airbag Settlement \(autoweek.com\)](#)
 - Defect/Failure to Disclose Fed-State-Pls Bar Settlements: [Volkswagen Settlement Consumer Q&A \(tn.gov\)](#)
 - Opioids Litigation: [Opioid Epidemic Settlement Offer, Worth \\$26 Billion, Gains Support - The New York Times \(nytimes.com\)](#)
3. Multistate Data Breach Enforcement: [Attorneys General Secure \\$600 Million from Equifax in Largest Data Breach Settlement in U.S. History \(ohio.gov\)](#)
4. Federal HIPAA Privacy Violation Multistate Cases: [The Medical Informatics HIPAA Settlement: Implications for the Future of State Data Security Enforcement – NCBarBlog](#)
5. Federal and State Law Telemarketing Multistate Enforcement: Telemarketing Misrepresentations/Robocalling: [State Attorney General Telemarketing Lawsuits and Investigations \(mondaq.com\)](#)
6. Multistate Coordination to Deter Pandemic Price-Gouging: [Coronavirus price gouging: AGs demand action from Amazon, Walmart \(usatoday.com\)](#)
7. AG Advocacy in Consumer Protection: [Attorney General Josh Shapiro Joins Multistate Letter Opposing U.S. Department of Education Rollback of Student Loan Servicing Reforms – PA Office of Attorney General](#)

Jan. 14 - Period 10

Multistate Investigations and Litigation -Part III Private Attorneys -Municipality Litigation Issues

Cities and counties across the country have filed hundreds of lawsuits against the same manufacturers and distributors of opioids as have the state attorneys general. Although fewer in number, cities and counties have filed climate litigation lawsuits against large energy producing companies. In all these lawsuits the principal claim is under the common law doctrine of public nuisance. While every state has home rule laws that give local governments wide ranging decision making authority, these lawsuits, engaging outside counsel on a contingency fee basis and often claiming damages for injuries to a wider community than their city or county, have given rise to a growing debate over restricting their authority to bring such suits or enacting

legislation narrowing the definition and scope of public nuisance. State attorneys general are increasingly outspoken on this issue. This class will explore this debate and discuss the legal issues involved.

Note: The three cases cited below and many more climate change cases, pleadings, orders, etc. may be found at climatecasechart.com which is the website of the Columbia Law School Sabin Center for Climate Change databases of all climate litigation. At the site click on “U.S. Climate Litigation” and then scroll to state litigation enforcement cases to find the Massachusetts case and scroll further and click on “Common Law Cases” to find the city cases.

1. Rob McKenna, Elbert Lin and Drew Ketterer, Mitigating Municipality Litigation: Scope and Solution, U.S. Chamber of Commerce Institute for Legal Reform (March 6, 2019) - Link: [Mitigating Municipality Litigation](#)
2. Joshua K. Payne and Jess R. Nix., Waking the Litigation Monster: The Misuse of Public Nuisance, U.S. Chamber of Commerce Institute for Legal Reform (March, 2019) - Link: [Waking the Litigation Monster](#)
3. George Jepson and Perry Zinn Rowthorn, “Leave Opioid Lawsuits to State Attorneys General,” Wall Street Journal, March 3, 2019 [Leave Opioid Lawsuits to State Attorneys General - Texans for Lawsuit Reform \(tortreform.com\)](#)
4. Transparency in Private Attorney Contracting Act, Florida Statutes, Title IV, Ch. 16, Section 16.0155
5. Eric Lipton, “Lawyer Create Big Paydays by Coaxing Attorneys General to Sue,” New York Times , Dec. 18, 2014. (posted on Canvas).
6. City of New York v. BP P.L.C., et al, U.S. District Court, Southern District of New York, No. 18, Civ. 182 (JFK), Opinion and Order Filed 7/19/2018
7. City of Oakland v. BP P.L.C., et al., U.S. District Court, Northern District of California, , No. C 17-06011 WHA and No. C 17-06012 WHA, Order Granting Motion to Dismiss Amended Complaints, June 25, 2018
8. Commonwealth of Massachusetts v. Exxon Mobil, Suffolk County Superior Court Civil Action, Complaint (filed October 24, 2019) (review)

Jan. 14 - Period 11

The Florida Office of Statewide Prosecutor, Criminal Jurisdiction, Criminal Appeals, Justice Reform and Corruption

Special Guest: Holland & Knight Partner and former Florida Statewide Prosecutor (2007-2011) Bill Shepherd. In some states such as Ohio state attorneys general have concurrent prosecutorial authority with state and local prosecutors on every criminal matter. Other attorneys general have some, more limited prosecutorial powers. Florida’s attorney general has none save a constitutionally defined role in selecting, hiring and firing the Statewide Prosecutor. Conversely

