Chicago-Kent College of Law

Section 1983 Civil Rights Litigation Conference

Thursday-Friday, April 18-19, 2013

A comprehensive update on liability arising out of §1983, presented by eminent legal scholars and leading practitioners
Who should attend:
Municipal and state attorneys, plaintiffs’ attorneys and criminal defense attorneys.

Why:
Liability arising out of §1983 presents a continuing challenge for all municipal lawyers, private practitioners, and litigators who try cases in this dynamic area. Keeping up with this ever-changing environment is critical. You will learn both the fundamentals and more advanced aspects of §1983 practice and trial skills, and analyze the latest judicial decisions.

Program Highlights

- The Section 1983 Claim
- Municipal and Supervisory Liability
- Substantive Due Process: The Constitutional Guaranty that Multi-Tasks
- Practical Aspects of Trying and Settling Section 1983 Cases: A View From the Federal Bench
- Attorney’s Fees and Related Ethical Issues
- Individual Immunities
- Immigration-Related Issues in Litigating Civil Rights Claims
- Procedural Defenses
- The Supreme Court’s 2011 Term, plus important forthcoming decisions in the Supreme Court’s 2012 Term

NEW Supreme Court Decisions Addressing § 1983

Professor Nahmod is a leading expert on constitutional law, civil rights and the law of §1983. He is the author of Civil Rights and Civil Liberties Litigation: The Law of Section 1983 (4th ed. 2012) and has argued civil rights cases before the U.S. Supreme Court and many other federal courts. A graduate of the University of Chicago and Harvard Law School, he has practiced law in Illinois and Pennsylvania and has written many articles on civil rights and civil liberties questions for professional journals. He also lectures regularly to federal judges on §1983. Professor Nahmod received the Lifetime Achievement Award of the State and Local Government Law Section of the ABA for his work in Section 1983 jurisprudence.

He now blogs on §1983 and constitutional law at nahmodlaw.com.

Program Faculty

**Sheldon H. Nahmod**
Distinguished Professor of Law
Chicago-Kent College of Law
Illinois Institute of Technology

**Gerald M. Birnberg**
Williams Birnberg & Andersen
Houston, Texas

**Karen M. Blum**
Associate Dean & Professor of Law
Suffolk University Law School
Boston, Massachusetts

**Erwin Chemerinsky**
Founding Dean & Distinguished Professor of Law
University of California, Irvine
School of Law, Irvine, California

**Lynn Coyle**
Domínguez & Coyle PLLC
El Paso, Texas

**Jennifer E. Laurin**
Assistant Professor of Law
The University of Texas School of Law, Austin, Texas

**Rosalie B. Levinson**
Phyllis and Richard Duesenberg Professor of Law
University School of Law
Valparaiso, Indiana

**John B. Murphey**
Rosenthal, Murphey, Coblenz & Donahue, Chicago, Illinois

**Honorable Sidney I. Schenker**
Magistrate Judge, Eastern Division
U.S. District Court, Northern
District of Illinois, Chicago, Illinois
Program Schedule

Thursday, April 18, 2013
8:00 a.m.–8:50 a.m.
Registration

8:50 a.m.–9:00 a.m.
Welcome
Sheldon H. Nahmod
IIT Chicago-Kent College of Law

9:00 a.m.–10:00 a.m.
The Section 1983 Claim
• Section 1983 and the Fourteenth Amendment
• Jurisdiction and pleading
• State of mind requirements
• Causation
• Due Process
• Heck v. Humphrey issues
• Malicious prosecution

Sheldon H. Nahmod
IIT Chicago-Kent College of Law

10:00 a.m.–10:15 a.m.
Questions & Answers

10:15 a.m.–10:30 a.m.
Break

10:30 a.m.–11:30 a.m.
Municipal and Supervisory Liability
• Pleading Monell claims after Iqbal
• What constitutes a policy? Who’s a final policymaker? Whose policy is it?
• Single incident liability? Impact of the Supreme Court’s decision in Connick v. Thompson on failure-to-train claims

11:30 a.m.–11:45 a.m.
Questions & Answers

11:45 a.m.–1:00 p.m.
Lunch (on your own)

1:00 p.m.–1:50 p.m.
Substantive Due Process: The Constitutional Guaranty that Multi-Tasks
• Incorporation of the Bill of Rights and gun control
• Protection of non-textual fundamental and core liberty interests: sex, drugs, and suicide
• Protection against “grossly excessive” punitive damages awards
• Protection against harm from private persons: special relationship and danger creation theories
• Protection of arrestees, detainees, employees, students, and landowners from official misconduct that “shocks the conscience”

