Federal Abstention Doctrines: Tools for Motions To Dismiss?

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Agenda

- Basic rationale of abstention doctrines.
- Rooker-Feldman.
- Pullman.
- Burford.
- Younger.
- Colorado River.
- Suggested strategies.

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Overview of Abstention Doctrines

- **Purpose:** To honor "Our Federalism," Federal courts should provide comity to state courts by deferring to them under certain circumstances.
- **Scope:** Typically involved when lawsuits involving the same issues are brought in two different court systems, or where the state has clearly established a mechanism for answering questions posed to the federal courts.
- **Note:** "Not all cases in which the issue of abstention is raised fit neatly into an existing abstention doctrine." *Bank of New York Mellon v. Jefferson Cty., Alabama*, 2009 WL 10704121 (N.D. Ala. 2009)

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1. Rooker Feldman

Rooker-Feldman

- *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923).
- *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983).

Summary: Rooker-Feldman

- U.S. District Courts cannot exercise appellate jurisdiction over a state court's decision.
- Only the U.S. Supreme Court can exercise appellate jurisdiction over a state court's decision.

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Rooker

"A wife and husband, both financially embarrassed, transferred certain land in Indiana to a corporate trustee pursuant to an arrangement whereby the trustee was to advance moneys for their benefit . . . ."

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Rooker (cont.)

- Litigation started in Indiana Circuit Court in 1912.
- Decisions by Indiana Supreme Court in 1915, 1921, 1923, 1924, 1926, 1931, and 1936.
- Aggrieved parties appealed to U.S. Supreme Court, but didn't get the relief they wanted.
- Then filed suit in U.S. District Court, arguing that they could invoke the court's equity jurisdiction and that an Indiana Circuit Court decision was invalid under the contracts clause and Equal Protection Clause.

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Rooker (cont.)

- Supreme Court ruled that the district court was clearly without jurisdiction to address the issue.
- Since state supreme court had already ruled on case, U.S. District Court would be exercising appellate jurisdiction, but has only original jurisdiction.
- Only the United States Supreme Court has appellate jurisdiction over state court judgments. Lower federal courts do not have jurisdiction to review state court judgments.

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Feldman

- *Rooker* was little used until 60 years later when two plaintiffs sued over a court's denial of their request to sit for the D.C. Bar.
- The Court in *District of Columbia Court of Appeals v. Feldman* reaffirmed *Rooker.*

Summary of *Rooker-Feldman*

- "A United States District Court has **no authority** to review final judgments of a state court in judicial proceedings. Review of such judgments may be had only in [the United States Supreme Court]." *District of Columbia Court of Appeals v. Feldman,* 460 U.S. 462, 482 (1983).
- "The *Rooker–Feldman* doctrine . . . is confined to cases . . . brought by **state-court losers** complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284, 125 S. Ct. 1517, 1521–22, 161 L. Ed. 2d 454 (2005)

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Limits of *Rooker-Feldman*

- A civil suit cannot be maintained in federal court if it is "**inextricably intertwined**" with the state court judgment. *Goodman ex rel. Goodman v. Sipos*, 259 F.3d 1327, 1332 (11th Cir. 2001).
- A claim is inextricably intertwined if it would "effectively nullify" the state court judgment, i.e. succeed only to the extent that the state court wrongly decided the issues. *Id.*

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Parallel Litigation

- However, in certain circumstances state and federal proceedings can be **parallel**.
- "When there is parallel state and federal litigation, *Rooker-Feldman* is not triggered simply by the entry of judgment in state court. " *Exxon*, *supra*.
- That said, preclusion principles and other abstention doctrines may apply.

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Recent 11th Circuit cases

- *Nicholson v. Shafe,* 558 F.3d 1266 (11th Cir. 2009).
- *Antoine v. Verin,* 746 Fed.Appx. 802 (11th Cir. 2018).

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Nicholson

- Nicholson sued Shafe in Georgia state court for accounting of profits from copyright infringement.
- Nicholson lost in state court following jury trial.
- Nicholson appealed to Georgia Court of Appeals
- On same day, Nicholson appealed, she also filed suit in U.S. District Court for N.D. Ga.

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Nicholson (cont.)

- U.S. District Court dismissed action *sua sponte* for lack of jurisdiction based on *Rooker-Feldman*.
- District court considered jury verdict in state court a final decision.
- Eleventh Circuit **reversed** because the appeal to the Georgia Court of Appeals was underway when suit was filed in U.S. District Court.
- *Rooker-Feldman* doesn't apply UNLESS the decisions of state courts are **final**.

