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§ 1983 General Principles – Understanding the Basics

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42 U.S.C. § 1983

- The vehicle for enforcing federal rights
- Originally enacted as part of Ku Klux Klan Act of1871. Rarely used until the 1960s.
- Not a jurisdictional statute
  - 28 U.S.C. § 1331 (federal question jurisdiction)
  - 28 U.S.C. § 1343(a)(3) (Constitution & Acts of Congress providing for equal rights)
- Both state and federal courts have jurisdiction over § 1983 claims

42 U.S.C. § 1983

- Statute Breakdown:
  - "Every person who,
  - "Under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia,
  - "Subjects, or causes to be subjected,
  - "Any citizen of the United States or other person within the jurisdiction thereof
  - "To the deprivation of any rights, privileges, or immunities secured by the Constitution and laws,
  - "Shall be liable to the party injured in an action at law, suit in equity, or other proceeding for redress …."

Parties

- Who can be a claimant?
  - "Any citizen of the United States or"
  - "Other person within the jurisdiction thereof"
    - Aliens
    - Corporations

- Who is a "person" subject to liability?

"Person"	Non-"Person"
Individual	United States & Federal Agencies
Municipality	Any State & Arm of the State
County Government	Any Territory of the U.S.
State or Territory Employees	

Types of Liability

- Personal Capacity Liability
  - Claim seeks liability against the individual for his/her own wrongful conduct
- Supervisory Capacity Liability
  - Claim seeks liability against the individual for his/her failure to supervise the subordinate wrongdoer adequately
- Official Capacity Liability
  - Claim seeks liability against the entity for its own misconduct
  - Duplicative of claim against the City/County
- Entity or Municipal Liability

Personal Capacity Liability

- Elements:
  1. Plaintiff was deprived of a right secured by an appropriate federal law
  2. Defendant was acting "under color of" state law

- Element 1: Violation of Federal Law
  - No vindication of purely state-created rights
  - Not all federal laws confer rights enforceable under Section 1983. Federal law must evidence Congressional intent to create right to sue.
  - Depending upon right allegedly violated, may require mens rea

- Element 2: Under Color Of State Law
  - Akin to state action; actions taken pursuant to state or local authority
  - Includes private party participating jointly with state/local officials
  - Excludes officials acting under color of federal law

Supervisory Capacity Liability

- Distinct from direct, personal capacity liability
- Did *Iqbal* eliminate the supervisory theory of liability?
- Pre-*Iqbal* Elements:
  1. Constitutional violation by a subordinate
  2. Causation ("affirmative link" between supervisor's conduct and violation)
  3. Deliberate indifference by the supervisor
- Element 2: Causation
  - Pre-*Iqbal*: "Supervisory encouragement, condonation or acquiescence" of subordinate's constitutional violation
  - *Iqbal*: " '[S]upervisory liability' is a misnomer .... Because vicarious liability is inapplicable to … § 1983 suits, a plaintiff must plead that each Government-official defendant, through the official's own actions, has violated the constitution."

Supervisory Capacity Liability

- Element 3: Mens Rea
  - Pre-*Iqbal*: Deliberate Indifference
    1. Supervisor has actual or constructive notice that
    2. His / Her action or inaction is
    3. Substantially certain to result in a constitutional violation and
    4. Consciously or deliberately disregards the risk
  - *Iqbal:* Suggests same intent as underlying constitutional violation

Post-*Iqbal*

- Circuit Splits
- See William N. Evans, *Supervisory Liability in the Fallout of Iqbal*, 65 Syracuse L. Rev. 103 (2014)

Official Capacity or Municipal Liability

- No *respondeat superior* liability under Section 1983
- Elements:
  1. Constitutional violation by an employee
  2. An official policy or custom
  3. A direct causal link between the policy or custom and the injury
  4. *Deliberate indifference by the municipality
- Element 1: Employee's Constitutional Violation
  - Individual tortfeasor(s) need not be named in lawsuit

Official Capacity or Municipal Liability

- Element 2: Official Policy or Custom
  1. Formal regulation or policy statement
  2. Informal custom amounting to widespread practice
  3. Decision of final policymaker
  4. Ratification by final policymaker
  5. *Failure to adequately train, supervise, discipline employees

- Element 3: Causation
  - Policy or custom must be closely related to constitutional violation. It is the "moving force" behind the conduct.
  - Question whether municipal actions *after* the violation (e.g., ratification, failure to discipline the actors) can cause the violation

- Element 4: *Deliberate Indifference