Rosalie B. Levinson
Valparaiso University School of Law

1:50 p.m.–2:00 p.m.
Questions & Answers
2:00 p.m.–3:00 p.m.  
**Practical Aspects of Trying & Settling Section 1983 Cases: A View From the Federal Bench**

**Settlement Conference**
- Realistic view of the case
- Motions *in limine*
- Jury instructions

**Trial**
- Jury selection
- Presentation of the case
- Evidentiary issues
- “Sidebars”

**Post-Trial Motions**

Honorable Sidney I. Schenkier  
U.S. District Court  
Northern District of Illinois

John B. Murphey  
Rosenthal, Murphey, Coblentz & Donahue

3:00 p.m.–3:15 p.m.  
**Questions & Answers**

3:15 p.m.–3:30 p.m.  
**Break**

3:30 p.m.–4:30 p.m.  
**Attorney’s Fees and Related Ethical Issues**

- Recent Supreme Court cases on attorney’s fees (*Astrue v. Ratliff*: does fee award belong to attorney or to prevailing party?); *Perdue v. Kenny A.* (Can fees be enhanced for exceptional results); *Fox v. Vice* (what standards control award of fees to prevailing defendants); *Lefemine v. Wideman* (are fees available for injunction without money damages recovered?)

- Pending Supreme Court cases (*Marx v. General Rev. Corp.*; *Cloer v. Sec’y HHS*)

- Ethical issues in §1983 cases, including interactive discussion

Gerald M. Birnberg  
Williams, Birnberg & Andersen LLP

4:30 p.m. - 4:45 p.m.  
**Questions & Answers**

4:45 p.m. –5:45 p.m.  
**Reception**

Co-sponsored by Thomson Reuters

Friday, April 19, 2013  
9:00 a.m.–10:15 a.m.  
**Individual Immunities**

- Absolute immunities for prosecutorial, legislative, and judicial acts, especially focusing on recent Supreme Court cases concerning the scope of absolute prosecutorial immunity

- The standard for qualified immunity: What is clearly established law that a reasonable officer should know?

- The sequence for analyzing qualified immunity questions: *Pearson v. Callahan* and its significance

- Pleading in light of *Ashcroft v. Iqbal*

- Liabilities and immunities for private party defendants: *Minecci v. Pollard; Richardson v. McKnight*

Erwin Chemerinsky  
University of California, Irvine School of Law
### Program Schedule

#### 8:00 a.m.–8:50 a.m.
**The Section 1983 Claim**
- Jurisdiction and pleading
  - Heck v. Humphrey
- Due Process
  - Incorporation of the Bill of Rights
  - Monell

#### 9:00 a.m.–10:00 a.m.
**Liability**
- Single incident liability? Impact of a final policymaker? Whose policy is it?
- Pleading
  - Liability of supervisors and landowners from official detention of arrestees, employees, students, the sequence for analyzing substantive due process: protection of non-textual fundamental and core liberty

#### 10:15 a.m.–10:30 a.m.
**Questions & Answers**

#### 10:30 a.m.–10:45 a.m.
**Break**

#### 10:45 a.m.–11:30 a.m.
**Immigration-Related Issues in Litigating Civil Rights Claims**
- How does a party’s immigration status impact discovery, trial presentation and damages
- Identification of Section 1983 liability claims arising out of immigration law enforcement
- How to analyze local law enforcement’s participation in immigration law to determine the risks of Section 1983 liability
- Update on status of state and local immigration enforcement laws such as Arizona’s legislation

**Lynn Coyle**
Dominguez & Coyle PLLC

#### 11:30 a.m.–11:45 a.m.
**Questions & Answers**

#### 11:45 a.m.–1:00 p.m.
**Lunch** (on your own)

#### 1:00 p.m.–2:00 p.m.
**Procedural Defenses**
- Statutes of limitation, accrual and tolling
- Release-dismissal agreements
- Preclusion and abstention
- The Eleventh Amendment and related bars to suing arms of the state

**Jennifer E. Laurin**
The University of Texas School of Law

#### 2:00 p.m.–2:15 p.m.
**Questions & Answers**

#### 2:15 p.m.–3:15 p.m.
**The Supreme Court’s Term: Recent and Forthcoming Decisions**
- Fourth Amendment developments, including use of police dogs and police taking of blood and DNA without consent
- Civil rights developments, including affirmative action, the constitutionality of Section 5 of the Voting Rights Act, and the marriage equality cases
- The constitutionality of the Affordable Care Act
- First Amendment developments, including both religion (the ministerial exemption to employment discrimination laws) and speech (especially the protection of false speech under the First Amendment)

**Erwin Chemerinsky**
University of California, Irvine School of Law

#### 3:15 p.m.–3:30 p.m.
**Questions & Answers**

#### 3:30 p.m.
**Adjourn**
Can’t Attend?

Program materials and CDs of the presentations can be ordered by checking the corresponding box below and mailing this form in with the appropriate payment. These materials are not interactive and not eligible for Illinois MCLE credit.

