



APRIL
23-24
2020



37th Annual
**SECTION 1983 CIVIL RIGHTS
LITIGATION CONFERENCE**

3

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Chicago-Kent College of Law
565 W. Adams Street
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37th Annual SECTION 1983 CIVIL RIGHTS LITIGATION CONFERENCE

Liability arising out of §1983 claims continued to present challenges for courts across the country, and the Supreme Court has had a large impact in this dynamic area of law. This conference, now in its 37th year, keeps you up-to-date on the latest cases, trends, and strategies affecting §1983 litigation. You have the opportunity to examine both the law of §1983 as well as the litigation strategies that underlie successful cases. Experts in the field address the most important issues and provide wisdom for you as you tackle this year's cases, whether you represent plaintiffs or defendants. As always, the conference provides an analytical approach to problems and offers practical advice about how to solve them.

CONFERENCE AT A GLANCE

THURSDAY, APRIL 23, 2020

8:00am–8:40am

Registration

8:40am–8:45am

Welcome

8:45am–10:00am

The Section 1983 Claim: The Basics

10:00am–10:15am

Break

10:15am–11:30am

Individual Immunities

11:30am–12:45pm

Lunch, on your own

12:45pm–2:00pm

Municipal Liability

2:00pm–3:15pm

**Substantive Due Process:
The Constitutional Guarantee that
Multitasks**

3:15pm–3:30pm

Break

3:30pm–4:45pm

**The Supreme Court's Term:
Recent & Forthcoming Decisions**

4:45pm–5:45pm

**Reception, Co-Sponsored by
Thomson Reuters**

FRIDAY, APRIL 24, 2020

9:00am–10:15am

**The 4th Amendment:
Overview & Update**

10:15am–10:30am

Break

10:30am–11:45am

**Practical Considerations in
Section 1983 Litigation**

11:45am–1:00pm

Lunch, on your own

1:00pm–2:15pm

Concurrent Sessions

- Takings after *Knick*
- Immigration Law and §1983

2:15pm–2:30pm

Break

2:30pm–3:45pm

**Attorney's Fees and Related Ethical
Issues**

3:45pm

Adjourn

PROGRAM CHAIR AND FACULTY

PROGRAM CHAIR



Sheldon H. Nahmod
University Distinguished
Professor of Law Emeritus
IIT Chicago-Kent College of Law
Chicago, Illinois

Professor Sheldon 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. 2019) and has argued civil rights cases before the U.S. Supreme Court and many other federal courts. He has also

lectured to federal judges on §1983. He is a graduate of the University of Chicago, Harvard Law School, and the University of Chicago Divinity School. Professor Nahmod received the Lifetime Achievement Award of the State and Local Government Law Section of the ABA for his work in §1983 jurisprudence.

He blogs on §1983 and constitutional law at nahmodlaw.com and can be followed on Twitter @NahmodLaw.

PROGRAM FACULTY



Kimberly D. Bailey
Associate Professor of Law
Chicago-Kent College of Law
Chicago, Illinois



Gerald M. Birnberg
Founding Partner
Williams, Birnberg, & Andersen LLP
Houston, Texas



Karen M. Blum
Professor of Law Emerita
Suffolk University Law School
Boston, Massachusetts



Victoria Carmona

Clinical Lecturer and Supervisory Attorney,
Immigration Clinic
Chicago-Kent College of Law
Chicago, Illinois



Erwin Chemerinsky

Dean and Jesse H. Choper
Distinguished Professor of Law
University of California Berkeley
School of Law
Berkeley, California



Rosalie B. Levinson

Senior Research Professor
Valparaiso University School of Law
Valparaiso, Indiana



