

University of Miami School of Law
FLORIDA CONSTITUTIONAL LAW – Fall 2020
SYLLABUS (with cases in text added)

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Course Materials: The text is *Cooper, John F. and Marks, Jr., Thomas C., Florida Constitutional Law, Carolina Academic Press (5th ed. 2013)*, plus copies of supplemental cases listed in this Syllabus or provided later. Supplemental materials are available via Blackboard or from our assistant, Catherine May (cmay@law.miami.edu).

Florida Constitution: Contained in Appendix to text

Classes are held on Blackboard, 4:10 pm to 5:50 pm., Room F108, Monday and one hour online Wednesday evenings.

BRIEF OVERVIEW

As a survey course studying the Florida Constitution as the charter of state government and a source of fundamental rights for its citizens, the course covers two aspects of the Florida Constitution - regulating the structure of the state government and providing for individual rights on a variety of topics (some beyond those provided by the United States Constitution). Elements of state constitutional law, which are covered in the “structural” section, include separation of powers, jurisdiction of courts, functions of the legislature and governor, powers and functions of city and county governments, and constitutional means of, and limitations on, public finance. The “rights” section of the course covers the Florida constitutional right to privacy, the right to medical self-determination, protections for criminal defendants, equal protection and due process, Florida homestead protection and access to courts. The interrelationship, similarities, and differences between the Florida and United States constitutions in multiple areas of law are addressed. Thus, the course builds upon and serves as a refresher course in students’ prior knowledge of United States constitutional law.

Goals: Upon completion of the course, each student should be able to:

- (1) Explain the purpose of the Florida Constitution and contrast its fundamental purpose with that of the United States Constitution;
- (2) Identify, describe, and analyze the primary Florida constitutional limitations on the branches of state and local government, and on the exercise of governmental regulatory, tax, and financing powers;
- (3) Identify and describe certain significant individual rights and protections guaranteed by the Florida Constitution, which are in some ways comparable but not identical to rights and protections under the United States Constitution; and,
- (4) Identify and describe certain individual rights and protections unique to the Florida Constitution, including homestead protection against creditors, privacy, and access to courts, and compare and contrast those rights and protections against the provisions of the United States Constitution.

SCHEDULE

8/17/20 (Monday Week 1)

Introduction; Overview of Florida Constitution and Its History and Federal Constitutional Provisions Regarding Limits on and Powers of States

- Read: Headings of articles of Florida Constitution (as background)
- U.S. Constitution: Read Article I, sections 8, 9, 10; Article IV, sections 3, 4; Article VI, clause 2; Ninth and Tenth Amendments

Case study: Law in the Age of Coronavirus

8/17/20 (Wednesday Week 1)

Amending the Florida Constitution: Let Me Count the Ways

- Fla. Constitution: Read Article XI
- *Advisory Opinion to the Attorney General re: Limiting Cruel and Inhumane Confinement of Pigs During Pregnancy*, 815 So. 2d 597 (Fla. 2002)
- Text: Read pp. 15-25 – covers *Advisory Opinion to AG re Florida Marriage Protection Amendment* (2006)
- *Advisory Opinion to AG re Minimum Wage* 285 So. 3d 1273 (Fla. 2019)
- *Advisory Opinion to AG re Assault Weapons Ban*, 2020 WL 2960236 (Fla. 2019)
- *Advisory Opinion re Voting Restoration Amendment*, 215 So. 3d 1202 (Fla. 2017)

8/24/20 (Monday Week 2)

Interpreting the Florida Constitution; State Constitution as a Limit on Inherent Power; Florida v. United States Constitutions; Self-Executing Provisions or Not

- Fla. Constitution: Read Article I, section 1; Article II, section 3
- Text: Read and brief pp. 3-15 – covers *Peters v. Meeks* (1964); *Fla. Hospital Waterman v. Buster* (2008)
- *Pleus v. Crist*, 14 So. 3d 941 (Fla. 2009)
- *Brinkman v. Francois*, 184 So. 3d 504 (Fla. 2016)
- *Fla. Hospital Waterman Inc. v. Buster*, 984 So. 2d 478 (Fla. 2008)

