

International Municipal Lawyers Association
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Section 1983 Update: What You Need to Know in 2024

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Introduction



Staci J. Miller

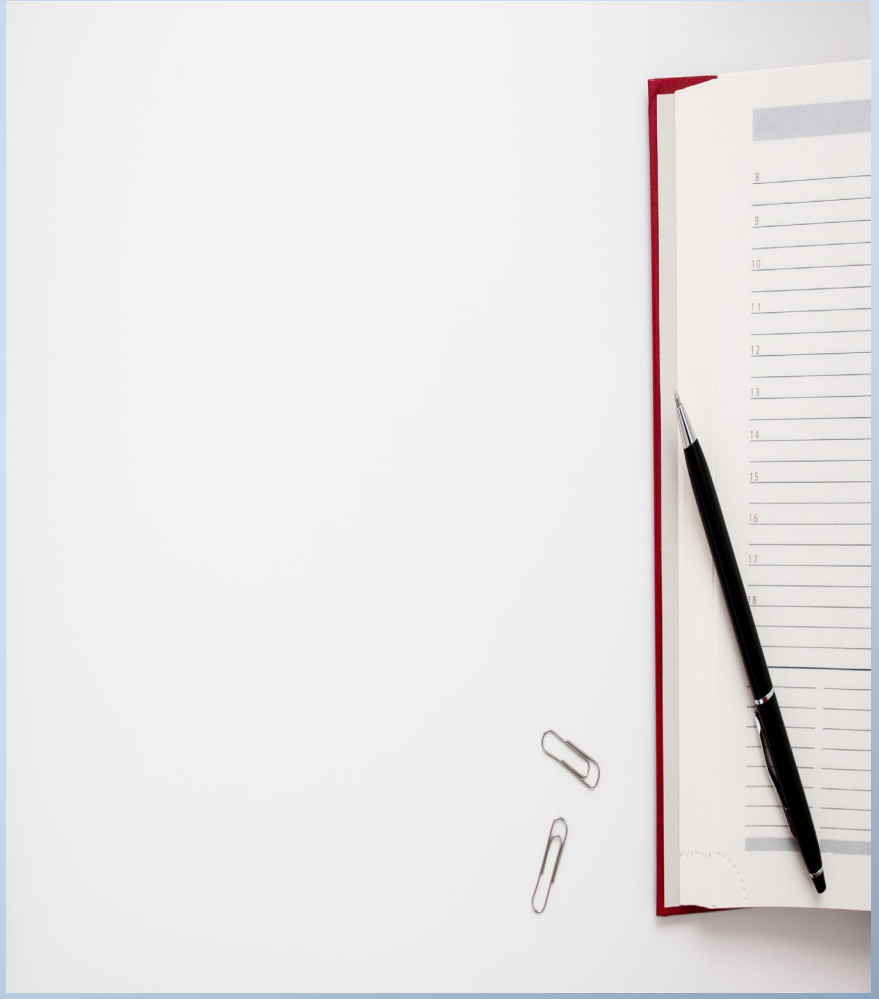
I am a native of Atlanta, Georgia and a 2011 graduate of Duke University. In 2015, I graduated from the University of Kentucky College of Law, receiving my Juris Doctorate degree. I joined the City of Atlanta Department of Law in 2017.

I am currently a Supervisory Senior Attorney with the City of Atlanta who regularly defends general civil litigation, including Section 1983 cases. I have tried several Section 1983 cases in the United States District Court for the Northern District of Georgia. I also regularly practice in both state and federal courts at the appellate level. I have briefed cases on appeal before the Georgia Court of Appeals and the Georgia Supreme Court. I have also argued before the Eleventh Circuit Court of Appeals on several occasions.

MONELL IN THEORY: WHAT IS IT?

Pursuant to 42 U.S.C. § 1983:

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 proper proceeding for redress.



MONELL IN THEORY: WHAT IS IT?

- The landmark case of *Monell v. New York City Department of Social Services*, 436 U.S. 658, 689 (1978) held that "municipalities and other local governmental bodies are 'persons' within the meaning of § 1983."
- *Monell* provided an avenue for Plaintiffs seeking redress against their local governments for the deprivation of any Constitutional right.



MONELL IN THEORY: WHAT IS IT?



