ETHICAL OBLIGATIONS OF MUNICIPAL ATTORNEYS WHEN A COUNCILMEMBER IS SUED PERSONALLY

Meredith Ladd, City Attorney

April 24, 2023

Where Connections Happen

CARROLLTON TEXAS



Coverage

Capacity

Adverse Interests

Informed Consent

Government Clients

Duty to Organization

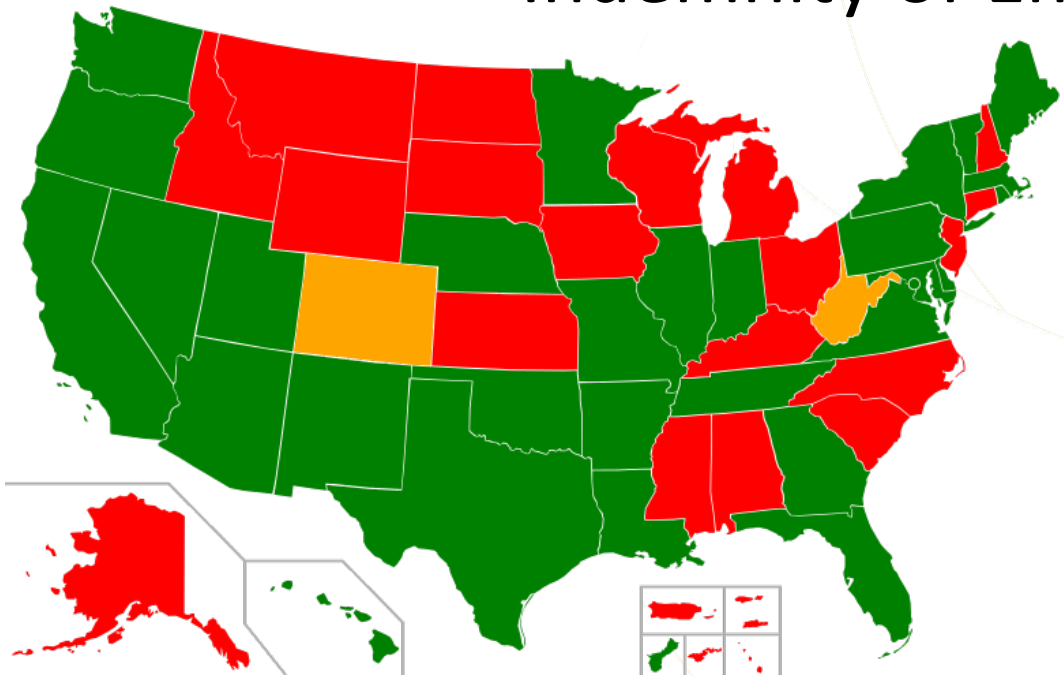
Communications

https://emareye.com/tips-on-how-to-write-a-powerful-introduction/

A Few Considerations

Anti-SLAPP

Indemnity of Employees



Anti-SLAPP legislation - Green

Anti-SLAPP case law - Yellow

No Anti-SLAPP legislation - Red

https://upload.wikimedia.org/wikipedia/commons/thumb/e/eb/Anti-SLAPP_laws_by_state.svg/1200px-Anti-SLAPP_laws_by_state.svg.png

MRPC 1.7 – COI CURRENT CLIENTS

(a) A lawyer shall not represent a client if the representation of that client will be directly adverse to another client, unless:

(1) the lawyer reasonable believes the representation will not adversely affect the relationship with the other client; and

(2) each client consents after consultation.

(b) A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless:

(1) the lawyer reasonably believes the representation will not be adversely affected; and

(2) the client consents after consultation

Johnson v. Bd. of Cnty. Comm'rs

This a case involving MRPC 1.7.

Attorney filed an answer in which she solely represented sheriff in his official capacity.



https://cle.cobar.org/Faculty-Authors/Info/CUSTOMERCD/9493

Rodick v. City of Schenectady



Claims arising under § 1983 – police brutality – and state law - malicious prosecution.

Judgment in favor of Rodick, plaintiff.