8/26/19 (Wednesday Week 2)

Separation of Powers

- Fla. Constitution: Read Article II, section 3
- Text: Read pp. 45-47, 62-86 – covers *Bush v. Schiavo* (2004); *Fla. House of Rep. v. Crist* (2008); *Office of State Attorney for Eleventh Circuit v. Polites* (2005); *Jones v. Chiles* (1994); *McNeil v. Canty* (Fla. 2009)
- *Cannon v. Thomas*, 133 So. 3d 634 (Fla. 2014)

8/31/20 (Monday Week 3)

The Judicial Branch: Jurisdiction of Circuit Courts, DCAs, and Supreme Court

- Fla. Constitution: Read Article IV, sections 1(c), 10; Article V
- Text: Read pp. 135-36; 141-149, 170-74, 195-97, 216-219 – covers *Jackson v. State* (2006); *Fla. State Board of Health v. Lewis* (1963); *Floridians for an Level Playing Field v. Floridians Against Expanded Gambling* (Fla. 2007); *Davis v. Mandau* (1981); *State v. Vickery* (2007); *Haines City Community Dev. v. Hegg*s (1995)

9/2/20 (Wednesday Week 3)

The Judicial Branch (continued)

- Fla. Constitution: Read Article V
- Text: Read pp. 256-69, 275-79 – covers *SE Utilities v. Redding* (1961); *Montgomery v. Dept of Health & Rehab Svcs.* (1985); *Bryant v. Gray* (1954); *North Broward Hosp. District v. Fornes* (1985); *US Steel Corp v. Save Sand Key Inc.* (1974)
- *City of Hialeah v. Delgado*, 963 So. 2d 754 (Fla. 3d DCA 2007)
- *Pino v. Bank of New York*, 76 So. 3d 927 (Fla. 2011)
- *League of Women Voters of Fla. v. Scott*, 232 So. 3d 264 (Fla. 2017)

9/7/20 (Monday Week 4) NO CLASS - LABOR DAY HOLIDAY

9/9/20 (Wednesday Week 4)

The Executive Branch

- Fla. Constitution: Read Article III, section 8; Article IV; Article V, sections 11, 21
- Text: Read pp. 129-31 – covers *Fla. Society Opthamology v. Fla. Optometry* (1986)
- *Chiles v. Children A through F*, 589 So. 2d 260 (Fla. 1991)
- *Whiley v. Scott*, 79 So. 3d 702 (Fla. 2011)
- *Pleus v. Crist*, 14 So. 3d 941 (Fla. 2009)
- *League of Women’s Voters v. Scott*, 257 So. 3d 900 (Fla. 2018)
- *Israel v. DeSantis*, 269 So. 3d 491 (Fla. 2019)

9/14/20 (Monday Week 5)

The Legislative Branch; General and Special Laws

- Fla. Constitution: Read Article III
- Text: Read pp. 89-127 – covers *Franklin v. State* (2004); *Salters v. State* (2000); *Santos v. State* (1980); *State v. Combs* (1980); *No. Ridge Hosp. v. City of Oakland Park* (1979); *Dept. of Education v. Lewis* (1982); *St Johns Water Mgmt v. Deseret Ranches of Fla.* (1982); *Pinellas County Veterinary v. Chapman* (1969); *State ex rel Cotterill v. Bessenger* (1961); *Lawnwood Medical Center v. Seeger* (2008)
- *Schrader v. Florida Keys Aqueduct Auth.*, 840 So. 2d 1050 (Fla. 2003)
- *License Acquisitions v. Debary Real Estate LLC*, 155 So. 3d 1137 (Fla. 2014)
- *Lee Memorial Health Sys. v. Progressive Ins Co.*, 260 So. 3d 1038 (Fla. 2018)
- *City of Miami v. McGrath*, 824 So. 2d 143 (Fla. 2002)