John B. Murphey

Partner
Rosenthal, Murphey, Coblentz,
& Donahue
Chicago, Illinois

PROGRAM SCHEDULE APRIL 23-24, 2020

THURSDAY, APRIL 23, 2020

8:00am-8:40am

Registration

8:40am-8:45am

Welcome

8:45am-10:00am

The Section 1983 Claim: The Basics

- Section 1983 and Fourteenth Amendment violations
- First Amendment retaliatory arrest claims and the *Nieves* case
- Cause in fact: the *Mt. Healthy* burden-shift
- Proximate cause after *Mendez*
- *Heck v. Humphrey* and existing convictions
- Section 1983 malicious prosecution claims after *Manuel*

Sheldon H. Nahmod, University Distinguished Professor of Law Emeritus, IIT Chicago-Kent College of Law

10:00am-10:15am

Break

10:15am-11:30am

Individual Immunities

- Absolute immunities for prosecutorial, legislative, and judicial acts
- 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

Erwin Chemerinsky, Dean and Jesse H. Choper Distinguished Professor of Law, University of California Berkeley School of Law

11:30am-12:45pm

Lunch, on your own

12:45pm-2:00pm

Municipal Liability

- Theories of municipal liability
- *Monell's* application to private corporations
- What constitutes a policy? Who's a final policy maker? Whose policy is it?
- Single incident liability? Impact of the Supreme Court's decision in *Connick v. Thompson* on failure-to-train claims
- Is failure to have a policy tantamount to a policy? When is proof of deliberate indifference required?

- Can there be municipal liability absent individual liability?
- What impact does grant of qualified immunity to individual defendants have on municipal liability?

Karen M. Blum, Professor of Law Emerita, Suffolk University Law School

2:00pm-3:15pm

Substantive Due Process: The Constitutional Guarantee That Multitasks

- Incorporation of the Bill of Rights
- Protection of nontextual rights from arbitrary legislation
- Protection from grossly excessive punitive damage awards
- Protection against abuse of power by government officials

Rosalie B. Levinson, Senior Research Professor, Valparaiso University School of Law

3:15pm-3:30pm

Break

3:30pm-4:45pm

The Supreme Court's Term: Recent and Forthcoming Decisions

- Fourth Amendment developments: warrantless blood testing of unconscious motorists; probable cause for stopping vehicles; what is a seizure when a motorist does not stop for the police
- First Amendment speech: whether probable cause for an arrest precludes a First Amendment claim for retaliation; whether a state can dictate an elector's vote in the electoral college
- Religion: whether the denial of benefits to religious schools violates free exercise of religion; whether there is a cause of action for money damages under the Religious Freedom Restoration Act; what is the scope of religious institutions exceptions from employment laws
- Second Amendment: scope of Second Amendment protection for guns outside the home

Erwin Chemerinsky, Dean and Jesse H. Choper Distinguished Professor of Law, University of California Berkeley School of Law

4:45pm-5:45pm

Reception, Co-Sponsored by



THOMSON REUTERS™



FRIDAY, APRIL 24, 2020

9:00am-10:15am

The 4th Amendment: Overview and Update

- Expectations of privacy: the impact of new technologies
- Stop & frisk
- Qualified immunity, the exclusionary rule, and remedies for Fourth Amendment violations
- Regulatory and public safety searches

Kimberly D. Bailey, Associate Professor of Law
Chicago-Kent College of Law

10:15am-10:30am

Break

10:30am-11:45am

Practical Considerations in Section 1983 Litigation

- Case analysis from both plaintiff's and defendant's perspective
- Discovery strategies
- Settlement: Evaluation and considerations for settlement conferences
- Qualified immunity – Is the motion available; when it is available; under what circumstances can the denial of a qualified immunity motion be appealed?
- Pre-trial order and jury instruction issues
- Trial strategies and evidence issues
- Closing argument considerations
- Post-trial motion practice

John B. Murphey, Partner, Rosenthal, Murphey, Coblenz, & Donahue

11:45am-1:00pm

Lunch, on your own

1:00pm-2:15pm

CONCURRENT SESSIONS

Takings after *Knick*

- The end of the Williamson exhaustion rule
- Just compensation claims which may now be

filed directly in federal court

- When does a regulation become a taking, and how to distinguish one from another
- Recent post-*Knick* case law and predictions

