



# IMLA's Mid-Year Seminar TELECONFERENCES April 21-24, 2017

## **TC1: 1983 General Principles**

**Time:** 11:45 am - 12:45pm

This presentation will cover an introduction to liability under section 1983. The discussion will provide an overview of the legislative history of the Civil Rights Act of 1871 and discuss individual, supervisory and municipal liability under section 1983; the definition of a "person" and "acting under color of state law;" immunities (absolute and qualified); proximate causation and intervening causes; scope of rights that can be asserted; who can bring claims; and damages generally.

**Speakers:** Arthur Larkin and Anne Turner

## **TC2: Ensuring Preemption is not Synonymous with Deregulation: The Threats and Opportunities of the Trump Administration**

**Time:** 1:00pm - 2:00pm

Speakers to address federal-local relations in: environment including water, infrastructure developments, tax reform, immigration reform, and federal funding.

**Speakers:** Deborah Cox, Laura Waxman & Jennifer Imo

## **TC3: Employment Law: Navigating the Fair Standards Act with Police and Fire Employees**

**Time:** 2:05pm - 3:05pm

Learn about special issues in applying the FLSA to police and fire employees such as the legal and practical aspects of using an extended work period under Section 207(k) with an emphasis on common pitfalls and the ways to avoid potential liability, FLSA application to small departments, and different ceilings on accrual of compensatory time. The presentation will be applicable to jurisdictions both with and without collective bargaining agreements.

**Speakers:** Amber Eisenschenk & Tim Norris

## **TC4: Supreme Court Update**

**Time:** 3:20pm - 4:50pm

This term's otherwise lean Supreme Court docket includes many cases of interest to local governments, including a case involving the City of Miami suing big banks over reverse-redlining as well as a number of First Amendment cases. Moderator Lisa Soronen of the State and Local Legal Center will lead a discussion of the current cases and the post-election future of the Supreme Court with Supreme Court specialists Paul Clement, Kirkland & Ellis, Gregory Garre, Latham & Watkins, and Amy Howe, SCOTUSblog reporter.

**Speakers:** Paul Clement, Gegory Garre & Amy Howe

## **TC5: Regulating Public Spaces in a manner that balances the rights of homeless individuals with Preservation of Public Spaces for their other Intended Purposes**

**Time:** 9:00am- 10:00am

Recent case law has explored and defined the rights of homeless people who reside in public spaces. The first part of this presentation will discuss how the City of Los Angeles, home to the nation's largest homeless population, has used innovative regulations to comply with recent case law, defining the rights of homeless persons to dwell and store personal property in the public spaces, while maintaining clean and accessible streets, sidewalks and open space. Los Angeles regulates dwelling in public spaces, dwelling in vehicles on public streets, and storage of personal property on public property. The City's recent amendments to its municipal code decriminalize the fundamental attributes of homelessness, provides alternatives to criminal prosecution for certain violations and opens up certain street segments to homeless vehicle dwellers. The second part of this presentation will discuss one municipality's experience with a Fair Housing Complaint that arose from a zoning dispute involving a homeless shelter. The presenter will describe the process of proceeding through a mediation and conciliation with the Department of Justice and the efforts to find a suitably zoned location. The City was able to locate the homeless shelter through the sale of a government building. This resolution was agreed to by all parties and the Fair Housing complaint was dismissed.

**Speakers:** Valerie Flores & Janet Graham

## **TC6: Reducing Police and Fire Disciplinary and Liability Exposure**

**Time:** 10:05am - 11:05am

Suits alleging misconduct by police officers constitute a major liability exposure for the affected jurisdictions; costing hundreds of millions of dollars annually. Additionally, efforts to discharge or otherwise discipline police and fire employees often are unsuccessful, resulting in both substantial back pay awards as well as forcing the reinstatement of problematic employees. This presentation will address ways in which municipalities can reduce their exposure, based on the premise that municipal attorneys need to be proactive in helping their clients (the police and fire departments) avoid costly damages, rather than reactive and simply representing the client whenever a suit is filed. In terms of liability exposure, topics to be addressed include proactive, preventive measures (e.g., rigorous recruit screening) and early intervention systems. In terms of disciplinary exposure, topics to be addressed include the need for specialized, experienced counsel (including outside counsel) in arbitration/civil service proceedings, educating arbitrators/civil service commissioners on the unique disciplinary requirements for public safety employees, the jurisdiction's stance on punitive damages, and challenging arbitration if feasible. One of the presenters will focus on Baltimore's experience pre and post Freddie Gray. For the past ten years, the City's Law Department has taken a proactive role in advising the City's police and fire departments with the aim of encouraging best practices and reducing civil liability—an approach the City calls "preventive lawyering." This presenter will discuss the successes and challenges of this approach, the pivotal role of effective police discipline, and the impact of the U.S. Department of Justice consent decree for police reform.

**Speakers:** Mark Iris & Susan Sangree

## **TC7: Wrongful Convictions Part 1: Overview of the Law**

**Time:** 11:20am-12:20pm

This presentation will provide an overall summary of the wrongful conviction area of the law, including an overview of a police officer's obligations under Brady; prosecutorial immunity; standard of proof / elements of a claim; qualified immunity; and Monell claims for wrongful convictions. The presenters will also discuss the wrongful conviction cases they have handled for the City of Boston over the years, noting what worked, what did not work, and why most of these cases settled.

