



APRIL  
21-23  
2021

37th Annual  
SECTION 1983 CIVIL RIGHTS  
LITIGATION CONFERENCE

# 37th Annual SECTION 1983 CIVIL RIGHTS LITIGATION CONFERENCE

Liability arising out of §1983 claims continues to present challenges for courts across the country, and the Supreme Court has a large impact in this dynamic area of law. Join us for this 10-part webinar series, held over three days, to get up-to-date on the latest cases, trends, and strategies affecting §1983 litigation. You have the opportunity to examine both the law of §1983 as well as the litigation strategies that underlie successful cases. Experts in the field address the most important issues and provide wisdom for you as you tackle this year's cases, whether you represent plaintiffs or defendants. As always, the conference provides an analytical approach to problems and offers practical advice about how to solve them.

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## CONFERENCE AT A GLANCE

ALL SESSIONS ARE LISTED IN CENTRAL STANDARD TIME (CST)

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### WEDNESDAY, APRIL 21, 2021

9:00am–10:15am

The Section 1983 Claim: The Basics

10:15am–10:30am

Break

10:30am–11:45am

Individual Immunities

11:45am–12:00pm

Break

12:00pm–1:15pm

Municipal Liability

1:15pm–1:30pm

Break

1:30pm–2:45pm

Substantive Due Process:  
The Constitutional Guaranty that  
Multitasks

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### THURSDAY, APRIL 22, 2021

9:00am–10:15am

The 4th Amendment:  
Overview & Update

10:15am–10:30am

Break

10:30am–11:45am

Practical Considerations in  
Section 1983 Litigation

11:45am–12:00pm

Break

12:00pm–1:15pm

Immigration Law and §1983

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### FRIDAY, APRIL 23, 2021

9:00am–10:15am

Takings after *Knick*

10:15am–10:30am

Break

10:30am–11:45am

Attorney's Fees and Related Ethical  
Issues

11:45am–12:00pm

Break

12:00pm–1:15pm

The Supreme Court's Term:  
Recent & Forthcoming Decisions

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All sessions are pre-recorded video content along with real-time speaker interaction available via live chat room throughout each session.

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# PROGRAM CHAIR AND FACULTY

## PROGRAM CHAIR

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Sheldon H. Nahmod  
University Distinguished  
Professor of Law Emeritus  
IIT Chicago-Kent College of Law  
Chicago, Illinois

Professor Sheldon Nahmod is a leading expert on constitutional law, civil rights and the law of §1983. He is the author of *CIVIL RIGHTS AND CIVIL LIBERTIES LITIGATION: THE LAW OF SECTION 1983* (2020) and has argued civil rights cases before the U.S. Supreme Court and many other federal courts. He has also

lectured to federal judges on §1983. He is a graduate of the University of Chicago, Harvard Law School, and the University of Chicago Divinity School. Professor Nahmod received the Lifetime Achievement Award of the State and Local Government Law Section of the ABA for his work in §1983 jurisprudence.

He blogs on §1983 and constitutional law at [nahmodlaw.com](http://nahmodlaw.com) and can be followed on Twitter @NahmodLaw.

## PROGRAM FACULTY

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Kimberly D. Bailey  
Associate Professor of Law  
Chicago-Kent College of Law  
Chicago, Illinois



Gerald M. Birnberg  
Founding Partner  
Williams, Birnberg, & Andersen LLP  
Houston, Texas



Karen M. Blum  
Professor of Law Emerita  
Suffolk University Law School  
Boston, Massachusetts

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Victoria Carmona  
Assistant Clinical Professor and Supervisory  
Attorney, Immigration Clinic  
Chicago-Kent College of Law  
Chicago, Illinois



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Erwin Chemerinsky  
Dean and Jesse H. Choper  
Distinguished Professor of Law  
University of California Berkeley  
School of Law  
Berkeley, California



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Rosalie B. Levinson  
Professor of Law Emerita  
Valparaiso University School of Law  
Valparaiso, Indiana



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John B. Murphey  
Senior Partner  
Odelson Sterk Murphey  
Frazier McGrath, Ltd.  
Chicago, Illinois

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# PROGRAM SCHEDULE APRIL 21-23, 2021

ALL SESSIONS ARE LISTED IN CENTRAL STANDARD TIME (CST)

## WEDNESDAY, APRIL 21, 2021

9:00am-10:15am

### The Section 1983 Claim: The Basics

- Section 1983 and Fourteenth Amendment violations
- First Amendment retaliatory arrest claims and the *Nieves* case
- Cause in fact: the *Mt. Healthy* burden-shift
- Proximate cause after *Mendez*
- *Heck v. Humphrey* and existing convictions
- Section 1983 malicious prosecution claims after *Manuel*

**Sheldon H. Nahmod**, University Distinguished Professor of Law Emeritus, Chicago-Kent College of Law

10:15am-10:30am

### Break

10:30am-11:45am

### Individual Immunities

- Absolute immunities for prosecutorial, legislative, and judicial acts
- The standard for qualified immunity: What is clearly established law that a reasonable officer should know?
- The sequence for analyzing qualified immunity questions: *Pearson v. Callahan* and its significance
- Pleading in light of *Ashcroft v. Iqbal*
- Liabilities and immunities for private party defendants

**Erwin Chemerinsky**, Dean and Jesse H. Choper Distinguished Professor of Law, University of California Berkeley School of Law

11:45am-12:00pm

### Break

12:00pm-1:15pm

### Municipal Liability

- Theories of municipal liability
- *Monell's* application to private corporations
- What constitutes a policy? Who's a final policy maker? Whose policy is it?
- Single incident liability? Impact of the Supreme Court's decision in *Connick v. Thompson* on failure-to-train claims
- Is failure to have a policy tantamount to a policy? When is proof of deliberate indifference required?
- Can there be municipal liability absent individual liability?
- What impact does grant of qualified immunity to individual defendants have on municipal liability?

