

**CURRENT ISSUES  
IN  
CONSTITUTIONAL LITIGATION**

*A Context and Practice Casebook*

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# Foreword by David Rudovsky

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This new casebook admirably fills a significant need in the teaching of the complex and dynamic issues in the area of constitutional litigation. For many years, law teachers of this increasingly important topic have either had to generate their own materials or choose among some few standard case books. Now, Professor Ricks has authored a new and quite different casebook that provides far more than the usual cases, comments and questions.

Professor Ricks approaches the constitutional and statutory materials from several perspectives: doctrinal development, legislative responses, litigation decisions, and practical considerations that inform the litigation and decision making in this area. Included in each substantive chapter are the social and political contexts of the constitutional issues, leading Supreme Court and Circuit Court opinions, excerpts from oral arguments on major cases in the Supreme Court, legislative initiatives, expert reports, jury instructions, representative pleadings, and even interviews with leading civil rights litigators. Students are provided with the full range of materials from the files of litigators to the decisions by the courts.

As an example, the chapter on prisoner rights litigation includes the leading cases and the development of controlling doctrine, but also provides a rich mix of materials from litigation files, investigative reports from public interest organizations, and legislative hearings that bear on the major issues. Professor Ricks also provides thoughtful questions and innovative simulations that will encourage students to think through these problems from the perspectives of the lawyers, inmates, prison officials, judges, and legislators.

The world of constitutional litigation is far broader than case law. Professor Ricks has captured the multi-dimensional aspects of this field of law and has produced a casebook that will greatly enhance teaching, learning and practice of constitutional litigation.

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# Foreword by Karen Blum

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For years I've been putting together my own materials to teach a course on Police Misconduct Litigation. The course takes a practical approach and gets the students involved in working on real cases with attorneys, from both the plaintiffs' and defense bar, who are experienced in the area of section 1983 litigation. There has been no casebook that provides students with the opportunity to see how all the facets of a case come together.

Sarah Ricks has created an incredibly useful, contextually-based casebook that tells the story of constitutional litigation from many different perspectives. Students go behind the scenes and come to understand litigation from reading not only case law, but from examining briefs, oral arguments, pleadings, and expert opinions.

Chapter Six explores Fourth Amendment standards and Police Misconduct. The Chapter begins with facts and statistics about a police officer's job, the typical job requirements, salaries, and training. This is important information for students to have when they are reading cases that evaluate the reasonableness of a police officer's conduct. Following the key cases of *Tennessee v. Garner* and *Graham v. Connor*, the Chapter includes sample jury instructions and verdict forms for excessive force cases. An excessive force "dog-bite" case is followed from complaint to verdict, giving the students insight into how multiple claims and defendants may be reduced as the case proceeds, with the ultimate disposition of the case turning on a single issue in a single claim with respect to a single officer. Students are invited to think about the time and expense of litigation and the economic pressures to reject a settlement that would not compensate for the investment of time expended by plaintiff's counsel. The coverage of *Scott v. Harris* includes excerpts from the oral argument and an amicus brief submitted by the National Police Accountability Project. A post-*Scott* Circuit decision provides a window for exploration of how *Scott* is being applied and whether it establishes a "*per se*" rule for the use of deadly force in cases involving motor vehicle chases.

For professors and students who want more from legal education than the unadorned case-method approach can provide, Professor Ricks has compiled a set of materials that brings the case law to life. Teaching and learning about constitutional litigation will be a much richer experience thanks to her efforts.

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