

SECTION 1983 CIVIL RIGHTS LITIGATION CONFERENCE



April 24-25, 2008 at Chicago-Kent College of Law
565 W. Adams • Chicago, IL
11.0 hours of IL MCLE credit

PROGRAM DETAILS

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.

Highlights:

- The Prima Facie Case Against Individuals
- Individual Immunities
- Litigating Sexual Harassment Claims under Title VII and Section 1983
- Public Employees: First Amendment and Procedural Due Process
- Ethics and Attorney's Fees
- Municipal Liability
- Procedural Defenses
- The Supreme Court's Term: Recent and Forthcoming Decisions

PROGRAM CHAIR



Sheldon H. Nahmod

Distinguished Professor of Law
Chicago - Kent College of Law,
Illinois Institute of Technology

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. 1997, 2007) 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.

PROGRAM FACULTY

Sheldon H. Nahmod

Distinguished Professor of Law,
Chicago-Kent College of Law, Chicago,
Illinois

Karen M. Blum

Professor of Law, Suffolk
University Law School,
Boston, Massachusetts

Rosalie B. Levinson

Professor of Law, Valparaiso
University School of Law,
Valparaiso, Indiana

Gerald M. Birnberg

Williams Birnberg & Andersen,
Houston, Texas

Erwin Chemerinsky

Alston & Bird Professor of Law,
Duke University School of Law,
Durham, North Carolina

John B. Murphey

Rosenthal, Murphey &
Coblentz, Chicago, Illinois

UPCOMING PROGRAMS

Please contact the Office of Continuing Legal and Professional Education,
(312) 906-5090 or check the program schedule online at www.kentlaw.edu/depts/cle

PROGRAM SCHEDULE

Thursday, April 24, 2008

8:00am - 8:45am

Registration

8:45am - 9:00am

Welcome

Sheldon H. Nahmod

Chicago-Kent College of Law

9:00am - 10:00am

The Prima Facie Case Against Individuals

- Fourteenth Amendment and its relation to §1983
- State of mind requirements for different constitutional violations, including due process, equal protection and the Eighth Amendment
- Causation in fact
- Due process, high-speed police pursuits and affirmative duties
- Malicious prosecution actions
- The 2007 *Wallace* decision and its gloss on *Heck v. Humphrey*
- “Laws” actions

Sheldon H. Nahmod, Chicago-Kent College of Law

10:00am - 10:15am

Questions & Answers

10:15am - 10:30am

Break

10:30am - 11:30am

Individual Immunities

A review of the basic law with regard to absolute and qualified immunity with a focus on the cutting edge developments and recent decisions, including:

- 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
- The *Saucier* decision and the relationship between excessive force and qualified immunity
- *Hope v. Pelzer* and *Brousseau v. Haugen* and what they mean for qualified immunity litigation
- Heightened pleading and proof requirements: *Leatherman v. Tarrant County, Crawford-El v. Britton*
- Immunities for private party defendants: *Richardson v. McKnight*

Erwin Chemerinsky
Duke University School of Law

11:30am - 11:45am

Questions & Answers

11:45am - 1:00pm

Lunch

(on your own)

1:00pm - 1:45pm

Litigating Sexual Harassment Claims under Title VII and Section 1983

- Absolute liability for tangible employment actions
- Hostile work environment: Core elements
- Employer liability for hostile work environment created by supervisors, co-workers and third parties
- Retaliation Claims
- Relation to §1983 and equal protection
- Defenses and tips for avoiding liability

Rosalie B. Levinson, Valparaiso University School of Law

1:45pm - 2:00pm

Questions & Answers

2:00pm - 2:45pm

Public Employees: First Amendment and Procedural Due Process

- The hot topic for 2008 - *Garcetti v. Ceballos* and the new “Capacity Analysis”: Up-to-the-minute review of cases applying *Garcetti*
- Public employee free speech claims: What is a matter of public concern?
- Public employee free speech claims: Questions of law/questions of fact
- First Amendment protection to independent contractors
- First Amendment claims v. unfair labor practices
- Public employee discipline: How much process is due, and when? *Loudermill hearings v. Baird hearings*
- Who has a property interest?
- Liberty interest cases and the “stigma-plus” test
- The problem of biased decision makers: Presumptions and proof
- Availability of qualified immunity in public employee litigation

John B. Murphey, Rosenthal, Murphey & Coblenz

2:45pm - 3:00pm

Questions & Answers

3:00pm - 3:15pm

Break

3:15pm - 4:15pm

Ethics and Attorney’s Fees

- Ethical issues in §1983 cases; fee waiver offers; conflicts of interest in multiple representation; professionalism in civil rights litigation
- How will *Sole v. Wyner*, change “prevailing party” standards and affect attorney’s fees cases?
- Implications of *Buckhannon Bd. v. West Va. Dept. of H.H.R.* and how it has impacted attorney’s fees litigation
- Interactive discussion on ethical issues raised in hypothetical situations

Gerald M. Birnberg, Williams, Birnberg & Andersen, L.L.P.