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Antoine

- In 2009, Antoine filed suit in Jefferson County, Ala., Circuit Court against her neighbors because, she claimed, her property was being flooded by the neighbors.
- In 2011, Jefferson County Circuit Court ruled against Antoine, ordered her to pay damages to neighbors, and required her to establish a drain so that the neighbors' property wasn't flooded.

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Antoine (cont.)

- Court of Civil Appeals affirmed, Supreme Court denied cert.
- Antoine (pro se) filed suit U.S. District Court, N.D. Ala., against the judges who ruled against her.
- Eleventh Circuit held that "Antoine's claims against the Alabama judges fall into the narrow heartland of the *Rooker-Feldman* doctrine." *Antoine v. Verin*, 746 F. App'x 802, 804 (11th Cir. 2018)

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Limitations

- Two Alabama courts have rejected the application of *Rooker-Feldman* to claims that they were deprived of their right to indigency hearings.
  - *Brannon v. City of Gadsden*, 2015 WL1040824, at *6-10 (N.D. Ala. Mar. 10, 2015)
  - *Ray v. Judicial Corrections Servs., Inc.,* 2013 WL 5428395, at *10-11 (N.D. Ala. Sept. 26, 2013)

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Closely-Related Doctrine

- Under the Supreme Court's well-known decision in *Heck v. Humphrey,* a plaintiff is barred from recovering damages in a § 1983 lawsuit if prevailing in that suit would necessarily imply that an underlying state court conviction or sentence was invalid.
- *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994).

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2. Pullman

Pullman

- *R.R. Comm'n of Tex. v. Pullman Co.,* 312 U.S. 496 (1941)
- "If there are unsettled questions of state law in a case that may make it unnecessary to decide a federal constitutional question, the federal court should abstain until the state court has resolved the state questions." 17A Fed. Prac. & Proc. Juris. § 4241 (3d ed.), a.k.a. *Moore's Federal Practice.*

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Pullman (cont.)

- "This principle [of Pullman abstention] does not . . . . involve the abdication of federal jurisdiction, but only the postponement of its exercise; it serves the policy of comity inherent in the doctrine of abstention; and it spares the federal courts of unnecessary constitutional adjudication."
- *Harrison v. Nat'l Ass'n for the Advancement of Colored People,* 360 U.S. 167, 177 (1959).

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Pullman (cont.)

As established by railroad companies in Texas in the 1940s:

- If passenger train had two or more sleepers (Pullman cars), **white** Pullman conductor supervised all sleepers, but **black** porters were assigned to each sleeper.
- If passenger train had only one sleeper, one **black** porter assigned to sleeper under the train conductor's direction.

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Pullman (cont.)

- Texas Railroad Commission (RRC) adopted regulation requiring trains with one sleeper have a white Pullman conductor in charge of sleeper.
- In essence, the regulation deprived black porters of jobs and gave them to white conductors.
- Railroad companies filed suit and were joined by porters.
- Suit filed alleging violation of federal law, but there were also contentions that the RRC lacked ***state law*** authority to enact the regulation.

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Pullman (cont.)

- "If there was no warrant in state law for the Commission's assumption of authority there is an end of the litigation; the constitutional issue does not arise. The law of Texas appears to furnish easy and ample means for determining the Commission's authority."
- "In this situation a federal court of equity is asked to decide an issue by making a tentative answer which may be displaced tomorrow by a state adjudication."
- "Few public interests have a higher claim upon the discretion of a federal chancellor than the avoidance of needless friction with state policies, where the policy relates to the **enforcement of the criminal law** . . . or the final authority of a state court to **interpret doubtful regulatory laws of the stat**e."

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Pullman (cont.)

- Important to note that the Court in Pullman mandated a STAY with preservation of the federal claims, rather than an outright dismissal.
- "In the absence of any showing that these obvious methods for securing a definitive ruling in the state courts cannot be pursued with **full protection of the constitutional claim**, the district court should exercise its wise discretion by staying its hands."

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Pullman Summary

- A federal court can abstain under *Pullman*, if (1) the case presents an unsettled question of state law, and (2) the question of state law is dispositive of the case or would materially alter the constitutional question presented.
- The Supreme Court has repeatedly held abstention is inappropriate when First Amendment rights, rights related to school desegregation, and voting rights are alleged at issue.

