

# **The Role of the State Attorney General**

## **Yale Law School**

### **Spring 2019**

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

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#### **Introduction:**

The roots of the Office of State Attorney General run deep in American jurisprudence. All 13 American colonies had an Attorney General and today all 50 States and the District of Columbia have opted to provide legal services through an Office of State Attorney General.

Each office possesses broad jurisdiction and to varying degrees is independent from the executive branch of state government. Attorneys General in 43 states are elected statewide on a partisan basis. The combination of 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 the high quality legal advice that will guide state government in a constitutional and ethical manner. The course will also cover the relationship of Attorneys General with the federal government, the private bar, and a myriad of advocacy organizations. It will focus on some of the most controversial legal issues affecting society today because Attorneys General operate at the intersection of law and public policy. Although Attorneys General have been in the news almost daily with lawsuits against Presidents Obama and Trump, the focus of this class is not on suing or defending the President.

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,” the 13,000 men and women who serve in Attorneys General offices represent the “public interest.”

The course is weighted toward those decisions by Attorneys General that reflect their independent status, which is most often revealed when legislatures, other elected officials, state agencies or the federal government exceed their constitutional or statutory authority. The course considers also the unique ethics issues that Attorneys General and their staff must confront.

This Syllabus contains federal and state statutes and case law, law review and descriptive articles from a variety of sources, and hypotheticals that describe the nature and function of the Office of State Attorney General. The numerous hypotheticals are drawn from actual cases which, because of their nature, have not been studied or, in most cases, ever made public. There is no text for the course and all materials have been collected from over 35 years of studying and participating in the decision making of Attorneys General and their staffs.

Students are evaluated based upon either a final take-home examination or, if approved by the instructors, a paper. Given the dearth of academic writing on State Attorneys General in particular, and on state issues in general, we encourage students in this class to consider writing a paper. As seen by the law review articles in the syllabus published in the Columbia Law Review and the Columbia Journal of Law & Social Problems by then-students of this course, this is a fertile ground for academic research. For the readings that are marked “supplemental reading,” these are optional readings to enable you to take a deeper dive into that week’s topic.

Additionally, students can improve their grades based upon class participation, and we strongly encourage each student to participate in some fashion each week in class. Because many, if not most, of the decisions of Attorneys General and their staff are based upon judgment, and thus are not obviously right nor wrong, we work to create an atmosphere in which both extroverts and introverts, and students of differing political perspectives, feel comfortable contributing diverse viewpoints to the class discussion.

In anticipation of the first class, we urge students to watch this [video](#).

## Week #1 – Jan. 14, 2019

### The Authority and the Culture of the Attorney General

The first week explores the nature of the authority and the culture that pervades offices of Attorneys General. The first chapter of Walter Mondale's *The Good Fight*, which covers Mondale's time as the Attorney General of Minnesota over 50 years ago, serves as an introduction to the Role of the Attorney General. Used with the permission (and to the personal delight) of the author, this edited chapter combines almost all aspects of the office of Attorney General that we study throughout the semester, *e.g.*, the common law, statutory authority, conflicting legal and policy demands, resource restriction, the role of academics and outside counsel, partisan politics, and personal ambition. The chapter is also testimony that for all of the changes in the legal and political world, some things remain remarkably the same.

The first week also contains readings that describe *parens patriae* and the duty of Attorneys General to represent all of the people of their States and not to limit themselves to representing a specific state agency.

1. [Walter Mondale, The Good Fight \(2010\) \(Chapter 1, Edited\)](#)
2. [Wilson, Paul E. \*A Time To Lose, Representing Kansas In Brown v. Board Of Education\*. Kansas: University Press of Kansas, 1995 \(Edited\)](#)
3. [State v. Lead Industries Association, Inc. 951 A.2d 428, \(R.I. 2008\)\(Track III, A and B\) \(Edited\)](#)
4. [Memorandum of Former Members of the New Hampshire Attorney General Office on HB 89, Docket No. 2011-0319, May 23, 2011 \(Amici to the NH Supreme Court on an Opinion of the Justices.\)](#)
5. [Maureen Hayden, "State of the Statehouse: Zoeller leaves attorney general role with legacy in public health," Tribune Star, Dec. 25, 2016.](#)
6. ["Hearing the States," Anthony Johnstone, University of Montana Law School – Abstract and Pages 9-11](#)
7. [Richard P. Ieyoub; Theodore Eisenberg, \*State Attorney General Actions, the Tobacco Litigation, and the Doctrine of Parens Patrie\*, 74 Tul. L. Rev. 1859 \(2000\)](#)
8. [Florida ex rel. Shevin v. Exxon Corp., 526 F.2d 266 \(5th Cir. 1976\) \(supplemental reading\)](#)
9. ["Get Along with Your Classmates," Ted Cruz – David Barron Confirmation Hearing \(supplemental reading\)](#)

