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**Civil Rights – 42 U.S.C. § 1983 Claims – Introductory Annotations**

* 1. **Applicability of Instructions in this Chapter**

The instructions in this Chapter apply to constitutional claims asserted under 42 U.S.C. § 1983 for actions taken under color of state law and claims asserted under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), for actions taken under color of federal law. *Bolin v. Story*, 225 F.3d 1234, 1242 (11th Cir. 2000) (“[F]ederal courts incorporate § 1983 law into *Bivens* actions.” (citation omitted)).

* 1. **Qualified Immunity**

In cases under § 1983 or *Bivens*, the named defendants will often assert on motion for summary judgment prior to trial a qualified immunity defense to be addressed by the court under the standards summarized in *Brown v. City of Huntsville, Ala.*, 608 F.3d 724, 733-34 (11th Cir. 2010). The instructions in this chapter presume that the court has previously determined that the defendants do not have a qualified immunity defense. If there is a genuine issue of material fact pertaining to the qualified immunity defense and that issue is not subsumed in the elements of the claim the plaintiff must prove, the model instructions should be revised accordingly. *See Johnson v. Breeden*, 280 F.3d 1308, 1318 (11th Cir. 2002) (“A tool used to apportion the jury and court functions relating to qualified immunity issues in cases that go to trial is special interrogatories to the jury.”).

* 1. **Multiple Defendants and Government Liability**

If the plaintiff claims that more than one defendant is liable for a § 1983 or *Bivens* claim, the model charges may be modified to accommodate multiple defendants. Further, if the plaintiff seeks to hold a government entity or individual supervisor liable, Pattern Instruction 5.10 *et seq.* may be incorporated into the instructions as appropriate. In doing so, the court should make clear that government entities are immune from punitive damages.