  League of Women Voters of Fla., Inc. v. Detzner, 354 F. Supp. 3d 1280, 1283 (N.D. Fla. 2018)

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Recent 11th Circuit case

- *Palmer Trinity Private Sch., Inc. v. Vill. of Palmetto Bay, Fla.*, 802 F. Supp. 2d 1322 (S.D. Fla. 2011)

Palmer Trinity

- Private school brought state court action against village, challenging denial of application to rezone property for school expansion.
- Case removed to federal court based upon federal constitutional issues raised in complaint.
- School moved to remand, alleging unsettled issues of state law justifying *Pullman* abstention.
- Major issue in case was whether an ordinance violated the Florida constitution, and contradicted a prior Florida appellate holding.

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Palmer Trinity

- Court held that "Section 2–106 has never been interpreted by Florida courts, and it is unclear if Section 2–106 stands up to Florida constitutional scrutiny in light of [Florida appellate decisions]."
- "Among the cases that call most insistently for abstention are those in which the federal constitutional challenge turns on a state statute, the meaning of which is unclear under state law."
- Moreover, "Eleventh Circuit case law establishes a consistent; pattern of abstaining under *Pullman* in **cases involving constitutional challenges to zoning laws** because such laws are local in nature and better decided by state courts."

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3. Burford

Burford

- *Burford v. Sun Oil Co.,* 319 U.S. 315 (1943).
- *Burford-type* abstention . . . . is premised on a belief that in particular areas of the law any intervention by the federal court would have an impermissibly disruptive effect on state policies. 17A Fed. Prac. & Proc. Juris. § 4245 (3d ed.)
  - A similar abstention doctrine exists by the name of ***Thibodaux* abstention**, named for *Louisiana Power & Light v. Thibodaux*, 300 U.S. 25 (1959) (where matters "normally turn on legislation with much local variation interpreted in local settings," it was proper for federal courts to defer to state courts "in a matter close to the political interests of a State" in the interests of "harmonious federal-state relations.").

Burford (cont.)

- Texas Railroad Commission (RRC) also has authority to regulate oil wells, especially to prevent interference of one well with another.
- RRC granted Burford permission to drill four oil wells.
- Sun filed suit in U.S. District Court, asserting it had been denied due process of law.
- Sought injunction to prevent enforcement of RRC's order.

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Burford (cont.)

- Citing *Pullman,* Supreme Court held federal court should avoid needless friction with state policies and courts.
- There had been a history of Federal courts interpreting Texas law: "These federal court decisions on state law have created a constant task for the Texas Governor, the Texas legislature, and the Railroad Commission."

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Burford (cont.)

- Court held that Texas had fully developed a thorough system of review of RRC decisions and that repeated federal decisions on similar issues was interfering with orderly administration of state system.

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Recent cases citing *Burford*

- *Burford* is rarely invoked, and there are not many recent cases.
- Eleventh Circuit has rejected *Burford* abstention in zoning cases, see *Nasser v. Homewood*, 671 F.2d 432 (11t Cir. 1982) and recent case law is consistent. See *Silvey v. City of Lookout Mountain, Ga*., 2018 WL 8619795 (N.D. Ga. 2018).
- However, *Burford* might have some application to complex statutory schemes such as state or municipal tax laws (cf. *Fair Assessment Ass'n v. McNary*, 454 U.S. 100 (1981) (federal courts should not weigh the constitutionality of state tax laws)).
- *Furthermore*, the closely related doctrine of *Thibodaux* abstention seems to be used more often.

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Terex Utilities, Inc. v. Alexander City

- One of my cases, ultimately settled without a decision.
- Alexander City sued Terex seeking declaratory relief in state court arising out of a demand for indemnification that was made upon the City by Terex in connection with a separate lawsuit.
- The City contended that the demand for indemnity was barred by Article IV, Section 94 of the Alabama Constitution of 1901.
- Terex counterclaimed against the City and then removed the action to federal court, claiming diversity.
- Alexander City moved to remand based upon *Thibodaux*.

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Terex (cont.)

- City argued that abstention was warranted because the action involved difficult, important, and unanswered questions of state law, the resolution of which was best left to state courts.
- City argued it is the sovereign prerogative of state courts to establish coherent state policy under the state constitution.
- In ***Thibodaux***, the Supreme Court instructed that federal district courts should **abstain** from adjudicating matters before them where: (1) jurisdiction is predicated solely on diversity; (2) the case involves an unsettled question of state law; and (3) the subject matter of the unsettled question implicates important state interests.