## Week #2 – Jan. 28, 2019

### The Structure of the Office of the Attorney General

State Attorneys General have never fit easily into the existing framework of state government. States generally have rejected the federal model in which the Attorney General serves at the pleasure of the Chief Executive, and this “divided executive” approach results in numerous possible conflicts as the Attorney General attempts to represent the “client,” which could be the Governor, the state agency, or the public interest. This week explores the independence inherent in the office of a modern Attorney General.

1. [Feeney v. Commonwealth, 373 Mass. 359, 366 N.E.2d 1266 \(1977\)](#)
2. [People ex rel. Deukmejian v. Brown, 29 Cal.3d 150, 624 P.2d 1206 \(1981\)](#)
3. [William P. Marshall, Break Up the Presidency? Governors, State Attorneys General and Lessons from the Divided Executive, 115 Yale L.J. 2445-2469 \(2006\)](#)
4. [Scott M. Matheson, Jr., Constitutional Status and Role of the State Attorney General, 6 U. Fla. J.L. & Pub. Pol’y 1 \(1993\) \(supplemental reading\)](#)
5. [Generic State Attorney General’s Office Organization Chart.](#)
6. [Delaware AG Investigates Own Client, Celia Cohen, Grapevine Political Writer, Sept. 15, 2007](#)
7. [People ex rel. Salazar v. Davidson, 79 P.3d 1221 \(Colo. 2003\) \(Edited\) \(supplemental reading\)](#)
8. [“AGs’ powers a subject of contention.” Denver Post Capitol Bureau, Martinez, J. C. \(2003, December 7\).](#)
9. [Hickenlooper Order, Colorado Supreme Court \(2015\) \(supplemental reading\)](#)
10. ["High Court to Hickenlooper: We’re not getting involved". Colorado Independent, Corey Hutchins \(December 03, 2015\)](#)
11. [Loftus, T., Kentucky attorney general skewers health cabinet for failing to release child death records, The Courier-Journal \(Oct. 15, 2012\); Connelly, Cara, R.I. Attorney General Steps Up for Press, Courthouse News Service \(July 16, 2014\) \(supplemental reading\)](#)
12. [No Charges to Be Filed In Prison Sentence Screw-Up, Nebraskawatchdog.Org, November 24, 2014](#)
13. [Terrie, Morgan-Besecker, “DA refers prison sex abuse probe to state attorney general's office,” The Times-Tribune, Jan. 7, 2017](#)
14. [“Who is the Client?” – A Role Playing Hypothetical](#)

## Week #3 – Feb. 4, 2019

### The Ethics of Client Representation

The constitutional and statutory duties of Attorneys General can be at variance with the Model Rules of Professional Responsibility. This week focuses on core ethical readings as well as concrete ethical dilemmas that are faced by almost every Attorney General.

1. [Justin G. Davids, State Attorneys General and Client-Attorney Relationship: Establishing the Power to Sue State Officers, 38 Colum. J.L. & Soc. Probs. 365 \(2005\)](#)
2. [Jack B. Weinstein, Some Ethical and Political Problems of a Government Attorney, 18 Me. L. Rev. 155 \(1966\)](#)
3. [National Association of Attorneys General, \*Ethics Corner: Survey of “Ethics Gurus” in AG Offices Reveals Priorities\* \(Survey Results Only\) \(2017\)](#)
4. [Articles describing the evolving positions of then Alabama Attorney General William Pryor and then Alabama Supreme Court Chief Justice Roy Moore \(2003 - 2004\)](#)
6. [Combined Readings: AG Maura Healey and Bridgewater State University \(2016 - 2017\)](#)
7. [Watts, A., & Martinez M., \*Judge rejects Arizona's effort to dismiss prison teacher rape lawsuit\*, CNN \(Feb. 5, 2015\)](#)
8. [Freeport McMoRan Oil & Gas Co. v. FERC, 962 F.2d 45 \(D.C. Cir. 1992\)](#)
9. [The Four Seasons – Ethics Hypotheticals](#)

