

Section 1983 Program

Virtual | July 25 & 26, 2024

Please note the program is tentative and subject to change



Last Updated: 07/23/24

Thursday, July 25, 2024

| TIME (Eastern) | TITLE | DESCRIPTION | SPEAKER(S) |
|--------------------|----------------------------------|---|-------------------|
| 12:00PM to 12:50PM | Welcome Lunch | Spend an hour discussing Section 1983 issues over an informal networking lunch (or breakfast) via Zoom. | |
| 1:00PM to 2:00PM | Fourth Amendment Case Law Update | This presentation will review key 2023 cases that deal with searches and the Fourth Amendment. | Pierre Grosdidier |

Friday, July 26, 2024

| TIME (Eastern) | TITLE | DESCRIPTION | SPEAKER(S) |
|-------------------|---|--|---------------------------------|
| 12:00PM to 1:00PM | New Source of Liability for Police Inaction and Color of Law Requirement for Former Police Action | <p>The protests and political backlash arising from the deaths of Michael Brown, George Floyd, and Breanna Taylor have led many police departments and officers to take a more passive approach to law enforcement. While the costs and benefits of this less active policing remain highly debated, one thing is clear. Plaintiffs and their attorneys have not taken a similarly passive approach. Instead, they have aggressively pushed new theories of liability, which seek to turn police inaction into a new source of municipal liability.</p> <p>The first part of this session will educate attendees on these problematic theories of liability, which are increasingly popular even though they put police officers and municipalities in a no-win situations, and even though they square poorly, if at all, with Supreme Court precedent. It will particularly focus on how to combat plaintiffs' efforts to expand the "state created danger" doctrine, and to create or expand (depending on the jurisdiction) a one-sided "provocation rule" against police officers in use of force cases.</p> <p>The second part of this session will address the body of legal authority that defines when a police officer is acting under color of law, addressing when an officer's actions constitute state action for purposes of Section 1983. The presentation would also provide authority supporting a motion to stay discovery even where qualified immunity is not raised, and touch on counter suits to declare a City's obligation to defend and indemnify such actions.</p> | David Mathues & Hollie Birkholz |

| TIME (Eastern) | TITLE | DESCRIPTION | SPEAKER(S) |
|-----------------------|--|---|-------------------|
| 1:15PM to 2:15PM | Probable Cause—Actual, Arguable, or Absent—and Claims for False Arrest | Plaintiffs whose charges are dropped will frequently bring claims of false arrest under Section 1983. If the officer had probable cause for the arrest, then a false arrest claim will be dismissed even if the underlying criminal charge was dropped. If the officer's assertion of probable cause doesn't withstand reasonable scrutiny under existing law, then the false arrest claim under 1983 likely will go forward. What about cases where the officer reasonable perceived that the facts supported probable cause at the time of the arrest, but the facts known later show that there was no probable cause? That would sound like a simple application of qualified immunity protecting the actions of the officer based on the information known to him at the time. (And I would argue it that way.) But there's more to it than that. Some circuits recognize "arguable" probable cause, while others do not. That gray area is what makes this a potentially interesting topic. When it is determined after the fact that there was no probable cause, what is needed to show that there was "arguable" probable cause at the time of the arrest? And what circuits will consider that? | Robert Higgason |
| 2:30PM to 4:00PM | Trial Practice Skills | This presentation will provide practical pointers on openings and summations for Section 1983 trials. | Patricia Miller |

Tuesday, July 30, 2024

| TIME (Eastern) | TITLE | DESCRIPTION | SPEAKER(S) |
|-----------------------|--|---|---|
| 2:30PM to 4:00PM | Defending Local Governments: Tackling Section 1983 Claims with Employment Law Challenges | Dive into the intricate nuances of defending municipalities in Section 1983 cases which encompasses personnel-related challenges. This session exposes attendees with real-life case examples, illustrating practical preventive measures and offering legal professionals invaluable strategies for navigating employment law challenges and constitution litigation successfully. | Tracey Hackett, Hermise Pierre & David Ware |