Send me the complete package:

- Course materials and CDs.  
  (Cost-$495. Payment must be remitted in advance.)
- Send me a CD for the following sessions.  
  (Cost-$75 per session. Payment must be remitted in advance.)

List sessions:

________________________________________________________________________

________________________________________________________________________

- Send me the conference course materials.  
  (Cost-$150. Payment must be remitted in advance.)

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Upcoming Programs

Please check our website at cle.kentlaw.edu for upcoming programs.
**Program Location**
The conference will be held at IIT Chicago-Kent College of Law, 565 West Adams Street in Chicago.

**Confirmation of Registration**
A letter of confirmation will be emailed to the address given on your registration form. If you do not receive an email confirmation after registering and before the conference please contact the Office of Continuing Legal & Professional Education at cle@kentlaw.iit.edu.

**Confirmation of Attendance**
A certificate of attendance will be provided at registration.

**Cancellations and Refunds**
Written notification of cancellation is required. A full tuition refund is available if notification is received prior to March 22, 2013; 25% will be charged if notification is received between March 22 and April 12, 2013. No refunds will be granted after April 12, 2013. If you register with a purchase order or a voucher and do not cancel your registration in accordance with this policy, you will be charged 25% of the registration fee.

**MCLE Credit**
Chicago-Kent College of Law is an accredited CLE provider for IL & PA MCLE. This conference is eligible for 11.0 hours on a “60-minute” credit hour; 13.0 hours on a “50-minute” credit hour; and includes 1.25 hour of ethics credit. The actual number of approved hours may vary from state to state. For additional information: please call the Office of Continuing Legal and Professional Education, IIT Chicago-Kent College of Law, (312) 906-5090, or send an email to cle@kentlaw.iit.edu.

**Hotel Accommodations**
Hotel accommodations for the convenience of out-of-town guests have been made at the Millennium Knickerbocker Hotel, and the Crowne Plaza Chicago Metro. The room rate at the Millennium Knickerbocker Hotel is $169 for single or double occupancy, plus 16.4% tax. The Millennium Knickerbocker Hotel is a European-style hotel, is a short cab ride to the law school and provides easy access to Michigan Avenue night life and Magnificent Mile shopping. Please make reservations directly with the hotel. The room rate at the Crowne Plaza Chicago Metro is $139 for single or double occupancy, plus 16.4% tax. The Crowne is located four blocks west of the law school within easy walking distance. Please make reservations directly with the hotel. Requests for accommodations at either hotel cannot be assured if made after March 20, 2013.

**To make reservations:**
- **Millennium Knickerbocker Hotel**
  - 163 E. Walton Place
  - Chicago, IL 60611
  - Phone: (800) 621-8140
  - Fax (312) 751-9663
  - www.millenniumhotels.com/knickerbocker
  - When booking online enter group code: CHIKENT013

- **Crowne Plaza Chicago Metro**
  - 733 W. Madison Street
  - Chicago, IL 60601
  - (312) 829-5000 Voice
  - (312) 602-2180 Fax
  - www.crowneplaza.com/chicagometro
  - When booking online enter group code: CIV

Please mention to the hotel reservation receptionist that you are with the Chicago-Kent College of Law Section 1983 Civil Rights Conference.

**Registration Fee (per person)**

- **Early Registration Fee**: $425
  - ($20 per person discount to groups of 3 or more that register at the same time)

- **After April 1, 2013**: $450
  - ($20 per person discount to groups of 3 or more that register at the same time)

- **Government Agency/Alumni**: $375
  - (no group discount available)

* Have you attended 10 or more times? Call for special rate.

Fee also includes two continental breakfasts, reception and course materials.
Registration Form: Section 1983
3 Easy Ways to Register

Online: cle.kentlaw.edu
Mail: Office of Continuing Legal & Professional Education
      IIT Chicago-Kent College of Law
      565 West Adams St.
      Chicago, IL 60661-3691
Phone: (312) 906-5090

Name (please print)  Professional Title
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In what state do you require MCLE credit? ________________

If Chicago-Kent Alumni, list month and year of graduation: Month____ Year_____  

☐ Please check here if you have any special needs and a CLE staff member will contact you.

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(Make check, purchase order or voucher payable to: IIT Chicago-Kent College of Law)

Registration form must accompany payment, purchase order or voucher. Purchase orders or vouchers will not be accepted unless submitted with an assigned purchase order or voucher number.

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