## Week #4 – Feb. 11, 2019

### Attorneys General and U.S. Supreme Court Practice

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 Supreme Court, including the important role played by Attorneys General submitting amici curiae briefs.

1. [Results of Cert Petitions on Filed by States, NAAG \(2018\)](#)
2. [Statistics on Amicus Briefs filed by States in the U.S. Supreme Court, NAAG \(2018\)](#)
3. [The State of the State Before the Supreme Court, Empirical SCOTUS \(2018\)](#)
4. [Dan Schweitzer, Who Argues for the States in the U.S. Supreme Court \(2017\)](#)
5. [Kevin C. Newsom, The State Solicitor General Boom, 32 Appellate Practice J. 6 \(2013\)](#)
6. [Where Are They Now? Former State Solicitor Generals, Newspaper articles about former State Solicitor Generals, and Lists of Judges who are former State Solicitor Generals](#)
7. [Respondent's Brief \(Ted Cruz\), \*Medellín v. Dretke\* Director, Texas Department Of Criminal Justice, Correctional Institutions \(2005\) \(Winner of NAAG Best Brief Award\) \(supplemental reading\)](#)
8. [Roper v. Simmons, State of Alabama, et al. Amicus Brief \(2004\) \(Kevin Newsom\)](#)
9. [Roper v. Simmons, 543 U.S. 551 \(2005\) \(Edited\)](#)
10. [Jenny Deam, The Journey from Wisconsin to Texas and the ruling that struck down the ACA, Houston Chronicle \(Jan. 11, 2019\)](#)
11. [AG Memo on Nationwide Injunctions \(Sept. 13, 2018\)](#)
12. [Massachusetts v. Environmental Protection Agency, 549 U.S. 497 \(2007\), June 23, 2014](#)

## Week #5 – Feb. 18, 2019

### Consumer Protection

Since the passage of state Unfair and Deceptive Practices Acts (UDAP) in the late 1970's, all State Attorneys General have responsibility in the area of consumer protection, which increasingly includes privacy issues. This week discusses the broad nature of that authority and how Attorneys General cooperate with each other on multistate matters.

1. [Mass. Gen. L. ch 93A: Regulation of Business Practices for Consumer's Protection \(Massachusetts Consumer Protection Statute\)](#)
2. [Henry N. Butler & Joshua D. Wright, \*Are State Consumer Protection Acts Really Little-FTC Acts?\*, 63 Fla. L. Rev. 163 \(2011\)](#)
3. [Minnesota Attorney General v. Accretive \(various articles\)](#) (2008 - 2016)
4. [Collection of Uber Readings](#) (2016 - 2018)
5. [NY Internet Access Consumer Case Readings](#) (2018 - 2019)
6. [Danielle Keats Citron, \*The Privacy Policymaking of State Attorneys General\*, 92 Notre Dame L. Rev. 747 \(2016\) \(supplemental reading\)](#)
7. [Paul Nolette, \*State attorneys general are more and more powerful. Is that a problem?\*, Washington Post \(March 5, 2015\) \(supplemental reading\)](#)
8. [\*AT&T Mobility LLC v. Concepcion\*, 131 S. Ct. 1740 \(2011\)](#)
9. [Newsletter summarizing AG consumer protection actions](#), Each class member will be responsible for selecting at least one matter from the website sampling to discuss in class

## Week #6 – Feb. 25, 2019

### Multistate Advocacy & Private Counsel

Although State Attorneys General engaged in multistate matters for years, they burst onto the national scene with the over \$200 billion settlement against the tobacco companies, with many of the States relying on outside plaintiffs' contingency counsel. Following that case, there was a backlash against the use of plaintiffs' contingency counsel, with court decisions and legislative efforts to curtail the use of such counsel, or at least provide greater transparency.