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4. Younger

Younger

- *Younger v. Harris,* 401 U.S. 37 (1971).
- Recognizes the general rule that a federal court should not enjoin criminal prosecution in state court except under unusual circumstances.
- Violation of a longstanding judicial policy and of 28 U.S.C. § 2283, which provides—
  - A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.

Notably, the Court in *Younger* "**express[ed] no view** about the circumstances under which federal courts may act when there is no prosecution pending in state courts at the time the federal proceeding is begun."

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Younger (cont.)

- Harris was indicted in Los Angeles Superior Court for violating California Criminal Syndicalism Act.
  - Advocating commission of a crime.
  - Use of force or violence to cause—
    - Change in industrial ownership or control.
    - Any political change.
  - Harris was passing out leaflets.

No indication in record of what leaflets said.

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Younger (cont.)

- In state court, Harris moved to dismiss because of the statute was unconstitutional.
- Superior court denied dismissal.
- Harris appealed to California Supreme Court, which turned down his appeal.
- Harris then filed suit in U.S. District Court, C.D. California.

Younger (cont.)

- Harris alleged that prosecution violated First Amendment rights.
- Sought injunction against district attorney of Los Angeles County to stop prosecution.
- U.S. District Court (three-judge panel) found California statute was void for vagueness and overbreadth in violation of First and Fourteenth Amendments.
- Three-judge panel issued injunction.

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Younger (cont.)

- U.S. Supreme Court **reversed**.
- "[T]he possible unconstitutionality of a statute 'on its face' does not in itself justify an injunction against good-faith attempts to enforce it, and . . . appellee Harris has failed to make any showing of bad faith, harassment, or any other unusual circumstance that would call for equitable relief."

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Judicial exception

- Where a person about to be prosecuted in a state court can show that he will suffer irreparable damages unless the proceeding in the state court is enjoined. *Ex parte Young,* 209 U.S. 123 (1908).
  - But see *Dombrowski v. Pfister,* 380 U.S. 489 (1965). Criminal prosecutions in Louisiana against blacks were to harass and discourage them from asserting their rights. Therefore, prosecutions were enjoined.
  - Known as the "bad faith" exception.

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Younger applied to civil cases

- *Younger* has been extended to federal suits seeking only declaratory relief. *Samuels v. Mackell,* 401 U.S. 66, 69 (1971).
- *Younger* also fully applicable to § 1983 actions for damages. *Doby v. Strength,* 758 F.2d 1405, 1405-1406 (11th Cir. 1985).
  - In Doby, the civil plaintiff had been convicted of armed robbery.
  - At the time that he filed his federal action, his appeal of his state court conviction was pending.
  - In his federal action, he alleged that he was subject to an illegal search and illegal arrest, and asked for money damages.
  - Eleventh Circuit held that *Younger* abstention was proper because the plaintiff had raised the same issues in the state criminal proceedings.

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Three-part test for *Younger* Abstention

- Abstention is proper when proceedings—
  1. Are currently underway in state court.
  2. Implicate important state interests.
  3. Provide an adequate opportunity to raise constitutional challenges.

     Middlesex County Ethics Comm. v. Garden State Bar Ass'n, 457 U.S. 423, 432 (1982).
- Discussed and affirmed again in *31 Foster Children v. Bush,* 329 F.3d 1255, 1274–75 (11th Cir. 2003).

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Recent 11th Circuit Decisions

- *Benefield v. City of Albertville, Ala.*, No. CV 4:12-2926-RBP, 2013 WL 28051, at *1 (N.D. Ala. Jan. 2, 2013)
- *Davis v. Self,* 547 Fed.Appx. 927 (11th Cir. 2013).
- *Butler v. Ala. Judicial Inquiry Comm'n,* 261 F.3d 1154 (11th Cir. 2001).

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Benefield

- Case arose out of an alternative resolution plea agreement providing that plaintiff pled guilty but prosecution and sentencing on the plea would be deferred so long as plaintiff met certain conditions.
- If conditions were met, court would adjudicate guilty plea and dismiss the case rather than impose a sentence.
- Part of the plea was a $500 restitution provision with the money payable to the City.
- Before completing his agreement, plaintiff sued in federal court, claiming the restitution was unlawful because it was payable to the City, yet the City had been caused no harm by his actions.

