

2020 Mid-Year Seminar

Online | April 20-24, 2020

Please note the program is tentative and subject to change
All time listed are Eastern Time.



Monday, April 20, 2020

TIME	TRACK	TITLE	DESCRIPTION	SPEAKERS
2:00PM to 2:20PM		Opening Ceremonies	Join IMLA President and Executive Director for welcoming remarks and helpful tips for new and long-time attendees alike, including information about the format for the new Virtual Seminar and networking opportunities.	Chuck Thompson & Patrick Baker, IMLA President
2:30PM to 3:30PM	Seminar	Case Law Update	Hold on to your hats for another fast paced case law update, which will provide highlights from all the circuit courts as well as the Supreme Court on cases relevant to local government lawyers on everything from the First Amendment to Fourteenth Amendment and everything in between.	Douglas Haney Moderator: Wynetta Massey
3:45PM to 4:45PM	Seminar	Public Art in Our Communities	Public art in both private and public development presents specific and unique legal issues for municipal attorneys. Understanding key state and federal laws, and best practices in the public art realm is crucial to providing counsel to municipal public art and cultural affairs programs. This presentation will examine one-percent programs; public art policies, and procedures; and common challenges that come up during the lifecycle of public artworks.	Sarah Conley Odenkirk & Jill Jones Moderator: Byron Werry
3:45PM to 4:45PM	Section 1983	Qualified Immunity Update	This presentation will cover two areas in the land of Qualified Immunity: 1) a review of recent QI decisions and, 2) a discussion on how District Court Judges are addressing the QI defense during jury trials.	Patricia Miller & Brachah Goykadosh Moderator: Chris Balch
5:00PM to 5:45PM	Networking	Welcome Reception/Virtual Cocktail Hour	Participate in a virtual networking opportunity and have a drink (bring your own) with your colleagues from around the country. You will be assigned a group based on population size.	

Tuesday, April 21, 2020

TIME	TRACK	TITLE	DESCRIPTION	SPEAKERS
12:10PM to 12:50PM	Networking	State/Province Brunch	Sign up for a lunch (or breakfast depending on your time zone) with colleagues from your state/province. Attendees will participate in a virtual networking opportunity.	

TIME	TRACK	TITLE	DESCRIPTION	SPEAKERS
1:00PM to 2:00PM	Seminar	Ethics: Watch Your Step! Avoiding the Landmines of Conflict, Abuse and Misuse	<p>The first part of the program will focus on examples of conflict of interest in the government litigation setting. The conflicts that will be discussed include a lawsuit being filed by a current board member of a government entity who sues the board over a decision that he or she disagrees with. This scenario brings into focus Rule 1.13 of the Model Rules, which deals with an organization as a client and obligations the lawyer has when representing the government body as a whole, as opposed to one of its members.</p> <p>The second conflict situation to be covered involves the representation of opposing sides to a lawsuit by family members. Interestingly, the Model Rules only deal with this situation indirectly in Rule 1.7, yet the Florida Rules of Professional Conduct and perhaps those in other states, deal with it directly. We will discuss whether the Model Rules adequately cover this situation, and if not, whether the ABA should cover it in a more direct manner, as in the Florida Rules.</p> <p>The next section of the presentation will focus on the abuse and misuse of public positions, as well as how to educate and train your clients in the avoidance of public position pitfalls. We will discuss misuse of public positions by government officials, taking advantage of available resources, employment of relatives, conflicting employment, and disclosure or use of certain information. In addition, we will suggest how you can insure that appointed and advisory boards meet the highest ethical standards of public service.</p>	<p>Jennie Tarr & Robert Brazel</p> <p>Moderator: Shauna Billingsley</p>
2:10PM to 3:10PM	Seminar	Land Use: Climate Adaptive Measures	<p>The first presentation will provide an overview of the policy options available to help local governments (and their communities) adapt to the effects of climate change, and will discuss key legal considerations & litigations risk associated with many of those policy options.</p>	<p>Abby Corbett & Erin Deady</p> <p>Moderator: Jeff Dana</p>
3:20PM to 4:20PM	Seminar	Picking Up Where Joe Camel Left Off: Juul--The New Tobacco Litigation	<p>Twenty years ago, five tobacco companies agreed to pay more than \$200 billion to settle claims that they had systematically misled Americans about the addictive properties and health risks of cigarettes. Today, Juul and similar companies are facing similar allegations, focused particularly on their efforts to target underage users with attractive packaging and flavors. The consequences of vaping, including "popcorn lung" and other health impairments, are increasingly impacting American society, including its municipalities. This session, provided by a County Counsel facing the Juul fallout and a leading Juul litigation firm, will discuss the elements local governments should consider when selecting such outside counsel, and the litigation strategies and potential trajectory of the Juul actions.</p>	<p>Tom Egler & Marc Hansen</p> <p>Moderator: Erich Eiselt</p>

