



# 2022 Mid- Year Seminar

## April 8-11, 2022 | Virtual

Virtual Program

TENATATIVE and Subject to Change

Friday, April 8th, 2022

TIME	TITLE	DESCRIPTION	SPEAKERS
10:45AM to 11:45AM	Section 1983: GPS Chipping Your Employees and Other 4th Amendment Concerns	In today's world of rapidly evolving technology, it has become increasingly easy to track your employees. This CLE will look at various 4th amendment concerns and other HR considerations that should be considered as new technology is adopted and policies are updated	Amanda Stanley & John Goodyear <b>Moderator:</b> Jeb Brown
10:45AM to 11:45AM	Smarter City: Using University Research Agreements to Fuel Innovation in Your City	When cities and universities collaborate, great things happen. This presentation will explore how local universities can be a valuable resource when your city is solving complex challenges. Additionally, university research helps cities navigate difficult policy areas ranging from sustainability to transportation to housing affordability/homelessness. Working with a city is also a win-win experience for a university. Cities can provide universities with research funding, student internship opportunities, and most importantly, an opportunity to serve the community. Join our presentation to learn how your city and university can collaborate to fuel local innovation.	Holly Heinrich & Brandon Carr <b>Moderator:</b> Blake Pennington
1:00PM to 2:00PM	Section 1983: Success on Appeal in Section 1983 Cases	This presentation will provide practice pointers, strategy and guidance on addressing some of the unique issues that arise in litigating qualified immunity, Monell liability and the merits of constitutional issues on appeal in section 1983 cases.	Timothy Coates & Ted Xanders <b>Moderator:</b> Lori Bluhm
1:00PM to 2:00PM	Dangerous Assessment Response Team	This presentation will discuss how to address habitual criminal properties and habitual code nuisances.	Savita Rai & Samuel Adams <b>Moderator:</b> Jennie Tarr
2:05PM to 3:05PM	How to Conduct Effective Discovery in a Section 1983 Case	In this presentation we will discuss how to properly scope and conduct discovery in a Section 1983 case. We will provide a roadmap for the proper phasing of discovery; where to identify discoverable information about plaintiff; what documents and information to seek from plaintiff based on the facts and claims alleged; what discovery demands should be expected from plaintiff and how to respond; how to effectively use written discovery demands to preclude claims and limit damages; when to assert privileges and objections to plaintiff's demands; when to seek confidentiality agreements, protective orders and redaction to limit the scope of production; and how to balance the often disproportionate burden placed upon municipal defendant during discovery.	Beth Hoffman <b>Moderator:</b> Kelly Moran
2:05PM to 3:05PM	The Model City Charter: A Basis for Equity, Inclusion, and Engagement in City Governance	In November of 2020, the National Civic League began a year-long revision process for its Model City Charter. When the Model City Charter was first published in 1900, community leaders such as Teddy Roosevelt, Louis Brandeis, and Frederick Law Olmsted sought to address "incompetence, inefficiency, patronage, and corruption in local governments." More than 120 years later, cities have become highly professionalized and are confronted by new challenges, amidst a decline in public confidence in government, and calls for greater equity and inclusion. In this presentation, Candice M. Williams, Program Director, Equity and Inclusion of the National Civic League, and Chris Balch, Principal at the Balch Law Group, will review the first full revision of the Model City Charter in more than 20 years, focusing specifically on changes made to advance equity, inclusion, public engagement, and the role of the city attorney.	Chris Balch & Candice Williams <b>Moderator:</b> Chuck Thompson

TIME	TITLE	DESCRIPTION	SPEAKERS
3:20PM to 4:50PM	Supreme Court Update	The 2021 Supreme Court term is shaping up to be a blockbuster with many cases that are relevant to local governments, including issues related to government speech, signs, guns, and more. Hear from prominent Supreme Court practitioners about the impact of these cases for local governments. These Supreme Court experts will also talk about general issues before the Court and how those may impact local governments.	Michael Dreeben, Paul Clement & Amy Howe  <b>Moderator:</b> Lisa Soronen