On appeal, officers allege that attorney representing both the city and the officers had an improper conflict of interest under MRPC 1.7.

https://www.legacy.com/us/obituaries/timesunion-albany/name/john-rodick-obituary?id=4967434

MRPC 1.8 – CURRENT CLIENTS

(b) A lawyer shall not use information relating to representation of a client to the disadvantage of the client unless the client gives informed consent, except as permitted or required by these Rules.

In re Tornow

This is a case involving violations of MRPC 1.7 and 1.8(b).

Complaint arose from city attorney against Tornow, an assistant city attorney.

Heightened public sector standard.



https://ballotpedia.org/R._Shawn_Tornow

MRPC 1.13 - ORGANIZATION

(a) A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.

(b) If a lawyer for an organization knows that an officer, employee or other person associated with the organization is engaged in action, . . . which reasonably might be imputed to the organization, and that is likely to result in substantial injury to the organization, then the lawyer shall proceed as is reasonably necessary in the best interest of the organization. Unless the lawyer reasonably believes that it is not necessary in the best interest of the organization to do so, the lawyer shall refer the matter to higher authority in the organization, including, if warranted by the circumstances, to the highest authority that can act on behalf of the organization as determined by applicable law.

MRPC 1.13 – ORGANIZATION (cont)

(f) In dealing with an organization's directors, officers, employees, members, shareholders or other constituents, a lawyer shall explain the identity of the client when the lawyer knows or reasonably should know that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing.

(g) A lawyer representing an organization may also represent any of its directors, officers, employees, members, shareholders, or other constituents, subject to the provisions of Rule 1.7. If the organization's consent to the dual representation is required by Rule 1.7, the consent shall be given by an appropriate official of the organization other than the individual who is to be represented, or by the shareholders

Young v. City of Flint

This is a case involving MRPC 1.7 and 1.13.

Charter Provision controls the appointment of outside counsel.



Trachelle C. Young announces candidacy for Genesee County prosecutor

https://www.mlive.com/news/flint/2020/02/longtime-flint-attorney-running-for-genesee-county-prosecutor.html

In re Schuessler

This is a case involving violations of MRPC 1.13.

Investigation into allegations of officer and prosecutorial misconduct.



Two ex-prosecutors' law licenses suspended for covering up St. Louis police beating

By Robert Patrick St. Louis Post-Dispatch Aug 14, 2019 0

Ambry Nichole Schuessler (left) and Katherine "Katie" Dierdorf

https://www.stltoday.com/news/local/crime-and-courts/two-ex-prosecutors-law-licenses-suspended-for-covering-up-st-louis-police-beating/article_264eb233-dfed-5f93-b86d-8957a2450eda.html

In re Harding

This is a case involving a violation of MRPC 1.13.

Harding was the contract city attorney for WaKeeney, Kansas.

He started working with the city in 1978, until he was removed in 2006.

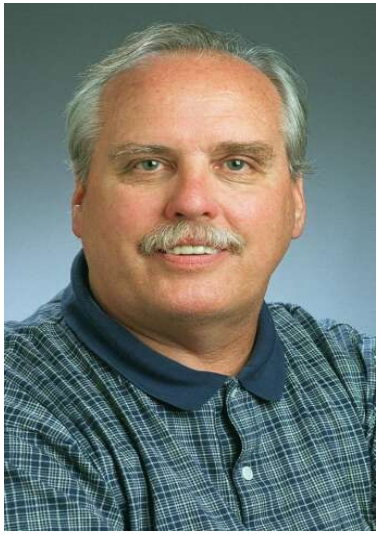
Harding spoke with Trego county attorney and the state disciplinary office about allegations of illegal conduct by WaKeeney officials.



WAKEENEY
GATEWAY TO
CEDAR BLUFF
STATE PARK

Wakeeney.org

Stutzman v. Karr



Council considering ordinance revision to development code regarding foundation requirements.

Stutzman builds homes with the foundation type being considered but wasn't present at meeting.