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Benefield (cont.)

- Defendants moved to abstain under *Younger*, arguing that because the municipal court had not yet passed on the decision whether or not to dismiss the prosecution (i.e., the sentencing decision), the action remained "pending" and it would be inappropriate for a federal court to interfere.
- Although Benefield was not seeking an **injunction** against criminal proceedings, he was seeking federal declaratory relief and damages under 42 U.S.C. 1983.

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Benefield (cont.)

- We applied the test set out in *31 Foster Children v. Bush*, 329 F.3d 1255, 1274 (11th Cir. 2003):
  - Proceedings constitute an ongoing state judicial proceeding
  - Proceedings implicate important state interests
  - There is adequate opportunity in the state proceedings to raise constitutional challenges

  Noted that *Huffman v. Pursue Ltd.*, 420 U.S. 592 (1975) provides that "*Younger* standards must be met to justify federal intervention in a state judicial proceeding as to which a losing litigant has not exhausted his state appellate remedies."

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Benefield (cont.)

- Questions were also raised as to whether the state court prosecution was “pending.”
- Eleventh Circuit has held that “the date a plaintiff files his or her federal complaint is the relevant date for purposes of determining the applicability of *Younger* abstention.” *Cromier v. Green*, 141 Fed. Appx. 808, 813 (11th Cir. 2005).

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Benefield (cont.)

- Judge Propst enters unusual order accepting *Younger* abstention as a basis for dismissal, but also containing an appendix summarizing potential application of other abstention doctrines, including:
  - *Rooker-Feldman*
  - *Burford*
  - *Pullman*

Benefield v. City of Albertville, Ala, No. CV 4:12-2926-RBP, 2013 WL 28051, at *3 (N.D. Ala. Jan. 2, 2013)

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Other notable features of *Younger*

- "Matters involving domestic relations and child custody implicate important state interests," to the same extent as criminal matters. *Davis v. Self*, 547 F. App'x 927, 930 (11th Cir. 2013).
- "Whether a claim would likely be successful on the merits in the state court is not what matters. Instead, what matters is whether the plaintiff is *procedurally* prevented from raising his constitutional claims in the state courts." *Davis v. Self*, 547 F. App'x 927, 931 (11th Cir. 2013).

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Other notable features (cont.)

- ”We do not know for certain that these procedures . . . will be available to Justice See. But, in the interest of comity and federalism, we err—if we err at all—on the side of abstaining.” Butler v. Alabama Judicial Inquiry Comm'n, 261 F.3d 1154, 1159 (11th Cir. 2001)
- In other words, Eleventh Circuit held that if there is any reasonable **possibility** that an issue could be raised before a state court, *Younger* applies.

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Younger as Applied to Racial Profiling

- *Cooley v DiVecchio*, 307 Fed.Appx. 611, 614 (3rd Cir. 2008) (applying Younger abstention to § 1983 action alleging that alleged excessive bail policy constituted "racial profiling against blacks in Erie County")
- *Rice v. Sayta*, 2012 WL 707037 at *1-2 (S.D. Ga. Mar. 5, 2012, report and recommendation adopted 2012 WL 1119757 (S.D. Ga. Apr. 3, 2012)) (applying *Younger* abstention to claim of racial profiling claim that "detectives who arrested him did so without probable cause")
- *Rewanwar v. Foster*, 2012 WL 1205716 at *2 (E.D. Wis. Apr. 11, 2012) (holding *Younger* abstention applicable to plaintiff's racial profiling claim alleging discrimination on the basis of race in family court proceedings)
- *Lee v. Ingram*, 2012 WL 369931 at *1 (N.D. Tex. Feb. 6, 2012) (applying *Younger* abstention to dismiss § 1983 claim alleging racial profiling by law enforcement officers conducting traffic stops of black motorists)
- *Demetro v. Police Department, City of Cherry Hill*, 2011 WL 5873063 at *12 (D.N.J. Nov. 22, 2011) (applying *Younger* abstention in claim of racial profiling by law enforcement officers allegedly targeting gypsies)

Related Doctrine

- Under the *Wilton-Brillhart* Abstention Doctrine, both the Eleventh Circuit and Supreme Court have cautioned against a district court exercising its jurisdiction over a declaratory judgment action when "another suit is pending in a state court [1] presenting the same issues, [2] not governed by federal law, [3] between the same parties."