TIME	TRACK	TITLE	DESCRIPTION	SPEAKERS
3:20PM to 4:20PM	Section 1983	State Created Danger	<p>Following the Supreme Court's decision in <i>DeShaney v. Winnebago</i>, 498 US 189 (1989), many circuits have recognized a 'state created danger' doctrine under which state actors who create or increase risk or harm to an individual can be liable under the Fourteenth Amendment. However, the circuits are divided on what kind of test should be applied to determine if there has been a Fourteenth Amendment violation, and what kind of facts can give rise to such a claim. This confusion has spilled over to the state courts, where municipalities have been found negligent for creating risks of harm to certain groups of plaintiffs.</p> <p>This presentation will survey recent decisions discussing the state-created danger theory in the federal courts, as well as the treatment by similar claims in the state courts, and provide advice on how to navigate these murky waters.</p>	<p>Erika Reis & Meghan Claiborne</p> <p>Moderator: Susan Weise</p>

Wednesday, April 22, 2020

TIME	TRACK	TITLE	DESCRIPTION	SPEAKERS
12:10PM to 12:50PM	Networking	WONK Brunch	Sign up for a lunch (or breakfast depending on your time zone) based on subject matter and sit down with the subject matter expert to enjoy a meal and discuss areas of interest. Attendees will participate in a virtual networking opportunity.	
1:00PM to 2:00PM	Seminar	State League Meeting	The presentation during the meeting will focus on hemp products, drug testing, & employment. The meeting will also have an update from the executive director and board liaison as well as other new and old business. This presentation is intended for state league counsel members.	Morgain Patterson, Amanda Stanley, Lorelei Lein & Kelly Jean Long Pridgen
1:00PM to 2:00PM	Section 1983	Changing Lanes: Navigating the Evolving Legal Landscape of Police Pursuits	Police vehicle pursuits are inherently dangerous for the officers, the offenders, as well as innocent bystanders, with some pursuits ending in tragedy. When a collision occurs, people who are injured — or the relatives of those who have died — sometimes elect to take legal action against the police. Recent legal developments have made it more difficult to defend against these cases. Panelist will discuss the changing legal landscape and best practices for successfully defending against these claims	Jonathan Cooper & Robert Higgason
2:05PM to 3:35PM	Seminar	Communications Update: Congress, The FCC, Local Governments and the Sixth and Ninth Circuits: Where Do We Stand on Small Cell and Cable In-Kind Appeals and Legislation?	Two major FCC Orders that preempt local government authority and jeopardize local revenue streams are before the Ninth Circuit U.S. Court of Appeals for review: Small Cell and FCC In-Kind Orders. This section will outline the issues involved in the orders, the appeals' status and include insights and best practices.	<p>Gerard Lederer, Joseph Van Eaton & Andrew McCardle</p> <p>Moderator: Michael Watza</p>
2:05PM to 3:35PM	Section 1983	Depositions and Discovery Practice Pointers	The first presentation will go focus on how to handle internal investigation files and police personnel records in terms of discovery requests in a Section 1983 action. The second presentation will discuss working with law enforcement officers to understand their role as a defendant (vs. their usual role as a prosecution witness) and the distinction between civil and criminal actions and giving testimony in deposition vs. a courtroom setting. Explaining your role as counsel in a deposition and preparing the officer to be her own best advocate during the deposition process.	<p>Sean Richmond & Andrea Velasquez</p> <p>Moderator: Chris Balch</p>