John B. Murphey, Partner, Rosenthal, Murphey, Coblenz, & Donahue

Immigration Law and §1983

- Administrative remedies and procedures under the Immigration and Nationality Act for addressing apparent civil rights violations involving non-citizens
- Conditions of confinement in detention and other governmental actions against non-citizens
- Current litigation involving recent civil rights violations
- Employment discrimination and civil rights violations as a result of I-9 requirements and e-verify
- Identification of Section 1983, *Bivens*, and FTCA liability claims arising out of immigration law enforcement

Victoria Carmona, Clinical Lecturer and Supervisory Attorney, Immigration Clinic, Chicago-Kent College of Law

2:15pm-2:30pm

Break

2:30pm-3:45pm

Attorney's Fees and Related Ethical Issues

- Issues in recently decided Supreme Court attorney's fees cases (standards controlling awards to prevailing defendants; fees for modest injunctive relief without money damages; costs recoverable by prevailing defendants; timeliness of notice of appeal; adjustments to the lodestar; pre-judgment interest on attorney's fees)
- Ethical issues in §1983 cases (including Rule 68 issues, conflicts of interest, frivolous claims)

Gerald M. Birnberg, Founding Partner, Williams, Birnberg, & Andersen LLP

3:45pm

Adjourn

"Wonderful seminar. Gave me insight into my practice area. Thoughtful analysis by all."

– Previous attendee



C-K SPOTLIGHT

INTERESTED IN SPONSORSHIP OPPORTUNITIES?

Get in front of your audience first-hand when you confirm your support as a session sponsor. Be everyone's favorite phrase when you become a Wi-Fi sponsor. These are just a couple of the opportunities available throughout the spring and fall.

Contact Kelly Calvanico, CLE Director, at 312.906.5091 or kcalvani@kentlaw.iit.edu for further information.

UPCOMING CONFERENCES

| | |
|----------------|--|
| April 30, 2020 | 42nd Annual Kenneth M. Piper Lecture (free!) IL MCLE credit to be determined |
| May 28, 2020 | 39th Annual Federal Tax Institute IL MCLE credit to be determined |
| June 2, 2020 | Hot Topics in Contemporary Labor Relations Law Conference IL MCLE credit to be determined |
| June 11, 2020 | 39th Annual Conference on Not-For-Profit Organizations IL MCLE credit to be determined |



WHO SHOULD ATTEND THE §1983 CONFERENCE?

- Municipal & State Attorneys
- Plaintiffs' Attorneys
- Criminal Defense Attorneys

WHY ATTEND?

This is a must-attend event for anyone who needs the most current information on the happenings in section 1983.

During this conference you will:

- Hear directly from the most prominent academics and practitioner experts in the field
- Interact directly with each speaker during Q&A
- Connect and learn from your peers nationwide

"This is a must-attend conference for anyone who practices § 1983 litigation, defense or plaintiff. I love hearing from all the regular professors and appreciate the reviews on the important issues and cases throughout the country." – Kyle Kaiser, previous attendee



ORDER SECTION 1983 COURSE MATERIALS

Can't attend? Program materials and live CD recordings of the presentations will be available for purchase. Please make your selection(s) below. Note, these materials are not interactive and are not eligible for Illinois MCLE credit.