1. [Baldwin Accord Criticized](#), New York Times (Feb. 5, 1985)
2. [Thomas A. Schmerling, Stag Hunting with the State AG: Anti-Tobacco Litigation and the Emergence of Cooperation Among State Attorneys General](#), 25 Law & Policy 429 (2003) (supplemental reading)
3. [Tobacco](#) (review the stateag.org archives for articles on the tobacco case) (supplemental reading)
4. [Jason Lynch, Federalism, Separation of Powers, and the Role of State Attorneys General in Multistate Litigation](#), 101 Colum. L. Rev. 1998 (2001)
5. [Standard and Poor's Articles](#)
6. [Ct. AG Release, Ct. Leads Settlement with Career Education Corp.](#) (Jan. 2019)
7. [State v. Lead Industries Association, Inc.](#), 951 A.2d 428 (R.I. 2008) (Edited)
8. [American Legislative Exchange Council, Private Attorney General Retention Sunshine Act](#)
9. [Ryan Luby, Attorney general \[Hector Balderas\] unveils changes on hiring private lawyers](#), KOB Eyewitness News 4, March 30, 2015
10. [Leah Godesky, State Attorneys General and Contingency Fee Arrangements: An Affront to the Neutrality Doctrine?](#) 42 Colum. J. of Law & Social Problems 587 (2009) (supplemental reading)
11. [Potential Multistate Case Hypothetical](#)



## **Week #7 – March 4, 2019**

### **Negotiation**

This week, we put to use the information we have learned so far about Attorneys' General, multistate litigation, and outside counsel by engaging in a mock negotiation between a bank (along with its insurer) on the one hand, and the States (along with outside counsel), on the other hand.

The problem is posted above, along with the character assignments. The readings are designed to provide background on the financial crisis and the States' approaches to dealing with that crisis that might help you in your strategy. Each student also will be given secret, personal instructions the week before the exercise that you may share, or not, with your team or with the other side, as you see fit. Each side should meet ahead of class to discuss strategy.

As instructed in the problem, each team should meet beforehand to map out strategy. You cannot meet with the other side or with another section. Come to class prepared to negotiate. The negotiation will be in real time. In other words, Prof. Brann will give you a set amount of minutes that will not be extended under any circumstances.

1. [Negotiation Background](#)
2. [Negotiation Character List](#)
3. [Peacock Household Settlement \(2010\) \(supplemental reading\)](#)
4. [Department of Justice, \*Federal Government and State Attorneys General Reach \\$25 Billion Agreement with Five Largest Mortgage Servicers to Address Mortgage Loan Servicing and Foreclosure Abuses\* \(2016\) \(supplemental reading\)](#)

### **Spring Break**

## **Week #8 – March 18, 2019**

### **Relationship with Federal Government**

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 and in some states attorneys general attempt to either challenge or prompt federal action. This section analyzes this complex and changing relationship.

We begin with the role of State attorneys general that everyone knows about today, namely, suing the federal government. Although people think of that as Republican AGs suing Obama and Democratic AGs suing Trump, it is more than that, and much older than that. Then, we look at the role of State attorneys general working with the federal government. Finally, we consider the role of preemption in which the federal government tries to prevent State attorneys general from taking action.

### **Opposition to the Federal Government**

1. [U.P.I., \*States Sue Over Acid Rain\* \(Mar. 20, 1984\)](#)
2. [Brooke A. Masters, \*States Flex Prosecutorial Muscle: AG's Move Into What Was Once Federal Territory\*, Washington Post \(Jan. 12, 2005\) \(supplemental reading\)](#)
3. [Texas vs. the Feds — A Look at the Lawsuits, Texas Tribune \(Jan. 11, 2017\)](#)
4. [Lauren Dezenski, \*In Fight Against Trump, Democratic AGs Take a Page from GOP\*, Politico \(Feb. 7, 2018\)](#)