9/16/20 (Wednesday Week 5)

Local Government

- Fla. Constitution: Read Article VIII
- Text: Read and brief pp. 281-90, 296-300, 322-327 – covers *Speer v. Olson* (1978); *Misty’s Café v. Leon County* (1994); *Hollywood Inc. v. Broward County* (1983); *State ex rel Lee v. Cape Coral* (1973); *Hillsborough County v. Florida Restaurant Assn.* (1992)
- *Telli v. Broward County*, 94 So. 3d 504 (Fla. 2012)
- *Masone v. City of Aventura*, 147 So. 3d 92 (Fla. 2014)
- *D’Agostino v City of Miami*, 220 So. 3d 410 (Fla. 2017)

9/21/20 (Monday Week 6)

Florida's Constitutional Right to Public Education

- Fla. Constitution: Read Article IX, especially section 1
- *Advisory Opinion to the Attorney General (Class Size)*, 816 So. 2d 580 (Fla. 2002)
- *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006)
- *Coalition for Adequacy and Fairness v. Chiles*, 680 So. 2d 400 (Fla. 1996)
- *Citizens for Strong Schools v Fla. State Bd. Education*, 262 So. 3d 127 (Fla. 2019)

9/23/20 (Wednesday Week 6)

Elections, Public Office and the Vote

- Fla. Constitution: Read Article II, sections 5, 6, 8; Article III, section 16; Article VI; Article X, sections 1, 3, 12
- *Advisory Opinion to Attorney General Re Standards For Establishing Legislative District Boundaries*, 2 So. 3d 175 (Fla. 2009)
- *League of Women Voters v. Fla. House of Representatives*, 132 So. 3d 135 (Fla. 2013)
- *Advisory Opinion re Voting Restoration for Felons*, 215 So. 3d 1202 (Fla. 2017)

9/28/20 (Monday Week 7) NO CLASS - YOM KIPPUR

9/30/20 (Wednesday Week 7)

Government in the Sunshine

- Fla. Constitution: Read Article I, section 24
- *Town of Palm Beach v. Gradison*, 296 So. 2d 473 (Fla. 1974)
- *City of Miami Beach v. Berns*, 245 So. 2d 38 (Fla. 1971)
- *Sarasota Citizens for Resp. Govt v. City of Sarasota*, 48 So. 3d 755 (Fla. 2010)
- *Bruckner v. City of Dania Beach*, 823 So. 3d 167 (Fla. 4 th DCA 2002)

10/5/20 (Monday Week 8)

Public Records

- Fla. Constitution: Read Article I, section 24
- Fla. Stat. § 119.01
- *NCAA v. Associated Press*, 18 So. 3d 1201 (Fla. 1st DCA 2009)
- *Times Publishing Co. v. St. Petersburg*, 588 So. 2d 487 (Fla 2DCA 1990)
- *News and Sun-Sentinel v. Schwab Twitty et al.*, 596 So. 2d 1029 (Fla. 1992)
- *James, Hoyer et al. v. Rodale, Inc.*, 41 So. 3d 386 (Fla. 1st DCA 2010)

10/7/20 (Wednesday Week 8)

Homestead, Part 1 (Protection from Creditors)

- Fla. Constitution: Read Article X, section 4
- Text: Read pp. 695-707 – covers *McGann v. Halker* (1988); *Orange Brevard Plumbing v. LaCroix* (1962); *Havoco of America Ltd v. Hill* (2001)
- *Geraci v. Sunstar EMS*, 93 So. 3d 384 (Fla 2d DCA 2012), *rev. dismissed*, 129 So. 3d 1069 (Fla. 2013)

10/12/20 (Monday Week 9)

Homestead, Part 2 (Exceptions and Devise Limitations)

- Fla. Constitution: Read Article X, section 4
- Text: Read pp. 708-731 – covers *Public Health Trust v. Lopez* (1988); *Snyder v. Davis* (1997); *Jameson v. Jameson* (1980); *Clemons v. Thornton* (2008); *Estate of Finch* (1981); *Marger v. DeRosa* (2011)
- Fla. Stat. § 732.401
- *Chames v. DeMayo*, 972 So. 2d 850 (Fla.2007)

