**ANNOTATIONS AND COMMENTS**

1. **General Use**

This instruction may be incorporated into applicable § 1983 instructions when there is a claim against an individual defendant or defendants. In such case, if a special verdict form is used, jury interrogatories applicable to the government entity should also be added.

1. **Elements**

This instruction is derived from *AFL-CIO v. City of Miami, Fla.*, 637 F.3d 1178, 1188-89 (11th Cir. 2011), and cases cited therein. A government entity may not be held liable under § 1983 absent a finding that an individual, typically an individual named as a defendant in the case, violated the plaintiff’s constitutional rights. *See, e.g.*, *Garczynski v. Bradshaw*, 573 F.3d 1158, 1170-71 (11th Cir. 2009).

The model instruction presumes that the parties do not dispute the identity of the final policymaker through which the municipality acts.

The third element of plaintiff’s case may be satisfied absent proof of at least one prior incident of materially similar unconstitutional conduct by proof that unconstitutional conduct would obviously result from failing to provide additional training or supervision. *AFL-CIO*, 637 F.3d at 1188-89. This is an extremely difficult standard to meet and it is often resolved in favor of the defendant(s) before trial. *See, e.g.*, *Gold v. City of Miami*, 151 F.3d 1346, 1352 (11th Cir. 1998). Accordingly, the model instruction does not include a charge on obvious need for additional training or supervision. Of course, where this issue is not resolved in favor of the defendant(s) as a matter of law prior to trial, an appropriate instruction on this standard should be given.

1. **Punitive Damages**

As discussed in the annotations following Pattern Instruction 5.13, *infra*, punitive damages may not be assessed against a government entity.