### **Cooperation with the Federal Government**

1. [Gara, Antoine, \*Federal Judge Rules In Favor Of FTC Challenge To Sysco And US Foods Merger\*, Forbes \(June 23, 2015\)](#)
2. [Louis Jacobson, \*Without Obama to Sue, What are Republican AGs Up To, Governing\* \(Aug. 28, 2017\)](#)

### **Preemption by the Federal Government**

1. [Robert Berner, \*They Warned Us About the Mortgage Crisis\*, Business Week \(Oct. 9, 2008\) \(supplemental reading\)](#)
2. [Obama Preemption Order, The White House Office Of The Press Secretary \(May 20, 2009\)](#)
3. [Trevor W. Morrison, \*The State Attorney General and Preemption\* \(2009\) \(supplemental reading\)](#)
4. [Clean Energy in the Age of Trump Means Federal Preemption of State Incentives, Renewable Energy World](#)
5. [After Scaling Back Student Loan Regulations, Administration Tries to Stop State Efforts, New York Times \(Sept 9, 2018\)](#)

## Week #9 – March 25, 2019

### Politicization of the Attorney General

With Attorneys General playing a larger and larger national role, all sides of the political spectrum increasingly attempt to influence Attorneys General. Eric Lipton of the New York Times wrote a Pulitzer Prize winning series on lobbying Democratic and Republican Attorneys General. Following *Citizens United*, increasingly “dark money” is used to challenge or defeat Attorneys General who have taken or may take positions adverse to certain interests. This week considers the increasing politicization of Attorneys General, the possible impacts of such politicization, and whether there is anything that can or should be done about it.

To help us navigate through this swamp, the former Connecticut Attorney General George Jepson will join us. In addition to being one of the most respected Attorneys General when he served, acting as lead counsel on a number of the major multistate cases we discuss this semester, he served as the head of the Democratic Attorneys General Association.

1. [Eric Lipton, \*Lobbyists, Bearing Gifts, Pursue Attorneys General\*, New York Times \(Oct. 28, 2014\)](#)
2. [Eric Lipton, \*Energy Firms in Secretive Alliance with Attorneys General\*, New York Times \(Dec. 6, 2014\)](#)
3. [Eric Lipton, \*Lawyers Create Big Paydays by Coaxing Attorneys General to Sue\*, New York Times \(Dec. 18, 2014\)](#)
4. [Paul Nolette, \*State Litigation During the Obama Administration: Diverging Agendas in an Era of Polarizing Politics\*, 44 Publicus: the Journal of Federalism 451 \(2014\) \(supplemental reading\)](#)
5. [\*Citizens United v. FEC\*, 558 U.S. 310 \(2010\) \(edited\)](#)
6. [Montana AG Blue Cross-Blue Shield Articles \(2012-14\)](#)
7. [Dan Levine and Lawrence Hurley, “These are desperate times”: Big money is pouring into state attorney general races, Business Insider \(July 31, 2017\)](#)

## Week #10 – April 1, 2019

### Criminal Jurisdiction, Criminal Justice Reform, and Public Corruption

The extent to which State Attorneys General have criminal jurisdiction varies from State to State. But regardless of the extent of their actual legal authority, they are at the forefront of the national debate over criminal justice reform. Public corruption cases are often the most challenging, sensitive, and complicated criminal matters that State Attorneys General face. This class will focus on the challenges that arise under the criminal jurisdiction of attorneys general with a discussion of the appropriate ways in which State Attorneys General respond to allegations of corruption and ethics violations by state and local elected officials.

The flip side of this issue is that several attorneys general have themselves been subject to criminal prosecution for actions taken while in office, and have also been criticized for ethical violations on a wide variety of issues.