Filed suit in county court alleging defamation.

https://www.thegazette.com/crime-courts/jury-rules-against-cr-council-member-in-slander-suit/

Tyson v. Cnty. of Sabine

Fifth Circuit Denies Qualified Immunity Defense to Texas Deputy Who Allegedly Forced a Woman to Expose Herself to Him While He Masturbated

MARISA SARNOFF | Jul 28th, 2022, 5:56 pm

36 comments

SHARE



Melissa Tyson, David Boyd

"[S]tate has no interest in sexually abusing its citizens."

https://lawandcrime.com/federal-court/fifth-circuit-denies-qualified-immunity-defense-to-texas-deputy-who-allegedly-forced-a-woman-to-expose-herse%E2%80%A6

Smyrniotis v. Lightfoot, et al.



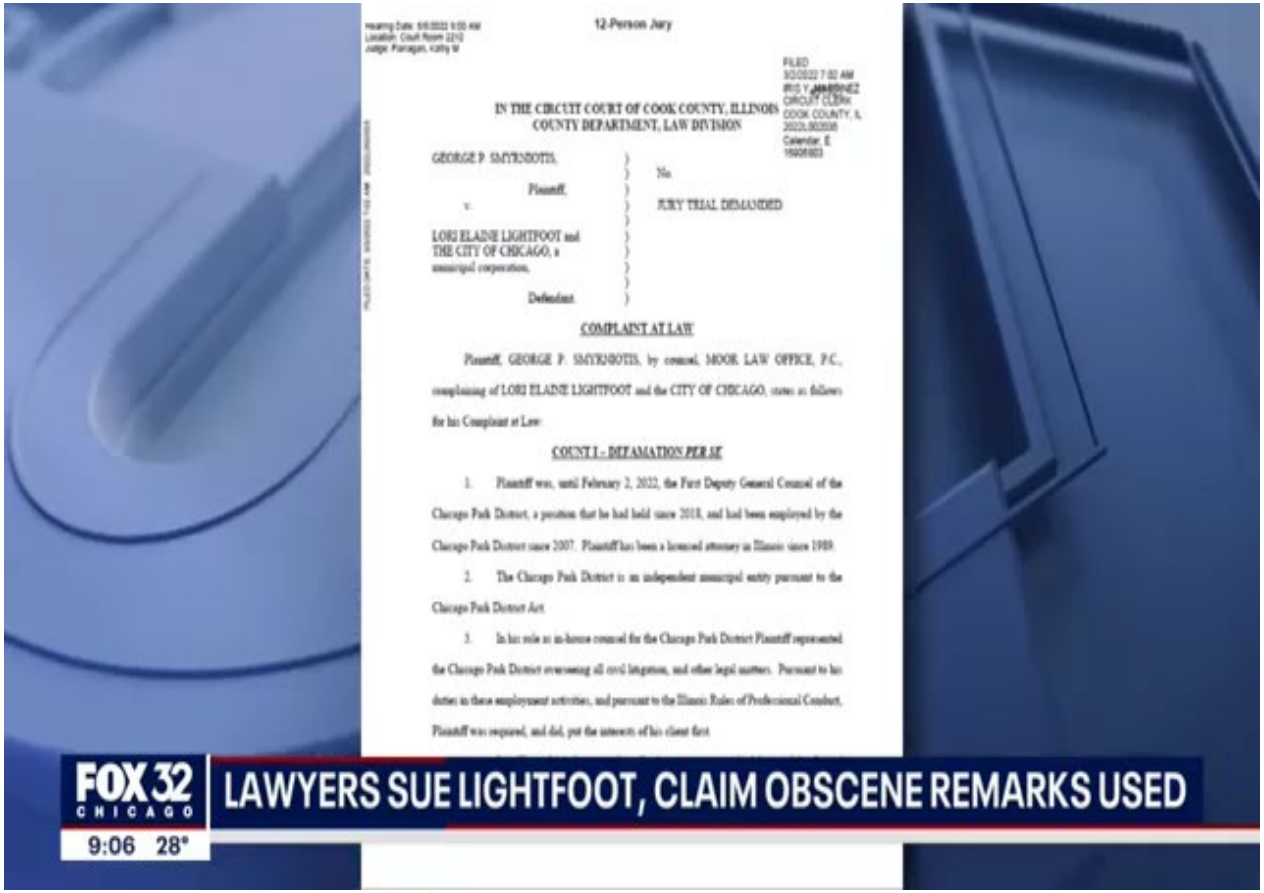
Chicago Mayor Lori Lightfoot | Youtube screenshot

