

For the International Municipal Lawyer's Association - IMLA's 5 things to know for December 1st

1. The Supreme Court meets in conference today. We are most concerned about the Court's review in *Houston v. Pidgeon*. As you know the court grants very few of the petitions and this case has significant support as it calls into question whether the Texas Legislature can override Supreme Court precedent as to same sex marriage and whether these laws adopted by the Texas legislature preempt *Houston* from offering benefits to its employees who are married based on whether the marriage is between members of the same sex.

<https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/17-424.html>

2. Yesterday, the 9th Circuit upheld a decision that granted qualified immunity to officers who had entered a home without a warrant over the owner's objections. Whoa – the 9th Circuit? The case involved a probationer who was wanted for criminal activity while on probation. The court concluded that the police had probable cause to believe the probationer committed the crimes, and lived at the home. She was a probationer and exigencies of returning probationers who engage in criminal activity can justify the search.

SMITH V. CITY OF SANTA CLARA <http://cdn.ca9.uscourts.gov/datastore/opinions/2017/11/30/14-15103.pdf>

3. In Albuquerque the incoming Mayor Tim Keller announced Wednesday that Oriana Sandoval will serve as Deputy City Attorney a new position in the office where in the new role she will work on reforms ordered by the federal court focused on the police department. Congratulations Oriana.

<http://www.newschannel10.com/story/36959479/civil-rights-lawyer-tapped-as-albuquerques-deputy-attorney>

4. Remember Pokemon Go? Communities across the country reacted as many of their public spaces were overrun with people playing that game. Other social media game companies are replicating the concept and one sued Milwaukee County over its ordinance requiring a license to use its parks. A federal court concluded that Milwaukee County's ordinance violated the First Amendment and the County has agreed to settle the claim for \$83,000. As with any licensing ordinance that may impact First Amendment rights, including procedural standards is important. IMLA recently participated as an amicus in the 8th Circuit supporting a Missouri city where the court upheld its park licensing ordinance applicable to commercial photographers.

<https://www.jsonline.com/story/news/local/milwaukee/2017/11/30/milwaukee-county-weighs-83-000-payment-mobile-app-game-creator-settle-lawsuit-over-use-parks-mobile/905743001/>

5. In Manchester New Hampshire the city settled a claim by a man who sued the city because he was arrested for videotaping the police. The amount \$250,000. Government attorneys need to make sure that police officers understand that they cannot arrest someone for simply recording their activities – on the other hand if there are other bases for concern such as the person interfering with the police under the appropriate circumstances those facts may be a basis for both moving the person along and arresting that person – but be careful out there.

<http://www.wmur.com/article/man-arrested-after-recording-police-awarded-dollar275000-in-settlement/13979834>

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