1. [Chris Toth, et al., Chapter 17, Attorneys General and Criminal Law, State Attorneys General Powers and Responsibilities \(2015\)](#)
2. [Various District Attorney Cases referred to Attorney General \(2011 - 2017\)](#)
3. [Commonwealth v. Powers Fasteners, Inc. Docket No 07-10802 \(Mass. Super. Ct.\) \(Dec. 12, 2007\)](#)
4. [State v. Peters, CR No. 98-2467 \(Hawaii Cir. Ct.\) \(Mar. 23, 1998\) \(supplemental reading\)](#)
5. [New Mexico Attorney General's parallel proceedings policy \(Mar. 9, 2011\)](#)
6. [Nevada Attorney General Indictment of Nevada Lt. Governor case and dismissal - Various articles \(2008 - 2009\)](#)
7. [People v. Earley, Criminal Complaint \(Dec. 19, 2016\) \(supplemental reading\)](#)
8. [Paul Egan, Schuette's office OK'd Flint order in alleged tainted-water crimes, Detroit Free Press \(Dec. 27, 2016\)](#)
9. [Isaac Lara, Shielded from Justice: How State Attorneys General Can Provide Structural Remedies to the Criminal Prosecutions of Police Officers, 50 Colum. J.L. & Soc. Probs. 551 \(2017\) \(supplemental reading\)](#)
10. [Criminal justice reform: each class member will be responsible for selecting one initiative to discuss in class](#)
11. [What will change about the Chicago police under the consent decree?, Chicago Tribune \(Feb. 1, 2019\)](#)
12. [McDonnell v. United States, 136 S. Ct. 2355 \(2016\) \(supplemental reading\)](#)
13. [New Mexico Attorney General Prosecutes Secretary of State \(2015\)](#)
14. [Jon Hurdle and Richard Pérez-Peña, Kathleen Kane, Former Pennsylvania Attorney General, Sentenced to Prison, New York Times \(Oct. 24, 2016\) \(supplemental reading\)](#)
15. [The Pennsylvania report on clergy sex abuse spawned a wave of probes nationwide. Now what?, Washington Post \(Nov. 22, 2018\)](#)

16. [\*AG Jennings tells prosecutors to seek lesser prison sentences for some crimes.\*](#)  
[Delaware News Journal \(Feb. 19, 2019\)](#)

## **Week #11 – April 8, 2019**

### **The Role of Attorneys General on Immigration and Diversity**

In addition to their challenges to the immigration policies of Presidents Obama and Trump, Attorneys General on both sides of the aisle are involved in numerous issues affecting immigration and diversity. For the discussion of emergency declaration and “the wall,” additional instructions will be provided by email prior to class.

#### **Statistics on Immigration**

1. [Jie Zong, Jeanne Batalova and Jeffrey Hallock, \*Frequently Requested Statistics on Immigrants and Immigration in the United States\*, Migration Policy Institute \(Feb. 8, 2018\)](#)
2. [Pew Research Center, \*U.S. unauthorized immigrant population estimates by state, 2016\* \(Feb. 5, 2019\)](#)

#### **National Immigration Policy and Attorney General Reaction**

1. [Maureen Hayden, \*Six years in, Greg Zoeller juggles conflicting roles\*, News and Tribune \(Indiana\) \(Dec. 22, 2014\)](#)
2. [Georgia Attorney General Opinion on Syrian Refugees \(Dec. 30, 2015\)](#)
3. [Stephanie Wang, \*Judge sharply questions defense of Indiana’s Syrian refugee ban\*, IndyStar \(Sept. 16, 2016\)](#)
4. [Texas Attorney General Letter to U.S. Attorney General on DACA \(June 29, 2017\) \(supplemental reading\)](#)
5. [California Attorney General Letter to President on DACA \(July 21, 2017\) \(supplemental reading\)](#)

#### **Immigrant Consumer Protection and Education**

1. [New York Office of the Attorney General, \*AG Schneiderman Files Civil Rights Lawsuit Against Utica City School District Regarding Enrollment Barriers Face by Immigrant and Refugee Students\* \(Nov. 18, 2015\).](#)
2. [Attorney General and Education Commissioner Advise Schools on Protecting Immigrant Students, New York State Department of Education \(2016\)](#)
3. [Massachusetts Attorney General’s Office, \*Roslindale Grocery Store Cited \\$300,000 for Failing to Pay Overtime and Sunday Wages, Hindering Investigation\* \(Sept. 18, 2015\).](#)
4. [Illinois Attorney General’s Office, \*Madigan Lawsuit Alleges Immigrant Worker Abuse by Employment Agencies and Chinese Buffet Restaurants\* \(Nov. 13, 2015\)](#)
5. [Washington Attorney General’s Office, \*AG Announces Sweep to Crack Down on Illegal Immigration Assistance\* \(Aug. 19, 2015\) \(supplemental reading\)](#)