Ex-Park District lawyer: Lightfoot owes for forcing him to resign after obscene 'big d*' rant over Columbus statue**

George Smyrniotis filed a defamation suit after then-Mayor Lightfoot allegedly questioned his abilities as an attorney.

https://cookcountyrecord.com/stories/621239886-ex-park-district-lawyer-lightfoot-owes-for-forcing-him-to-resign-after-obscene-big-d-rant-over-columbus-statue

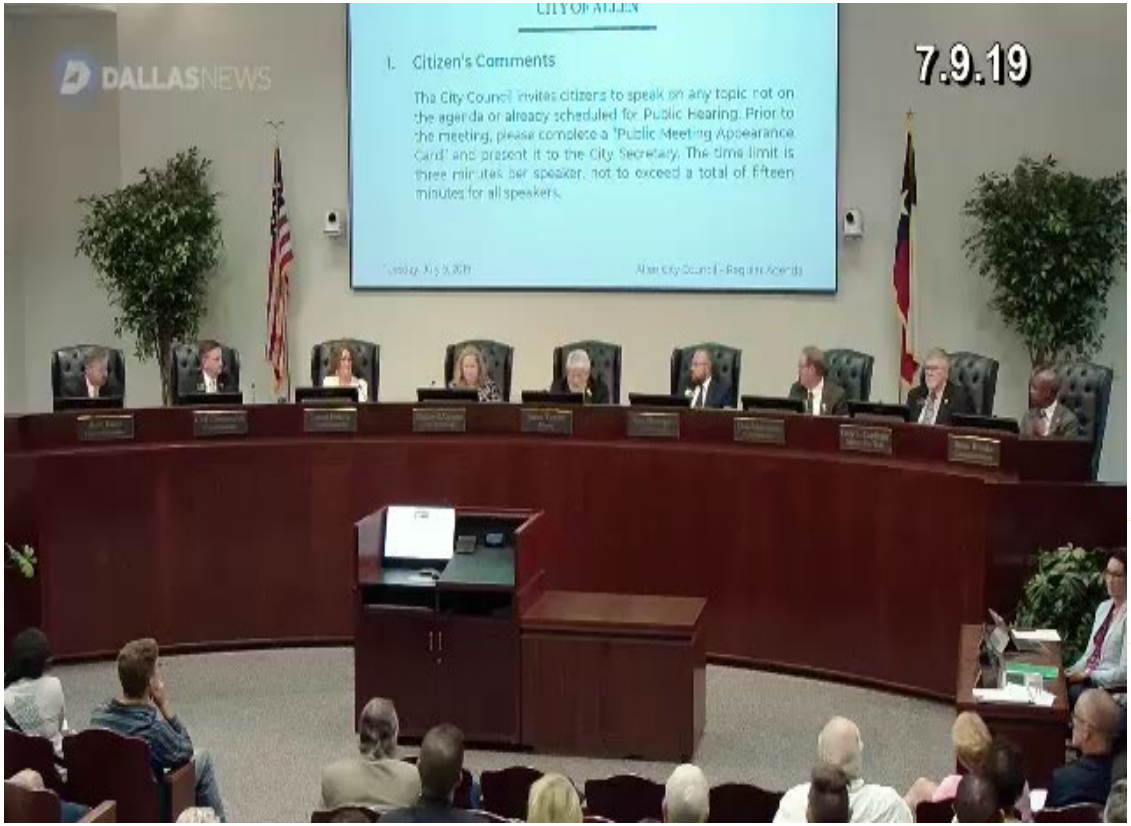
Smyrniotis v. Lightfoot, et al. (cont)