Florida's attorney general is unique among the country's AGs in handling all criminal appeals from felony convictions in state courts and a special role in death penalty cases. The Office of Statewide Prosecutor was created when Florida voters adopted a constitutional amendment recommended by the legislature in 1987. Every four years the Attorney General appoints the Statewide Prosecutor from a list of at least three nominees submitted by the State Supreme Court Nominating Commission. The Prosecutor's office is housed in the Department of Legal Affairs headed by the AG, but the budget is separate. The jurisdiction is limited to criminal matters that involve two or more judicial circuits, organized criminal enterprises and public corruption. He/she also runs all statewide grand juries. This class period will examine the history and relationship of the Statewide Prosecutor with the AG and State Attorneys who have primary criminal jurisdiction in each judicial circuit. Statewide Grand Juries will be discussed as will corruption investigations and prosecutions. In addition, there will be a discussion of criminal justice reform and the role of the attorneys general with specific attention to Florida

1. The Florida Constitution, Article IV, Section 4(c)
2. Florida Statutes Title IV, Chapter 16, Section 16.56
3. R. Scott Palmer and Barbara M. Linthicum, The Statewide Prosecutor: A New Weapon Against Organized Crime, Florida State University Law Review, Vol. 13:653 - Link: https://heinonline.org/HOL/Page?handle=hein.journals/flsulr13&div=34&g_sent=1&casa_token=&collection=journals
4. Open the Florida Attorney general website, scroll to "News Releases," click on "view all" and locate and read the following press releases: "Six Arrested for Stealing the Identities of Florida Seniors," June 23, 2020; "Attorney General Moody's Office of Statewide Prosecution Files Charges Against Operator of Human Trafficking Ring Involving a Minor, Controlled Substances and Violence," August 27, 2020; "Attorney General Moody's Office of Statewide Prosecution Secures Life Sentence for Child Sex Predator," November 18, 2020.

Jan. 14 - Period 12

The Role of State Attorneys General in Non-profit Governance

Special Guest: Holland & Knight partner and former Florida Statewide Prosecutor Bill Shepherd. State Attorneys General have always had some responsibility to review the operations of nonprofit charities and foundations. Particularly as non-profit organizations such as hospitals play a larger and larger role in the economy, the attorney general's increased use of that authority has taken on national significance. There is now greater scrutiny in many AG offices of the non-profit governance of hospitals, health insurers and universities. This class analyzes the parameters of that authority.

1. Emily Myers, State Attorneys General Powers and Responsibilities, Chapter 12, pp 215 - 246
2. Florida Trust Code, Florida Statutes Sec. 736.0110 (3)

3. Florida Statutes Sec. 617.0304 (2)
4. Blaine Winship, Special Counsel, Office the Attorney General, State of Florida, “The Florida Attorney General and Charitable Trusts” (2019) (posted on Canvas)
5. Office of the Attorney General, State of Florida Department of Legal Affairs v. The Ritz Theatre 100, Inc., a Florida Not-For-Profit Corporation, and Stella C. Heath, Circuit Ct., Tenth Judicial Cir., Case No.: 2018-CA-000797, Complaint (review)
6. Attorney General v. Hahnemann Hospital, 397 Mass. 820 (1986) (review)

Jan. 15 - Period 13

Civil Rights - Part I

Special Guest: Gilbert King, author of The Devil in the Grove and Beneath the Ruthless Sun. The Florida Attorney General has an Office of Civil Rights and is authorized to investigate and initiate actions for damages, injunctive relief, and civil penalties where he/she has reason to believe a person or group is engaged in a pattern or practice of discrimination on the basis of race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status and the discrimination raises an issue of great public interest. As Gilbert King described in his two books, Florida in the 1940s, ‘50s, 60s and 70s did not have an attorney general who took on the rampant civil rights abuses of that era and the state civil rights laws on the books today did not exist. Along with a general conversation with Mr. King about his two books and the state of civil rights in Florida in the era about which he wrote, we will examine the role of the state attorney general in civil rights enforcement today, the relationship with federal civil rights enforcement and the specific powers of the Florida AG.

REFLECTION PAPER - After reading Devil in the Grove write a 500 word paper and briefly tell what Walter Irvin, Charles Greenlee, Samuel Shepherd and Ernest Thomas were accused of, what became of each and what role Sheriff Willis McCall played.

1. Gilbert King, Devil in the Grove (2012), Harper Collins
2. Gilbert King, Beneath the Ruthless Sun (2018), Riverhead Books (optional - not required reading, but the complete picture of the 36 years of civil rights abuses when Willis McCall served as Lake County Sheriff cannot be gained without reading this book) (recommended)
3. Ch. 16, Section 16.57, Florida Statutes
4. Ch. 760, Florida Statutes
5. Emily Myers, State Attorneys General Powers and Responsibilities, Chapter 19, pp 399 - 414

Jan. 15 - Period 14

Course Conclusion - Civil Rights Part II

Discussion will continue with special guest Gilbert King. Students will engage in an exercise using a hypothetical that assumes you are the Florida Attorney General in 1960, and you learn of certain facts involving very disturbing and probably illegal actions by Lake County Sheriff Willis McCall and want to take action. Understanding this is before enactment of either the federal or Florida civil rights laws and with no statutory authority to prosecute crimes, what would you do?