4:15pm - 4:45pm

Questions & Answers

4:45pm - 5:45pm

Reception

Co-sponsored by Thomson West

PROGRAM SCHEDULE *continued*

Friday, April 25, 2008

8:45am - 10:00am

Municipal Liability

- The official policy or custom requirement of *Monell*
- The various methods of establishing local government liability
- Identifying final policy makers and deciding whose policy they make after *Pembaur*, *Praprotnik*, *Jett*, and *McMillian*
- Developments in inadequate training and supervision cases and inadequate screening and hiring cases after *City of Canton and Bryan County*
- Derivative nature of liability; advantages and disadvantages of bifurcation
- Implications of 2-prong qualified immunity analysis for municipal liability

Karen M. Blum, Suffolk University Law School

10:00am - 10:15am

Questions & Answers

10:15am - 10:30am

Break

10:30am - 11:30am

Procedural Defenses

- Statutes of limitation in §1983 cases
- Accrual and continuing violations
- The 2007 *Wallace* and *Ledbetter* decisions
- Tolling
- Preclusion in §1983 cases
- Issue preclusion and claim preclusion
- Release dismissal agreements
- Eleventh Amendment fundamentals

Sheldon H. Nahmod, Chicago-Kent College of Law

11:30am - 11:45am

Questions & Answers

11:45am - 1:00pm

Lunch

(on your own)

1:00pm - 2:15pm

The Supreme Court's Term: Recent and Forthcoming Decisions

- Major developments in §1983 litigation (including when a cause of action for wrongful police conduct accrues)
- Major developments with regard to the Fourth Amendment (including the standing of passengers to challenge police stops and when a high speed chase constitutes excessive force)
- Major developments with regard to the First Amendment (including the protection of student speech and the standing for taxpayers challenging government support for religion)
- Major developments with regard to equal protection and whether the government may use race in assigning students to schools to achieve desegregation
- Major developments with regard to the Second Amendment and the constitutional analysis for government regulation of firearms

Erwin Chemerinsky

Duke University School of Law

2:15pm - 2:30pm

Commentary

Sheldon H. Nahmod, Chicago-Kent College of Law

2:30pm - 3:15pm

Questions/Panel Discussion

3:15pm

Adjourn

GENERAL INFORMATION

Program Location

The conference will be held at Chicago-Kent College of Law, 565 W. Adams Street in Chicago.

Confirmation of Registration

A letter of confirmation will be mailed to the address given on your registration form.

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 28, 2008; 25% will be charged if notification is received between March 28 and April 18, 2008. No refunds will be granted after April 18, 2008. 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.

CLE Credit

Chicago-Kent College of Law is an accredited CLE provider for Illinois 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 1.0 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, Chicago-Kent College of Law, (312) 906-5090, or send an email to clestaff@kentlaw.edu.

GENERAL INFORMATION *continued*

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Hotel Accommodations

Hotel accommodations for the convenience of out-of-town guests have been made at Club Quarters and the Crowne Plaza Chicago Metro. The room rate at Club Quarters is \$159 for a Superior room, single occupancy, plus 15.4% tax. The additional person charge is \$15 per night. The room rate at the Crowne Plaza Chicago Metro is \$179 for single or double occupancy, plus 15.4% tax. Club Quarters, a private, full-service hotel designed for the business traveler with state-of-the-art tech services, is located just four blocks east of Chicago-Kent College of Law. The Crowne Plaza Chicago Metro is a trendy newly renovated property located four blocks from the law school in the "west loop". Please make reservations directly with the hotel of your choice. Requests for accommodations cannot be assured if made after March 23, 2008 at Club Quarters and March 26, 2008 at the Crowne Plaza Chicago Metro.

To make reservations:

Club Quarters

111 W. Adams
Chicago, IL 60603
(212)575-0006-Reservations Dept.
(212)391-5525-Fax
www.clubquarters.com

Please mention to hotel reservation receptionist that you are with the Illinois Institute of Technology and use group code "IIT502".

Crowne Plaza Chicago Metro

733 W. Madison
Chicago, IL 60661
(312) 829-5000
Fax (312) 602-2180
www.crowneplaza.com/chicagometro

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

Law Section 1983 Civil Rights Conference.

Registration Fee *(per person)*

Early Registration Fee \$405
After March 15, 2007 \$425

(A \$20 per person discount is available to groups that register 3 or more individuals at the same time.)

Government Rate \$355

(no group discount available)

**Chicago-Kent College of Law
Alumnae/i Rate \$355**

(no group discount available & non-transferable)

Fee includes two continental breakfasts, reception and course materials.