**Speakers:** Lisa Maki & Susan Weise

## **TC8: Wrongful Convictions Part 2: Practice Pointers in Defending Against Claims**

**Time:** 12:25pm- 1:25pm

Wrongful conviction cases present significant challenges to defense counsel representing law enforcement agencies and prosecutors. This session will provide practice pointers about how to defend these highly fact specific claims, including intake and initial handling, pleading practice, discovery tips, and expert witnesses. The session will also discuss available defenses, such as absolute and qualified immunity.

**Speakers:** Lucy Bednarek & Thomas DiCianni

## **TC9: Land Use: Environmental Insurance**

**Time:** 3:00pm - 4:00pm

This presentation will provide an overview of the types of environmental insurance policies and coverages available in the market, key issues to consider when evaluating environmental insurance, "tips and tricks" for enhancing coverages, and a few real world examples of how environmental insurance can "box in" certain risks. The presenter will also touch on the potential benefits of "aligned interest" or "guaranteed fixed-price remediation contracts," which, together with environmental insurance, can under the right circumstance be used to successfully transfer environmental risks and liabilities to a third-party remediation contractor.

**Speakers:** Aaron Levy & Joseph Quarantello

## **TC10: The Bay: Forced MS4 Reductions and Storm Water Utility Trends in 2017**

**Time:** 9:00am - 10:30am

The session will discuss the increased regulations of stormwater discharges from MS4 systems, potential impacts of the new administration on stormwater regulation, and compliance and litigation concerns impacting stormwater utilities. The Chesapeake Bay will be used as a case study for the environmental law portion. It represents the largest TMDL ever, and much of the focus in Pennsylvania is on creating and demonstrating sediment and nutrient reduction from small MS4s. The session will also discuss formation of stormwater utilities as a means to fund municipal improvements, including a look at recent legal trends and issues facing municipalities.

**Speakers:** Ade Bakare & Scott Gould

## **TC11: Section 1983: Advanced Topics in Use of Force Trials**

**Time:** 10:45am to 11:45am

This course will explore topics of interest to new and experienced attorneys alike on issues trending in trials of use of force cases, including suicide by police, evidentiary considerations in presenting the decedent's background in a deadly force case, and trying multiple claims against multiple officers.

**Speakers:** Suzanne Chauvin & Peter Keith

## **TC12: NextGen Transportation Grants and Pilot Programs: Ridesharing and the Gateway to Automation:**

**Time:** 2:45pm - 3:45pm

The future of transportation is operating on our roads today! In conjunction with the release of the Federal Automated Vehicles Policy, more "innovative" grant funding is going towards subsidized ridesharing programs and pilot projects to test connected and automated vehicles. This presentation will provide (1) best practice guidance for ridesharing programs subsidized by public agencies, including procurement and contract issues, and compliance with grant requirements; (2) an overview of pilot projects using ridesharing to test automated vehicles; and (3) an update on the federal regulation of automated and connected vehicles, including a summary of comments to the Federal Automated Vehicles Policy.

**Speakers:** Gregory Rodriguez & Ruben Duran

### **TC13: Expect the Unexpected: Dealing with the Press and Legal Issues in the Aftermath of the pulse shooting**

**Time:** 8:10am -9:10am

Dealing with the press can be tricky even in the best of times. In the aftermath of a high visibility case or incident, good planning is essential to protecting your client. These and other legal issues encountered in the aftermath of the largest mass shooting in modern U.S. History will be discussed.

**Speaker:** Jody Litchford

### **TC14: Case Law Update by Circuit**

**Time:** 9:15am-10:15am

This perennial favorite will provide an overview of highlighted Supreme Court and Circuit Court cases from around the country that are relevant to local governments including everything from employment law cases to First Amendment and police misconduct cases.

**Speaker:** Douglas Haney

### **TC15: Ethics and Government Practice: Navigating the Dangerous Waters of Defending A Government Entity**

**Time:** 10:30am- 12:00pm

This presentation will offer two case studies of important ethics lessons for municipal attorneys while also discussing the model rules. Attorneys who represent governmental agencies, particularly police departments, are held to high standards. Not reaching those standards has far-reaching implications for the attorney, the other attorneys in that office, and attorneys in other agencies. The first presentation will focus on one incident in Chicago, and the long-term consequences of that single incident. The presenter will discuss the incident and various rules of professional conduct, including the following: 1) Rule 3.3, Candor toward the Tribunal; Rule 3.4, Fairness to Opposing Party and Counsel; and 3) 4.1, Truthfulness in Statements to Others. The second presentation from a situation every municipal lawyer has asked themselves, "Who is the client?" When the City of Colorado Springs Charter was amended to abandon the Council-Manager form of government (FOG) in favor of a Council-Mayor FOG, the City Attorney was no longer appointed by the City Council, but instead by the Mayor with the consent of the City Council. This presentation will use the model rules to discuss a fresh, in-depth look at the roles and ethical considerations for representing a municipal entity in the context of a change in the FOG and also highlights the need for a clear understanding of the municipal attorney's role. The presenter will outline the circumstances leading to the promulgation of the "Office of the City Attorney Legal Ethics Guidelines," and evaluate its effectiveness in restructuring the attorney's relationship with the municipal client.

**Speakers:** Liza Franklin & Wynetta Massey

**REGISTER TODAY!!!**