- \$500 **Full Set**
Printed course book and CDs of all sessions

- \$155 **Hard Copy Materials**
Printed course book only

- \$80 per session **Single Session Recording**
CD(s) of individual presentations from the 2020 conference:
 - The Section 1983 Claim: What Every Litigator Should Know
 - Individual Immunities
 - Municipal Liability
 - Substantive Due Process: The Constitutional Guarantee that Multitasks
 - The Supreme Court's Term: Recent and Forthcoming Decisions
 - The 4th Amendment: Overview and Update
 - Practical Considerations in Section 1983 Litigation
 - Takings after *Knick*
 - Immigration Law and Section 1983
 - Attorney's Fees and Related Ethical Issues

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EVENT DETAILS

PRICING

*To qualify for the group pricing you need only register 3 or more individuals at the same time, does not apply with other discounted rates.

| Check applicable box: | Submitted on or before 4/6/20 Downloadable Materials Only | Submitted on or before 4/6/20 Hard Copy Book & Download Materials | Submitted after 4/6/20 Downloadable Materials Only | Submitted after 4/6/20 Hard Copy Book & Download Materials |
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| Group* | <input type="checkbox"/> \$440 | <input type="checkbox"/> \$470 | <input type="checkbox"/> \$460 | <input type="checkbox"/> \$490 |
| Government Employee | <input type="checkbox"/> \$410 | <input type="checkbox"/> \$440 | <input type="checkbox"/> \$410 | <input type="checkbox"/> \$440 |
| Chicago-Kent Alumni Graduation Yr: _____ | <input type="checkbox"/> \$410 | <input type="checkbox"/> \$440 | <input type="checkbox"/> \$410 | <input type="checkbox"/> \$440 |
| Have you attended this conference for 10+ years? Call for a special rate. | | | | |

REGISTRATION FORM

Prefix _____ Name(s) (please print) _____ Professional Title(s) _____

Firm/Company/Organization _____

Address _____

City, State, Postal Code _____

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Special Dietary Requirements or Accessibility Needs? _____

CLE Credit? Yes No Which State(s)? _____

Attorney Registration # _____

Registration Code (Enter characters appearing on the mailing label. Please enter this ID even if the label is addressed to someone else. Thank you!) _____

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Card Number _____ Expiration Date _____ CSV Code _____

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NOTE: Registration form must accompany payment information, a purchase order, or a voucher. Purchase orders or vouchers will not be accepted unless a hard copy is submitted with an assigned purchase order or voucher number. If your agency is transferring funds electronically, please notify us as soon as possible.

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| PA MCLE Credit | 11.0 hrs | 1.0 hrs ethics, pending approval |

*For information on additional state accreditations, contact the Office of CLE at cle@kentlaw.iit.edu.

HOTEL ACCOMMODATIONS

We have negotiated a special rate for our conference attendees at the following hotels:

The Crowne Plaza Chicago Metro is located four blocks from Chicago-Kent in Greektown and is a union hotel. Rooms are available at the group rate of \$179/night plus tax. Reservation may be made by contacting the hotel directly at 312-829-5000 or online at <http://bit.ly/SEC8320>. When registering online enter the group code HND. To enjoy this special group rate, reservations must be made by March 25, 2020. Please be sure to mention you are attending the Chicago-Kent Section 1983 Civil Rights Litigation Conference when making your reservations to receive our special group rate.

The Crowne Plaza Chicago Metro
 25 South Halsted Street
 Chicago, IL 60661
 Phone: (312) 829-5000
<http://bit.ly/SEC8320>
 Group Code: HND
 Please make reservation by March 25, 2020

CONFERENCE LOCATION | CHICAGO-KENT COLLEGE OF LAW



565 W. Adams Street
Chicago, IL 60661

CANCELLATION POLICY

A full tuition refund will be granted if received in writing by March 20, 2020. Tuition, less a 25% cancellation fee will be granted if received between March 21, 2020 and April 16, 2020. No refunds will be granted if received after April 16, 2020, but a substitution of attendees for this program will be permitted. Registrants not entitled to a refund will receive access to the written materials. Registrations made with a purchase order not cancelled before the April 16 deadline will be charged 25% of the registration fees.

Email cancellation notices to cle@kentlaw.iit.edu.



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37th Annual SECTION 1983 CIVIL RIGHTS LITIGATION CONFERENCE

Thursday & Friday, April 23-24, 2020

Earn 11.25 hours or more of CLE credit for various
states