10/14/20 (Wednesday Week 9)

Taxation: State and Local Taxation

- Fla. Constitution: Read Article VII, sections 1, 2, 5, 9, 18
- Text: Read and brief pp. 345-53, 366-67, 371-72, 430-40, 448-54 – covers *Contractors & Builders Ass'n Pinellas County v. Dunedin* (1976); *Lake County v. Water Oak Mgmt Corp.* (1997); *McGrath v. City of Miami* (2001); *State v. Daytona Beach*; *Garcia v. Andonie* (2012); *Zingale v. Powell* (2004)
- *Walter v. Schuler*, 176 So. 2d 81 (Fla. 1965)
- *Homestead Hospital, Inc. v. Miami-Dade County*, 829 So. 2d 259 (Fla. 2002)

10/19/20 (Monday Week 10)

Public Finance (Bonds, Full Faith and Credit, Referenda and Mortgaging Public Property)

- Fla. Constitution: Read Article VII, sections 10, 11, 12, 14, 15, 16, 17
- Text: Read pp. 465-72, 479-95 – covers *Nohrr v. Brevard County Educational Facilities Auth.* (1971); *Northern Palm Beach Cty. Water Control Dist. v State* (1992); *State v. Div. of Bond Finance* (1971); *Div. of Bond Finance v. Smathers* (1976); *County of Volusia v. State* (1982)
- *Miccosukee Tribe v. So. Fla. Water Mgmt. Dist.*, 48 So. 3d 811 (Fla. 2011)
- *Donovan v. Okaloosa County*, 82 So. 3d 801 (Fla. 2012)

10/21/20 (Wednesday Week 10)

Florida Declaration of Rights, Part 1 (Introduction; State Action; Fundamental Rights and Their Protection; “Florida Rational Basis Test”)

- Fla. Constitution: Read Article I, sections 1, 2
- Text: Read pp. 509-541, 578-582, 689-693 – covers *Traylor v. State* (1992); *Fla. v. Powell* (2010); *Shriners Hosp. v. Zrillic*, 563 So. 2d 64 (Fla. 1990) (divided into two in text); *Schreiner v. McKenzie Tank Lines* (1983); *State v. J.P.* (2004); *Florida Dept. of Children & Families v. Adoption of X.X.G.* (2010); *Rollins v. State* (1978); *City of Hollywood v. 1843 LLC* (2008)
- *Estate of McCall v. United States*, 134 So. 3d 894 (Fla. 2014)
- *Membreno v. Street Vendors*, 188 So. 3d 13 (Fla. 3d DCA 2016)

10/26/20 (Monday Week 11)

Florida Declaration of Rights, Part 2 (Property Rights: Substantive and Procedural Due Process)

- Fla. Constitution: Read Article I, sections 2, 9; Article X, section 6
- Text: Read pp. 542-569, 578-588, 604-612, 619-622 – covers *Maxcy v Mayo* (1931); *State v. Saiez* (1986); *Lite v. State* (1993); *Hall v. Recchi America* (1995); *Del Valle v. State* (2011)
- *Sult v. State*, 906 So. 2d 1013 (Fla. 2005)
- *St. Johns River Mgmt District v. Koontz*, 77 So. 3d 1220 (Fla. 2011), *reversed*, 570 US 595 (2013)
- *Keshbro v. City of Miami*, 801 So. 2d 864 (Fla. 2001)

10/28/20 (Wednesday Week 11)

Labor Rights, Imprisonment for Debt, Ex Post Facto Laws; Impairment of Contract; Access to Courts

