**5.12**

**Civil Rights – 42 U.S.C. § 1983 Claims – Supervisor Liability (Incorporate into Instructions for Claims against Individual Defendants)**

[Name of plaintiff] claims that [name of supervisor], who supervised [name of subordinate], is liable in [his/her] supervisory capacity for violating [name of plaintiff]’s [specify constitutional right, *e.g.*, Fourth Amendment right to be free from excessive force]. You should consider whether [name of supervisor] is liable only if you find that [name of subordinate] violated [name of plaintiff]’s [specify constitutional right].

[Name of supervisor] is not liable simply because [he/she] supervised [name of subordinate]. Rather, [name of plaintiff] must prove by a preponderance of the evidence that (1) [name of subordinate] violated [his/her] [specify constitutional right] and (2) one of the following circumstances was present at the time [name of plaintiff]’s constitutional rights were violated:

1. [Name of supervisor] personally participated in the violation of [name of plaintiff]’s constitutional rights; or

(b) A history of widespread abuse, meaning abuse that was obvious, flagrant, rampant, and of continued duration, rather than isolated occurrences, put [name of supervisor] on notice of the need to take corrective action and [he/she] failed to do so; or

(c) [Name of supervisor] intentionally implemented an “official policy or custom” that resulted in [name of subordinate] acting with deliberate indifference, meaning reckless disregard, to [name of plaintiff]’s [specify constitutional right]; or

(d) [Name of supervisor] directed [name of subordinate] to take the action that resulted in the violation of [name of plaintiff]’s [specify constitutional right]; or

(e) [Name of supervisor] knew that [name of subordinate] would take action[s] in violation of [name of plaintiff]’s [specify constitutional right] and failed to stop [name of subordinate] from doing so.

An “official policy or custom” means a:

(a) A policy statement or decision that is made by [name of supervisor]; or

(b) A practice or course of conduct that is so widespread that it has acquired the force of law, even if the practice has not been formally approved.

You may find that an “official policy or custom” existed if there was a practice that was so persistent, widespread, or repetitious that [name of supervisor] either knew about it or should have known about it.

**NOTE:** Model Jury Interrogatory Forms may be found in the appendices after the last civil rights jury instruction (Pattern Instruction 5.13) for use in actions brought under 42 U.S.C. §1983. Three types of Model Jury Interrogatory Forms are provided: (A) a simplified Interrogatory Form for use in most civil right actions; (B) an Interrogatory Form for use in actions that do not require application of the Prison Litigation Reform Act, and (C) an Interrogatory Form for use in actions that do require application of the Prison Litigation Reform Act.