TIME	TRACK	TITLE	DESCRIPTION	SPEAKERS
3:45PM to 4:45PM	Seminar	Municipal Finance: The Role of Local Counsel in a Bond Transaction	This session will focus on the basic roles and duties of the municipal attorney in a bond transaction. We will first provide a general overview of bond transactions, including the different types of municipal bonds, the players in a bond transaction, and the overall process of closing bonds. We will then consider specific bond-related issues that are of particular importance to the municipal attorney, with a particular focus on the content of the municipal attorney's legal opinion and guidelines the municipal attorney should follow in delivering that opinion.	Eric Shytle & Ray Jones Moderator: Beth Anne Childs
3:45PM to 4:45PM	Section 1983	Cross Examination Practice Pointers	This presentation will provide strategies and practical tips for handling cross examination of witnesses during a Civil Rights trial.	Patricia Miller & Melanie Speight

Thursday, April 23, 2020

TIME	TRACK	TITLE	DESCRIPTION	SPEAKERS
12:10PM to 12:50PM	Networking	Hot Topics with Vendors	Sign up for a lunch (or breakfast depending on your time zone) based on subject matter and sit down with your colleagues and an exhibitor of your choice to discuss a particular product or legal service relevant to the practice of municipal law. Attendees will participate in a virtual networking opportunity.	
1:00PM to 2:00PM	Seminar	Legal Implications of COVID-19: What Local Governments Need to Know	Members of the Greenberg Traurig Health Emergency Preparedness Task Force will give an update on the COVID-19 global pandemic as it relates to local governments. The speakers will give an overview of disaster declarations, the CARES Act, and the implications of the pandemic in the realms labor and employment, public finance.	Elizabeth Hadley, Greg Casas, Karen Kennard, Michelle Gambino, Shira Yoshor & Franklin Jones Moderator: Nancy Thompson
1:00PM to 2:00PM	Section 1983	Defending First Amendment Retaliation Claims Brought Against Municipal Employees	The topic will cover alleged retaliatory arrests for First Amendment speech as well as alleged First Amendment retaliation against municipal employees from Licensees and Inspections, administrative review boards, sheriff's departments, etc. The panel would also discuss the three forums identified by the Supreme Court: (1) a traditional public forum; (2) a public forum created by government designation (or "limited public fora"); and (3) nonpublic forum as well as the legal standards that apply to these forums in the First Amendment context.	Shannon Zabel & Andrew Pomager Moderator: Roger Horner

TIME	TRACK	TITLE	DESCRIPTION	SPEAKERS
2:10PM to 3:10PM	Seminar	How the False Claims Act Impact Municipalities	<p>The False Claims Act (FCA) or “Qui Tam” action - affects municipalities in 2 ways: 1) it can be used against municipalities and 2) municipalities can be proactive and pass a false claims act ordinance that works like the federal statute.</p> <p>Defense: The FCA can be filed against municipalities if the relators and/or the U.S. Attorneys Office can prove that the municipalities knowingly made a material false statement to the United States that involved a claim or request for funds. I had a case while in Solicitor of the City of Pittsburgh where the complaints (called the relators) claimed that the City falsely claim that we were furthering fair housing when we requested HUD money. Their allegation was that we used the HUD moneys inappropriately and did not “further fair housing” a requirement under the grant. FCA claims exposes municipalities substantial penalties – that is treble damages, a statutory penalty of up to \$21,563 per claim (each claim is separate and this can add up); attorneys fees; possibly monitorship. So every time a municipality requests funds from the U.S. government, they are exposed to the FCA. This statute is much more complicated than this but this is why municipalities need to be aware.</p> <p>Affirmative Litigation: Municipalities can adopt an ordinance that prohibits anyone who requests municipal funding or presents a claim (i.e. if a municipality’s pothole cause a tire to blow up) from knowingly making a false statement with intent to defraud the municipality. This could include presenting a false record with intent to decrease a municipal liability such as taxes, etc. The municipalities can follow the federal law and assign penalties such as treble damages, attorneys fees, etc.</p>	<p>Lourdes Sánchez Ridge & Michael Morse</p> <p>Moderator: Lori Bluhm</p>
2:10PM to 3:10PM	Section 1983	No Attorney Is Worth That! Tips on Litigating and Minimizing Fee Awards In Civil Rights Cases	The program addresses strategies for limiting attorney fee exposure through early case evaluation and settlement offers, and preparing effective opposition to fee motions.	<p>Timothy Coates</p> <p>Moderator: Henry Bernstein</p>
3:20PM to 4:50PM	Seminar	Religious Free Speech and the Public Employer	In Cochran v. City of Atlanta, a fire chief backed by one of the largest religious freedom organizations in the country challenged his termination on various constitutional grounds. The case became a media sensation which purportedly pitted religious freedom against sexual orientation nondiscrimination. We will take you into the trenches on how the case was litigated in the court and in the media.	<p>Nina Hickson, David Gevertz & Hannah Jarrells</p> <p>Moderator: Lori Bluhm</p>