  Nat'l Tr. Ins. Co. v. Burdette, 783 F. Supp. 2d 1193, 1196 (M.D. Ala. 2011)

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5. Colorado River

Colorado River

- *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800 (1976).
- Federal court dismissal appropriate when:
  - a parallel proceeding is occurring in state court, and
  - exceptional circumstances are present.

  AAL USA, Inc. v. Black Hall, LLC, 2017 WL 2349546, at *3 (N.D. Ala. 2017).

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Parallel Proceedings

- Only exist where the “proceedings involve substantially the same parties and substantially the same issues.”
- Analysis is supposed to be ”flexible and pragmatic.”
- For instance, ”although a corporation does have a separate legal personhood from the individuals who form it, it would be overly formalistic . . . for the court to simply ignore that the Defendants in this action are principals of the plaintiff corporation in the Madison County action.”
- Same likely goes for members of a city council and a city.

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Exceptional Circumstances

- Six factor test -
  - whether one of the courts has assumed jurisdiction over property
  - the inconvenience of the federal forum
  - the potential for piecemeal litigation
  - the order in which the fora obtained jurisdiction
  - whether state or federal law will be applied
  - the adequacy of the state court to protect the parties' rights.

  Ambrosia Coal & Const. Co. v. Pages Morales, 368 F.3d 1320, 1331 (11th Cir. 2004)

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Colorado River

- On November 14, 1972, U.S. filed suit in U.S. District Court, District of Colorado, to determine water rights of Indian tribes in Colorado Water Division 7.
- Multiple groups intervened as defendants in this federal lawsuit and filed motion to dismiss:
- Some groups also filed a separate lawsuit in state court seeking adjudication of very same water rights on very same property.

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Colorado River (cont.)

- U.S. District Court then dismissed suit started by Federal Government on the basis of abstention doctrine.
- Appeal filed.
- U.S. Supreme Court held that abstention was, in fact, appropriate, as water scarcity is of utmost importance to western states and the states have established elaborate procedures for allocation of water and adjudication of competing claims.

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Colorado River (cont.)

- U.S. Supreme Court then went on to establish a "new" abstention doctrine applicable to cases of **concurrent** jurisdiction.

Three factors identified (later expanded to the six factors set out above):

1. Inconvenience of Federal forum.
2. Desirability of avoiding piecemeal litigation.
3. Order in which jurisdiction was obtained by courts involved.

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11th Circuit Example

- *Moorer v. Demopolis Waterworks & Sewer Bd.*, 374 F.3d 994 (11th Cir. 2004).
- DWSB = Demopolis Waterworks & Sewer Board.

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Moorer

- On April 21, 2003, State of Ala. filed suit in Marengo County Circuit Court against DWSB for violating Ala. Water Pollution Control Act.
- On May 28, 2003, Moorer (a private individual) filed motion to intervene in state court action.
- June 2, 2003, Moorer filed federal court action against DWSB for violating both Federal and state water pollution control acts.

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Moorer (cont.)

- After Moorer was allowed to intervene in state court action, DWSB filed motion in federal court to dismiss Moorer's complaint because of unnecessary duplicative litigation.
- U.S. district court granted DWSB's motion to dismiss.
- Moorer appealed to 11th Circuit.

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Moorer (cont.)

In this case, abstention appropriate because—

- Piecemeal litigation likely to occur if both state and federal actions continued.
- Moorer would have opportunity to raise compliance with permit rules in state court.
- Moorer's rights would be adequately protected because of his intervenor status in state court action.
- Moorer could raise Federal violations in state court action.

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Moorer (cont.)

- But district court should have stayed action, not dismissed action.

Moorer (cont.)

Staying action is better because—

1. State court decision might not address issues that should be addressed, thereby motivating federal court to reactivate the federal action.
2. Stay conserves court resources while avoiding premature rejection of litigant's access to federal court.
3. Stay lessens concerns about statute of limitations.
4. Stay brings action back before same federal judge that action started with.
5. Stay protects rights of all parties without imposing additional costs or burdens in U.S. district court.

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Suggested strategies

- Explore abstention doctrines in establishing your strategies for litigating your case.
- Especially true when litigation has already started in state court or very complex issues of state law are presented.
- Ask to abstain at the very start.
- Recognize that abstention doctrines are flexible, all driven by comity.

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Questions?