- To impose Section 1983 liability on a municipality, a plaintiff **must show**: (1) that her **constitutional rights were violated**; (2) that the municipality had a **custom or policy that constituted deliberate indifference to that constitutional right**; and (3) that the policy or custom **caused the violation**. *City of Canton, Ohio v. Harris*, 489 U.S. 378, 390 (1989)
- "A municipality can be liable under §1983 only where its policies are the '**moving force [behind] the constitutional violation**'." *Id*. at 388-89.

MONELL IN THEORY: WHAT IS IT?

- "It is not enough for a § 1983 plaintiff merely to *identify* conduct properly attributable to the municipality. The plaintiff must also demonstrate that, through its *deliberate* conduct, the municipality was the "moving force" behind the injury alleged." *Board of the County Commissioners*, 520 U.S. at 404 (emphasis in original).
- "A showing of simple or even heightened negligence will not suffice." *Id*. at 407.



MONELL IN PRACTICE



1. The "Legal-Mail Rule"

Christmas v. Nabors, 76 F.4th 1320 (11th Cir. 2023)

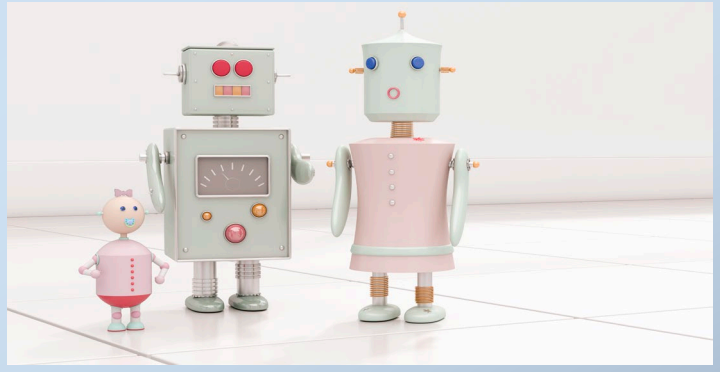
- Christmas alleged not only that Lieutenant Nabors and Sergeant Hill failed to stop their subordinates from acting unlawfully, but also that Nabors and Hill directed their subordinates to act unlawfully.
- As a result, Christmas has stated a First Amendment legal-mail claim against Nabors and Hill in their personal capacities.

MONELL IN PRACTICE

2. The "Special Relationship" Exception

Thomas v. City of Americus, 2023 WL 2485464 (11th Cir. 2023) *unreported*

- Municipal governments may "be held liable for substantive due process violations for their failure to protect victims from harm caused by third parties where the state had a 'special relationship' with the victim." *White v. Lemacks*, 183 F.3d 1253, 1256 (11th Cir. 1999).



MONELL IN PRACTICE



3. An Officer's Freedom of Speech

Ashford v. University of Michigan, 89 F.4th 960 (6th Cir. 2024)

- Ashford engaged in protected private speech when he agreed to speak with a reporter about the UM-D Police Department's handling of a sexual assault. He has made out a sufficient showing that he was retaliated against for doing so, which violated a clearly established right under our precedent.

MONELL IN PRACTICE

4. *Monell* Liability for Wrongful Conviction

Chambers v. Sanders, 63 F.4th 1092 (6th Cir. 2023)

- Our precedent and that of most other circuits lead us to conclude that substantive due process claims based on the right to family integrity require that the state official act with a culpable state of mind directed at the family relationship. The due process right of familial association does not protect against all forms of state action that impact parent-child relationships.



MONELL IN PRACTICE

5. An Employee As An Expert Witness

Ciarametaro v. City of Gloucester, 87 F.4th 83 (1st Cir. 2023)

- Our own review also reveals no case clearly establishing that Ciarametaro's speech was categorically entitled to First Amendment protection. *See Elder v. Holloway*, 510 U.S. 510, 512, 114 S.Ct. 1019, 127 L.Ed.2d 344 (1994).



MONELL IN PRACTICE



6. The COVID-19 Response Case

Ablordeppey v. Walsh, 85 F.4th 27 (1st Cir. 2023)

- Appellant "has pointed to no precedent, and we have found none, establishing that the [Appellees' COVID-19 response] violates clearly established law." *Est. of Rahim by Rahim*, 51 F.4th at 418. Absent clearly established law, Appellees could not know beforehand that their alleged mismanagement of the COVID-19 outbreak at Soldiers' Home would violate Appellant's rights.

The Circuit Courts and Beyond



Questions?



Thank you!

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