# 9.3 Section 1983 Claim Against Defendant in Individual Capacity—Elements and Burden of Proof

 In order to prevail on a § 1983 claim against the defendant [*name of individual defendant*], the plaintiff must prove each of the following elements by a preponderance of the evidence:

1. the defendant acted under color of state law; and

 2. the [act[s]] [failure to act] of the defendant deprived the plaintiff of particular rights under [the laws of the United States] [the United States Constitution] as explained in later instructions; and

 3. The defendant’s conduct was an actual cause of the claimed injury.

 A person acts “under color of state law” when the person acts or purports to act in the performance of official duties under any state, county, or municipal law, ordinance or regulation. [[The parties have stipulated] [I instruct you] that the defendant acted under color of state law.]

The defendant’s conduct is an actual cause of a plaintiff's injury only if the injury would not have occurred ‘but for' that conduct, and the conduct has a sufficient connection to the result.

 If you find the plaintiff has proved each of these elements, and if you find that the plaintiff has proved all the elements the plaintiff is required to prove under Instruction[s] [*specify the instruction[s] that deal with the particular right[s]*], your verdict should be for the plaintiff. If, on the other hand, you find that the plaintiff has failed to prove any one or more of these elements, your verdict should be for the defendant.

**Comment**

 Use this instruction only in conjunction with an applicable “particular rights” instruction, such as Instructions 9.9-9.33. Such an instruction should set forth the additional elements a plaintiff must establish to prove the violation of the particular constitutional right or federal law at issue.

 The elements of a § 1983 claim are (1) the action the action was committed by a person acting “under color of state law” and (2) the action resulted in the deprivation of a constitutional right or federal statutory right. *Ochoa v. Pub. Consulting Grp., Inc.*, 48 F.4th 1102, 1107 (9th Cir. 2022) (quoting *West v. Atkins*, 487 U.S. 42, 48 (1988)). In order to be individually liable under § 1983, an individual must personally participate in an alleged rights deprivation. *Avalos v. Baca*, 596 F.3d 583, 587 (9th Cir. 2010).

 “In a § 1983 action, the plaintiff must also demonstrate that the defendant’s conduct was the actionable cause of the claimed injury.” *Bearchild v. Cobban*, 947 F.3d 1130, 1150 (9th Cir. 2020) (quoting *Harper v. City of Los Angeles*, 533 F.3d 1010, 1026 (9th Cir. 2008). “To meet this causation requirement, the plaintiff must establish both causation-in-fact and proximate causation.” *Id.; see also Chaudhry v. Aragon*, 68 F.4th 1161, 1169 nn.11-12 (9th Cir. 2023) (defining causation-in-fact and proximate causation).

 In *Reynaga Hernandez v. Skinner*, 969 F.3d 930, 941-42 (9th Cir. 2020), the Ninth Circuit discussed, for the first time, the minimum level of involvement needed for § 1983 liability under the integral-participant doctrine. An actor may be deemed to have caused a constitutional violation under the “integral-participant doctrine,” “only if (1) the defendant knew about and acquiesced in the constitutionally defective conduct as part of a common plan with those whose conduct constituted the violation, or (2) the defendant set in motion a series of acts by others which the defendant knew or reasonably should have known would cause others to inflict the constitutional injury.” *Peck v. Montoya*, 51 F.4th 877, 891 (9th Cir. 2022); *see id.* at 889-92 (holding that when non shooting officers did not form plan with shooting officers to shoot suspect, did not set in motion acts by shooting officers, and did not know or should have known constitutional violation would occur, non-shooting officers were not integral participants in constitutional violation); *see Spencer v. Pew*, 117 F.4th 1130, 1144-45 (9th Cir. 2024) (rejecting plaintiff’s claim that two officers were integral participants in a third officer’s use of excessive force because plaintiff did not present evidence that two of the officers knowingly acquiesced in a third officer’s unlawful conduct as a part of a common plan with him or evidence that the two officers’ conduct set in motion acts that they reasonably should have known would cause the third officer to engage in unlawful conduct). When liability is alleged against a defendant on this basis, the model instruction stated above will need to be modified.

*Revised November 2024*