## Saturday, April 9th, 2022

TIME	TITLE	DESCRIPTION	SPEAKERS
9:00AM to 10:00AM	Section 1983: Experts	The first presentation will provide practice pointers on the effective use of medical experts/ review of medical records in Section 1983 litigation. The second presentation will discuss the trend of plaintiffs' use of experts to support the argument that police have a code of silence and cover up internal investigations. This presentation will discuss how to exclude this testimony under Daubert.	Jenna Jankowski & Robert Higgason  <b>Moderator:</b> Beth Anne Childs
9:00AM to 10:00AM	Land Use Implications of the Pandemic	This presentation addresses how pandemic-related strategies could impact land use and other related issues in the coming years and decades. Specifically, this presentation looks at pandemic-era regulations, government decision-making, and remote working.	Terrie Hagler-Gray & Patricia Link <b>Moderator:</b> Roger Horner
10:05AM to 11:05AM	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 <b>Moderator:</b> Shauna Billingsley
10:05AM to 11:05AM	Employment Law: Workplace Investigations	This presentation will provide strategies and tips for workplace investigations, including: the investigative process; escalation and timing issues; retaliation and whistleblower protections; privilege issues; training; conducting interviews; and drafting and preparing reports.	Trina Chernos & Barry Uhrman <b>Moderator:</b> Robin Cross
11:20AM to 12:50PM	Litigating Reverse Conviction Claims Pursuant to § 1983	The first presentation will summarize the types of wrongful conviction claims and the constitutional amendments that are implicated when Section 1983 suits are brought against police officers and municipalities stemming from criminal convictions. The presentation will include affirmative defenses, immunities from suit, and procedural bars to wrongful conviction suits as well as examples of wrongful conviction cases and recent jury verdict awards and settlements. The second presentation will provide a brief overview of litigation practices and strategy in reverse conviction cases pursuant to § 1983, alleging police misconduct. In particular, this presentation will focus on how to address some of the unique discovery challenges posed by reverse convictions.	Lisa Maki & Hannah Faddis  <b>Moderator:</b> Leah Simon
11:20AM to 12:50PM	Creative Strategies for American Rescue Plan Act Funds	This panel discussion will explore creative ways local communities can use ARPA funds while also discussing the legal pitfalls to avoid.	Karen White, Morgain Patterson & Ana Schwab <b>Moderator:</b> Lori Lein
2:30PM to 3:30PM	Section 1983: Policing and Homeless Encampments	This panel will address constitutional claims that can arise out of encampment resolutions, and considerations to bear in mind to mitigate the litigation risk that might arise out from the same. Among the matters touched on will be communication of impending resolution (language access, effectiveness of notice provision); treatment (storage or disposal) of individuals' property; and thoughts on litigation of pre- or post-resolution claims in federal court, with some examples provided of opinions issuing around the country.	Kristin Bray & Anne Taylor  <b>Moderator:</b> Diana Cortes

TIME	TITLE	DESCRIPTION	SPEAKERS
2:30PM to 3:30PM	Bridging the Gap: Pay Equity Aspirations and Audits	Pay equity litigation is on the rise, and more jurisdictions are enacting expansive laws to close the race and gender pay gaps. Get ahead of the wave and increase municipal employee confidence in your City's pay structure by understanding the basics of compliance, as well as how and when to conduct an attorney-client privileged pay equity audit. In this insightful, easy-to-follow training, Deputy City Attorney Anne Milligan (City of Portland, Oregon) will take a complicated legal topic and break it down into an accessible introduction to pay equity, explaining why this work matters, challenges interpreting and applying conflicting and complementary laws, and compliance practices to consider as supervisors or legal counsel to include pay equity audits, data gathering, employee messaging, and public record implications.	Anne Milligan <b>Moderator:</b> Leah Simon
3:45PM to 4:45PM	Section 1983: The Law Enforcement Response to Assemblies/Protests/Unlawful Assemblies/Riots	Over the past ten years law enforcement has routinely been found at the center of protests, unlawful assemblies, and riots. A dynamic that is present since the Michael Brown shooting in Ferguson, is that law enforcement is the topic of the protest. This dynamic means that law enforcement, the target of the protest, is thrust into the protest/unlawful assembly/riot to ensure control and safety. In many cases these assemblies have turned violent and led to a law enforcement response which includes use of riot batons, shields, pepper-spray, pepper-ball, 40 mm munitions and various other law enforcement tools. In numerous local governments around the country, restraining orders have been sought by protest groups to enjoin law enforcement from the use of some of these use of force mechanisms.  This session will focus on law enforcement policy and training with respect to the response to these events and the parameters on use of force mechanisms and constitutional deployment.	Jack Ryan <b>Moderator:</b> Mujeeb Shah-Khan
3:45PM to 4:45PM	State League Meeting	This presentation will address police officer stress/wellness; particularly focusing on waves of early retirements due to Post Traumatic Stress Disorder. It will include both a presentation and then an opportunity for discussion. The presentation is intended for state league / association counsel.	Rachel Carlson <b>Moderator:</b> Morgain Patterson, Rusi Patel, Patricia Beety & Lori Lein

## Sunday, April 10th, 2022

TIME	TITLE	DESCRIPTION	SPEAKER
9:00AM to 10:30AM	Section 1983: Practical Considerations for Motion Practice	This presentation will discuss strategy around motion practice in Section 1983 cases including common abstention issues, removal, bifurcation, and some practical tips or considerations on Rule 12 motions and post-trial motions.	Meghan Riley & Jessica Battle <b>Moderator:</b> Lina James
9:00AM to 10:30AM	The New Infrastructure Challenge: Funding, Building and Defending Public Projects	This program will introduce municipal counsel to the legal funding, procurement and contracting mechanisms that will form the basis for public projects under the new federal infrastructure funding bill, the Infrastructure Investment and Jobs Act. You will hear from three professionals with disciplines in design and project management, funding and regulatory compliance and public construction. Career professionals who navigated the last stimulus act, the American Recovery and Reinvestment Act will share lessons learned, what to expect in the new bill, traps for the unwary and how the municipal attorney is the key to integrated project success and compliance. This program could easily have been titled: "an ounce of prevention" and is a must attend for any municipal attorney whose client will be using federal infrastructure dollars.	Steven Torres, Jason Kirk & Fernando Pasquel <b>Moderator:</b> Arthur Gutekunst
10:45AM to 11:45AM	Section 1983: Qualified Immunity Update	This presentation will cover three areas in the land of Qualified Immunity: (1) a review of recent QI decisions; (2) a discussion of qualified immunity in motion practice; and (3) a discussion on how District Court Judges are addressing the QI defense during jury trials.	Brachah Goykadosh & Elissa Jacobs <b>Moderator:</b> Chris Balch