Allen, TX Council



Allen, TX Council



Cedar Park, TX Council



Flint, MI Council



Newton, IA Council



Cedar Rapids, IA Council



Cedar Rapids, IA - Rebuttal



Cedar Rapids, IA - Apology



Davis, CA Council



Davis, CA – Citizen comment



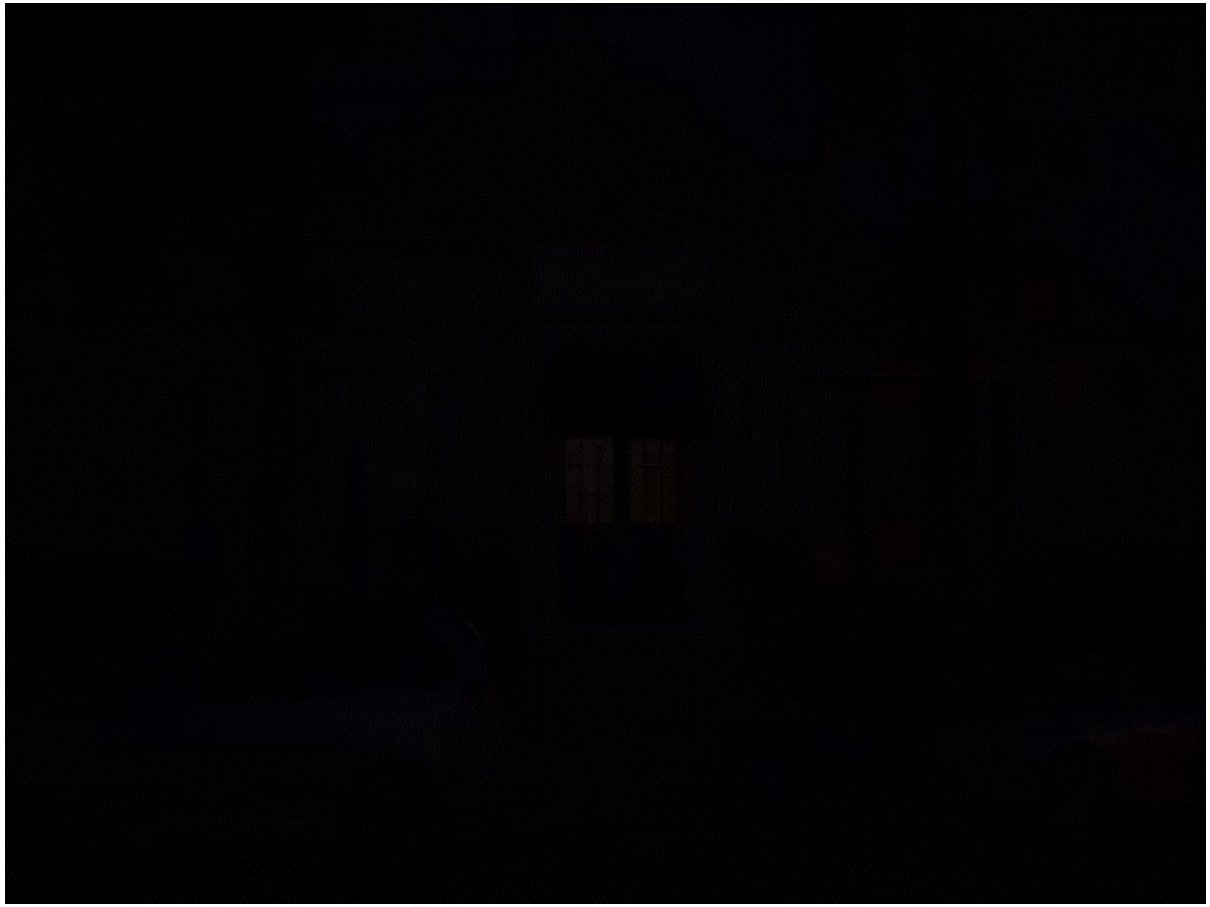
Davis, CA – Apology?



Mayor Rob Ford



SNL



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TEXAS