are entitled to the defense should have their cases dismissed at the earliest possible time. Moreover, these types of cases undermine officer safety, as police officers will be less likely to defend themselves or others from valid threats when they are worried about crippling litigation down the line.

Until the Supreme Court weighs in on this precise issue, the trend of conflating the qualified immunity and summary judgment standards is likely to continue, at least in some circuits.

Other Current 1983 Cases

In addition to the foregoing cases, IMLA has submitted (or will shortly submit) amicus briefs in a number of other pending Section 1983 litigations, including a Supreme Court merits case and two Supreme Court petition stage cases. *City of Hays v. Vogt*, a Supreme Court merits case, involves the question of whether a "compelled" statement that is used at a probable cause hearing (as opposed to at a criminal trial) violates a person's Fifth Amendment rights, thereby allowing the person to sue a local government under Section 1983. This case has important implications for municipalities both in terms of law enforcement liability and liability for local governments and their officials in the employment context. As of this writing, oral argument has not been scheduled for *City of Hays*, but the case will be heard this term.

IMLA filed an amicus brief in support of the City of Phoenix and one of its police officers in *Hanlon v. Atencio*, a Supreme Court petition stage case. This case involved the question of the continued vitality of the Ninth Circuit's integral participation rule, which holds officials vicariously liable for arguably unforeseeable acts of excessive force by other defendants. In their petition for certiorari, the officers argued that the integral participant doctrine "allows an end run around the prohibition against vicarious § 1983 liability, substitutes 'but-for' causation for proximate causation, and undermines the purpose of qualified immunity." The Court denied certiorari in this case in mid-October, but this is an issue that is sure to make its way back to the Court in the near future.

IMLA also filed an amicus brief in another Supreme Court petition stage Section 1983 case, *Park v. Thompson*. *Park* involves the question of whether a §1983 claim exists for an alleged violation of compulsory process / fair trial where a person is acquitted at trial, claims no damages for malicious prosecution or incarceration, but rather for "emotional distress" because her defense was impeded by alleged unconstitutional acts of the police. This case presents a host of practical issues for local governments. For instance, how are damages calculated if someone is acquitted, but nonetheless claims that one avenue of defense was denied to her? Someone may believe that a particular witness would be uniquely beneficial at trial, but how does she know? The witness may in fact be someone who testifies poorly.

It is also impossible to say how much of a person's emotional distress was derived from her inability to present certain evidence or testimony as opposed to the emotional distress involved in defending oneself in a criminal case to begin with. The damages the plaintiff sought in the *Park* case underscores these practical issues as she was out on bail pending trial and was acquitted so her only avenue of damages was emotional distress, claiming the jury would have returned a verdict in her favor sooner than it actually did. As the foregoing demonstrates, allowing these claims to go forward leaves too much room for speculation and conjecture and summary judgment would be almost impossible.

If you need help with amicus assistance or would like more information about IMLA's legal advocacy program, contact Amanda Kellar at akellar@imla.org. ML

IN MEMORIAM





Cameron Robinson

IMLA remembers Cameron Robinson, a 28-year old staff member at the Las Vegas Law Department, who was among the 58 victims of the senseless carnage in that city on October 1. We were fortunate to meet Cameron as a host committee volunteer at our 80th Annual Conference in 2015. IMLA joins Las Vegas City Attorney Brad Jerbic and his colleagues in honoring Cameron's memory.