Friday, April 24, 2020

TIME	TRACK	TITLE	DESCRIPTION	SPEAKERS
1:00PM to 2:00PM	Seminar	How to Find the Right Cyber Insurance for Your Needs	This presentation will go over everything from the need for cyber insurance and why it is important to how to determine appropriate limits, how to vet vendors, and will also go over coverage documents and the importance of exclusions and endorsements. Presenters will also discuss steps to follow when a breach occurs.	Peter Simonsen Moderator: Barbara Adams
1:00PM to 2:00PM	Section 1983	Fines and Fees	When it comes to city liability, the question of whether actions taken by a municipal court can establish liability for a city is a complicated question. Within this question are a series of other constitutional, procedural, and state law questions. Not to mention questions of public policy. This presentation will focus on recent Eighth Circuit decisions, which have helped unravel this complex question, and help explain the current state of jurisprudence on the question of whether municipal courts can establish liability for a city and, if so, how. In addition, this presentation will explore how city attorneys have grappled with this issue in the City of Austin and what steps they've taken to ensure a city will not be found liable for actions taken by a municipal court.	John Wilkerson, Chase Gomillion & Miles McHale Moderator: Susana Alcalá Wood
2:10PM to 3:10PM	Seminar	Employment Law: Gender Transition in the Workplace	This presentation will cover the following topics relating to transgender employees and employees transitioning in the workplace: (1) An overview of terminology and best practices; (2) Legal protections for transgender employees; (3) How employers can manage an employee's gender transition appropriately; (4) and Recommendations for workplace gender transition guidelines.	Tracy Lessig Moderator: Robin Cross
2:10PM to 3:10PM	Section 1983	Defending Non-firearm Arrest-Related Death Cases	There are significant differences between the evidentiary, scientific, causal, and legal issues with a firearm and a non-firearm arrest related death (ARD). As an example, in a firearm ARD there is generally no question of causation as the officer's bullet's demonstrable objective injuries is usually found in the subject's body. In those cases, the defense force standards generally revolve around the classic Tennessee v Garner (1985), Graham v Connor (1989), Scott v. Harris (2007), and their progeny, case law. In non-firearm ARD cases, generally there was no officer action that could be scientifically linked to the subject's death. Some of the most frequent plaintiffs' theories are informally known as "killer knees" and "tasecution." The "killer knee" theory theorizes that the prone restraint of the subject prevented breathing so the subject was asphyxiated. This fallacy has been refuted by numerous studies but keeps appearing every few years under a different name. The "tasecution" theory is that the officer electrocuted the subject with his electrical weapon.	Dr. Mark Kroll & Traci Morita Moderator: Douglas Haney
3:20PM to 4:50PM	Seminar	Supreme Court Update	The 2019 Supreme Court term is shaping up to be a blockbuster with many cases that are relevant to local governments. In particular, cases this term included whether the term "because of sex" under Title VII encompasses discrimination on the basis of sexual orientation and transgender status; whether the Trump administration's decision to unwind DACA is judicially reviewable and if so, whether the decision was unlawful; the Court's first Second Amendment case in ten years; a case under the Clean Water Act; and an issue involving the First Amendment and aid to a religious school, among others. Hear from prominent Supreme Court practitioners and a former practitioner turned Supreme Court reporter about the impact of these cases and others for local governments.	Amy Howe, Sarah Harrington & Paul Clement Moderator: Lisa Soronen