

For the International Municipal Lawyer's Association - IMLA's 5 things to know for December 11th.

1. On Friday, in Washington DC, the Archdiocese of Washington and the Metro system squared off with Metro winning. The church sued over the system's ban on religious advertising. The federal district judge Amy Berman Jackson concluded that Metro's policies banning religious and "issues-oriented" ads — borne out of a desire to prevent inflammatory ads that could incite violence — was reasonable and enforced with fairness. We'll need to follow this case.

https://www.washingtonpost.com/local/trafficandcommuting/judge-supports-metros-decision-to-ban-christmas-themed-catholic-ads/2017/12/09/97ecec50-dd1d-11e7-a841-2066faf731ef_story.html?utm_term=.fe2dc77dfc66

2. Also on Friday the First Circuit upheld a grant of summary judgment to Monsanto in a suit by a town and a school district over PCB's in caulk used in the construction of a school. The court concluded that when the school was built in 1969 that Monsanto did not reasonably foresee that the PCB's would be a hazard to human health requiring remediation and that as such under Massachusetts law, a breach of implied warranty failed. Obviously, fact laden, the court noted that no evidence exists today that caulk emits hazardous PCB vapors.

<http://media.ca1.uscourts.gov/pdf.opinions/17-1461P-01A.pdf>

3. The 3rd Circuit reviewed a grant of qualified immunity to school board members and to the board itself. In reviewing the lower court's decision the panel agreed that the board members should be entitled to immunity. The question was whether banning a disruptive member of the public from future board meetings violated the Constitution. The panel decided that it would not opine on the constitutional question but recognized that the law was not clearly established, thus immunity applied. As to the board, however, the court said that despite the Plaintiff's forfeiture of its argument on the issue, it was clear the lower court erred in granting immunity to the board and reversed and remanded.

<http://www2.ca3.uscourts.gov/opinarch/153904p.pdf>

4. The 5th Circuit reviewed a remand to state court under the Class Action Fairness Act where municipalities in Louisiana sued the state and several contractors in a class action seeking to recover damages based on the construction of a highway. In 2016 the area was hit with inundating rains and the Plaintiffs allege that a highway barrier acted as a flood wall exacerbating the damage from the damaging rains. The 5th Circuit concluded that CAFA did not prevent remand to the state courts. And the cities can proceed against the contractors.

<http://www.ca5.uscourts.gov/opinions/pub/17/17-30768-CV0.pdf>

5. For fans of "Making of a Murderer", the 7th Circuit upheld the confession of Brendan Dassey and reversed a panel decision to grant him habeas corpus.

<http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2017/D12-08/C:16-3397:J:Hamilton:aut:T:fnOp:N:2074184:S:0>

<http://www.independent.co.uk/news/making-a-murderer-netflix-conviction-brendan-dassey-a8101556.html>

Don't forget – on December 14 we're offering a free webinar for members that discusses an ordinance regulating the problem of utilities cutting streets and repairing them. Sign up at www.imla.org. Not a member? Contact us. Have a great day and make it an inspirational one.