TIME	TITLE	DESCRIPTION	SPEAKER
10:45AM to 11:45AM	Telecommunications Update: Focus on Fees and Charges for Public Rights-of-Way and Public Property	Current federal regulations and state and federal legislation have opened a door of opportunities for recovering costs and fair value for use of public property. Traditional users such as wireless companies, cable companies and the like, and new market entrants such as streaming video providers may all benefit from what's on the table. During this presentation, attendees will learn next steps and potential outcomes.	Joseph Van Eaton, Gerard Lederer & Lawrence Cooper
11:50PM to 12:50PM	Section 1983: Perspectives on Removing Children: The Interplay Between Child Protective Services and Law Enforcement	A discussion of liability facing Child Protective Services for potential 42 USC 1983 claims and the role of Law Enforcement during the removal of children from parents and the challenges that arise in this context. An overview of the respective mandates, responsibilities, and immunities for both agencies. Thoughts on encouraging cooperation, building rapport, and deescalating situations to result in better outcomes.	Martha Thompson & Teresa Beecham  <b>Moderator:</b> Jessica O'Connor
11:50PM to 12:50PM	State and Municipal Disadvantaged Business Programs – An Alternative to the Disparity Study Approach	Federal constitutional law limits the ability of municipalities and other governmental entities to create affirmative procurement programs benefiting disadvantaged businesses and designed to remedy past discrimination. To address the constitutional issues, governmental entities often undertake disparity studies that seek to quantify the impact of discrimination on past contracting opportunities. Unfortunately, the cost of such studies is often beyond the resources municipalities can allocate. Moreover, the studies themselves are highly technical and susceptible to challenges, creating litigation expenses, political criticism, and uncertainty.  In Pennsylvania at the state and local levels, a different approach has been taken. State law requires that all governmental entities review the responsibility of bidders and proposers before making awards. Typically, such reviews encompass examination of financial strength, bonding capacity, and operational capability. In the late 80's the state instituted a program to review the question of whether prospective contractors had discriminated in the selection of subcontractors and subconsultants in preparing their bids or proposals. In the context of construction, a prospective contractor that discriminated in the process of selecting its subs would be denied the award on the basis of the contractor-responsibility requirement. Challenges to the program as written and as applied were rejected by a federal court. Over the course of several years, the state rejected 100's of bidders, and the program achieved around 10% disadvantaged business enterprise participation. This model has been adopted in a handful of local jurisdictions, without challenges, and with results varying from 9% to 26% participation.  Any jurisdiction wishing to utilize a contractor-responsibility requirement or its equivalent could consider adapting this model as a means of addressing current discrimination in the marketplace, and building disadvantaged business capacity.	William Warren, Jr.  <b>Moderator:</b> Barbara A. Adams

## Monday, April 11th, 2022

TIME	TITLE	DESCRIPTION	SPEAKERS
8:35AM to 9:35AM	Federal Legislation Update	Hear from our partners at NLC, NACo, and USCM about federal legislation that will impact local governments. This presentation will include a discussion about the implementation of ARPA and the Infrastructure Investments and Jobs Act, as well as pending legislation that local governments need to be aware of.	Mark Ritacco, Irma Esparza Diggs & Larry Jones <b>Moderator:</b> Gerard Lederer
9:45AM to 10:45AM	First Amendment Liability Concerns for Disruptive Public Meetings	This presentation will discuss First Amendment liability concerns for public meetings in terms of both members of the public and council members.	Tonya Haas Davidson & Tom Carr  <b>Moderator:</b> Chanae Wood
11:00AM to 12:00AM	Legal Ethics Update	The first presenter will discuss stunning examples of attorneys breaching their ethical duties under ABA Model Rules on Competence (Rule 1.1), Diligence (Rule 1.3), Communication (Rule 1.4), Candor Toward the Tribunal (Rule 3.3), Fairness to Opposing Counsel (Rule 3.4), Decorum of the Tribunal (3.5) and Misconduct (Rule 8.4). The second presentation will focus on the conflicting confidences of the general counsel. This presentation will discuss navigating client confidentiality from within the City under ABA Model Professional Rules 1.6, 1.1, and 1.13.	Lara Baker-Morrish & Kelly Moran  <b>Moderator:</b> Wynetta Massey