- Fla. Constitution: Read Article I, sections 6, 10, 11, 21
- Text: Read pp. 542-561, 604-607 – covers *Hillsborough County Government Employees v. Hillsborough County Aviation Auth.* (1988); *Pomponio v. Claridge of Pompano Condominium* (1979); *Cohn v. Grand Condominium* (2011); *Shenfeld v. State* (2010); *Kluger v. White*; *Warner v. State Farm*
- *Sears v. Forbes/Cohen*, 2017 WL 2983290 (Fla. 4th DCA 2017)

11/02/20 (Monday Week 12)

Declaration of Rights—Right to Privacy, Part 1 (Expectation of Privacy and Abortion)

- Fla. Constitution: Read Article I, section 23
- Text: Read pp. 613-617, 620-622; 627-642 – covers *Winfield v. Division of Pari Mutuel Wagering* (1985); *City of North Miami v. Kurtz* (1995); *In re T.W.* (1989); *State v. Presidential Women’s Center* (2006)
- *State v. Young*, 974 So. 2d 601 (Fla. 1st DCA 2008)
- *Rowe v. Rodriguez-Schmidt*, 89 So. 3d 1101 (Fla. 2d DCA 2012)
- *In re Doe 13A*, 136 So. 3d 723 (Fla. 1st DCA 2014)

11/04/20 (Wednesday, Week 12)

Declaration of Rights, Part 2 (Medical Decision-Making; Parental Rights)

- Fla. Constitution: Read Article I, section 23
- Text: Read pp. 642-64, 675-92 – covers *In re Guardianship of Browning* (1990); *Burton v. State* (2010); *Krischer v. McIver* (1997); *Beagle v. Beagle* (1996); *Von Eiff v. Azicri* (1998); *Saul v. Brunetti* (2000)
- *DMT v. TMH*, 129 So. 3d 320 (Fla. 2013)

11/09/20 (Monday Week 13)

Freedom of Speech, Free Expression, and Press and Religious Freedom

- Fla. Constitution: Read Article I, section 4
- Text: Read pp. 623-27 – covers *Barron v. Fla. Freedom Newspapers* (1988)
- *State v. O’Daniels*, 911 So. 2d 247 (Fla. 3d DCA 2005)
- *Frandsen v. DER*, 829 So. 2d 267 (Fla. 1st DCA 2002)

Freedom of Religion Under Florida Law

- Fla. Constitution: Read Article I, section 3
- *Malicki v Doe*, 814 So. 2d 347 (Fla. 2002)
- *Warner v. City of Boca Raton*, 887 So. 2d 1023 (Fla. 2004)
- *Silver Rose Entertainment v. Clay County*, 646 So. 2d 246 (Fla. 1st DCA 1994)
- *Toca v State*, 834 So. 2d 204 (Fla. 2d DCA 2002)
- *Council for Secular Humanism v. McNeil*, 44 So. 3d 112 (Fla. 1st DCA 2010)

11/11/19 (Wednesday Week 13)

Declaration of Rights (Search and Seizure; Rights of Criminal Defendants)

- Fla. Constitution: Read Article I, section 12; Rights of Accused in Criminal Proceedings; Article I, sections 6, 9-20, 22
- Text: Read pp. 557-61, 588-600 – covers *Shenfeld v. State*; *Jardines v. State* (2011)
- *Kelly v. State*, 77 So. 3d 818 (Fla. 4th DCA 2012)
- *K.P. v. State*, 129 So. 3d 1121 (Fla. 3d DCA 2013)
- *State v. Hume*, 512 So. 2d 185 (Fla. 1987)
- *Shaktman v. State*, 553 So. 2d 148 (Fla. 1989)
- *Limbaugh v. State*, 887 So. 2d 387 (4th DCA 2004), *rev. denied.*, 903 So. 2d 189 (Fla. 2005)

11/16/20 (Monday Week 14)

Review Session

If you have a disability or suspect that you may have a disability, the Law School encourages you to contact Iris Morera, Coordinator of Disability Services, for information about available opportunities, resources, and services. Her phone number is 305-284-9907, and her email address is imorera@law.miami.edu. You may also visit the Office of Disability Services website, at www.law.miami.edu/disability-services.