6. [AG's Issue Urgent Fraud Alert on ICE Immigration Scams, Madison County Courier \(Feb. 19, 2017\) \(supplemental reading\)](#)

### **Sanctuary Cities and Immigration Enforcement**

1. [8 U.S.C § 1373](#)
2. [Executive Order 13768 \(Jan. 25, 2017\)](#)
3. [Emma Platoff, AG Ken Paxton sues San Antonio \(Nov.30, 2018\)](#)
4. [New York Attorney General, Guidance Concerning Local Authority Participation in Immigration Enforcement and Model Sanctuary Provisions \(March 2017\) \(supplemental reading\)](#)

### **Emergency Declaration and “The Wall”**

1. [Presidential Proclamation Declaring National Emergency \(Feb. 15, 2019\) \(supplemental reading\)](#)
2. [California Complaint on National Emergency \(Feb. 18, 2019\) \(supplemental reading\)](#)
3. [Sierra Club Complaint on National Emergency \(Feb. 19, 2019\) \(supplemental reading\)](#)
4. [Landowner Complaint on National Emergency \(Feb. 15, 2019\) \(supplemental reading\)](#)
5. [Statement by Attorney General Josh Shapiro \(Feb. 18, 2019\) \(supplemental reading\)](#)
6. [State Attorneys General, Donald Trump’s national emergency declaration is constitutional, USA Today \(March 14, 2019\) \(supplemental reading\)](#)

## Week #12 – April 15, 2019

### The Role of State Attorneys General in Non-Profit Governance

State Attorneys General have always had some responsibility to review the operations of non-profit charities and foundations. Unlike like for-profit sectors of the economy, which answer to boards of directors and shareholders, Attorneys General often are the only entity with responsibility over non-profit charities and foundations. Particularly as non-profit organizations, such as hospitals, health insurers, and universities, contribute over \$900 billion to the economy, the Attorney Generals' increased use of that authority has taken on national significance.

1. [Brice McKeever and Sarah L. Pettijohn, \*The Nonprofit Sector in Brief\* \(2014\)](#)
2. [Bob Carlson, Missouri, Assistant Attorney General, \*Chapter 12, Protection and Regulation of Nonprofits and Charitable Assets, State Attorneys General Powers and Responsibilities\* \(2013\)](#)
3. ["A Guide to Charitable Trust Case Review: Bob Carlson, Missouri Assistant Attorney General and Hugh Jones, Hawaii, Assistant Attorney General. 2010](#)
4. [Cohen, Rick, "Danger Sign: AGs Succumb to Special Interest Lobbying", \*Nonprofit Quarterly\*, November 3, 2014](#)
5. [Various Charities Cases \(2003 - 2017\)](#)
6. [Trump Foundation Articles \(2016 – 2018\)](#)
7. [Trump Foundation Complaint \(June 14, 2018\) \(supplemental reading\)](#)



## **Week #13 – April 22, 2019**

### **Attorneys General and the Issuance of AG Opinions**

All State Attorneys General have the authority to issue formal opinions. They provide advice on issues large and small to government actors, from municipalities up to the Governor. This section reviews that authority, and the factors that go into when, and when not, to issue an Attorney General opinion.

1. [Emily Myers, Antitrust Chief Counsel, NAAG; Andy Bennett, Judge, Tennessee Court of Appeals, Chapter 5, Opinions, State Attorneys General Powers and Responsibilities \(2013\)](#)
2. [Aid for Women v. Foulston, 427 F. Supp. 2d 1093 \(D. Kan. 2006\), vacated as moot following repeal of statute, 2007 WL 6787808 \(10th Cir. 2007\) \(Edited\)](#)
3. [Jeff Schapiro, Virginia Attorney General Ken Cuccinelli was just doing his job, Richmond Times-Dispatch \(September 16, 2012\)](#) (supplemental reading)
4. [Selected Attorney General Opinions \(2007 - 2017\)](#)
5. [What's Your Opinion?](#) Opinion Hypotheticals