**Karen M. Blum**, Professor of Law Emerita, Suffolk University Law School

1:15pm-1:30pm

### Break

1:30pm-2:45pm

### Substantive Due Process: The Constitutional Guaranty That Multitasks

- Incorporation of the Bill of Rights
- Protection of non-textual rights from arbitrary legislation
- Protection from grossly excessive punitive damage awards
- Protection against abuse of power by government officials

**Rosalie B. Levinson**, Professor of Law Emerita, Valparaiso University School of Law

## THURSDAY, APRIL 22, 2021

9:00am-10:15am

### The 4th Amendment: Overview and Update

- Expectations of privacy: the impact of new technologies
- Stop & frisk
- Qualified immunity, the exclusionary rule, and remedies for Fourth Amendment violations
- Regulatory and public safety searches

**Kimberly D. Bailey**, Associate Professor of Law Chicago-Kent College of Law

10:15am-10:30am

### Break

10:30am-11:45am

### Practical Considerations in Section 1983 Litigation

- Case analysis from both plaintiff's and defendant's perspective
- Discovery strategies
- Settlement: Evaluation and considerations for settlement conferences
- Qualified immunity – Is the motion available; when it is available; under what circumstances can the denial of a qualified immunity motion be appealed?
- Pre-trial order and jury instruction issues
- Trial strategies and evidence issues
- Closing argument considerations
- Post-trial motion practice

**John B. Murphey**, Senior Partner, Odelson Sterk Murphey Frazier McGrath, Ltd.

11:45am-12:00pm

### Break





**12:00pm-1:15pm**

### **Immigration Law and § 1983**

- Administrative remedies and procedures under the Immigration and Nationality Act for addressing apparent civil rights violations involving non-citizens
- Conditions of confinement in detention and other governmental actions against non-citizens
- Current litigation involving recent civil rights violations
- Employment discrimination and civil rights violations as a result of I-9 requirements and e-verify
- Identification of Section 1983, *Bivens*, and FTCA liability claims arising out of immigration law enforcement

**Victoria Carmona**, Assistant Clinical Professor and Supervisory Attorney, Immigration Clinic, Chicago-Kent College of Law

**FRIDAY, APRIL 23, 2021**

**9:00am-10:15am**

### **Takings after *Knick***

- The end of the Williamson exhaustion rule
- Just compensation claims which may now be filed directly in federal court
- When does a regulation become a taking, and how to distinguish one from another
- Recent post-*Knick* case law and predictions

**John B. Murphey**, Senior Partner, Odelson Sterk Murphey Frazier McGrath, Ltd.

**10:15am-10:30am**

### **Break**

**10:30am-11:45am**

### **Attorney's Fees and Related Ethical Issues**

- Issues in recently decided Supreme Court attorney's fees cases (standards controlling awards to prevailing defendants; fees for modest injunctive relief without money damages; costs recoverable by prevailing defendants; timeliness of notice of appeal;

adjustments to the lodestar; pre-judgment interest on attorney's fees)

- Ethical issues in § 1983 cases (including Rule 68 issues, conflicts of interest, frivolous claims)

**Gerald M. Birnberg**, Founding Partner, Williams, Birnberg, & Andersen LLP

**11:45am-12:00pm**

### **Break**

**12:00pm-1:15pm**

### **The Supreme Court's Term: Recent and Forthcoming Decisions**

- Fourth Amendment developments: warrantless blood testing of unconscious motorists; probable cause for stopping vehicles; what is a seizure when a motorist does not stop for the police
- First Amendment speech: whether probable cause for an arrest precludes a First Amendment claim for retaliation; whether a state can dictate an elector's vote in the electoral college
- Religion: whether the denial of benefits to religious schools violates free exercise of religion; whether there is a cause of action for money damages under the Religious Freedom Restoration Act; what is the scope of religious institutions exceptions from employment laws
- Second Amendment: scope of Second Amendment protection for guns outside the home

**Erwin Chemerinsky**, Dean and Jesse H. Choper Distinguished Professor of Law, University of California Berkeley School of Law

"Wonderful seminar. Gave me insight into my practice area. Thoughtful analysis by all."

– Previous attendee



# EVENT DETAILS

## PRICING

Before April 7	After April 7	Have you attended this conference for 10+ consecutive years?
\$450.00	\$500.00	Contact <a href="mailto:cle@kentlaw.iit.edu">cle@kentlaw.iit.edu</a> for special rate.

REGISTER ONLINE

CKCLE.CE21.COM

## CONTINUING LEGAL EDUCATION CREDIT

- Each webinar is eligible for 1.25 hours of General CLE credit in 60-minute states, and 1.5 hours of General CLE credit in 50-minute states.
- Attorney's Fees and Related Ethical Issues webinar is eligible for 1.25 hours of Ethics CLE credit in 60-minute states, and 1.5 hours of Ethics CLE credit in 50-minute states.
- Credit hours are estimated and are subject to each state's approval and credit rounding rules.
- Chicago-Kent College of Law will seek accreditation for these webinars in the following states: CA, IL, MO, NY, OH, PA, TX, and WI.
- States typically decide whether a program qualifies for MCLE credit in their jurisdiction 4-8 weeks after the program application is submitted. For many live events, credit approval is not received prior to the program.

QUESTIONS? WE ARE HERE TO HELP!  
CONTACT THE OFFICE OF CONTINUING LEGAL EDUCATION

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