

For the International Municipal Lawyer's Association - IMLA's 5 things to know for March 20th

1. The Third Circuit decided an important case today involving the intersection of the ADA and police action. I'm hard pressed to make sense of this case so leave it to you to consider, but the facts involved a threatened suicide, an officer who obtains a warrant based on that situation and who decides to knock on the person's door. When the officer knocks the man kills himself and his family sues. The circuit agreed that there was no constitutional violation in knocking on the door, but it may have violated the ADA. So for those of you in the 3<sup>rd</sup> Circuit be on your toes.

<http://www2.ca3.uscourts.gov/opinarch/162074p.pdf>

2. There are several cases scheduled for the Supreme Court's conference on Friday. The two local government legislative prayer cases are teed up and there is the qualified immunity case of *Kisela vs Hughes* that's been around for about 7 or 8 conferences. Another case with frequent appearances at conference comes from the 10<sup>th</sup> Circuit and questions whether a police officer during a search may order a person to stop praying without violating her First Amendment rights.

<https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/17-467.html>

<https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/17-742.html>

3. Of note, a case that was scheduled for this week's conference but which has been put off for a response includes a Cato Institute amicus brief arguing the lack of historical basis for qualified immunity requires its termination as a defense. We've mentioned previously that the defense is under attack and if you have ideas for its defense let us know.

[https://www.supremecourt.gov/DocketPDF/17/17-1078/37345/20180302120715934\\_Pauly%20v.%20White%20Cato%20amicus%20brief.pdf](https://www.supremecourt.gov/DocketPDF/17/17-1078/37345/20180302120715934_Pauly%20v.%20White%20Cato%20amicus%20brief.pdf)

4. In San Francisco, former IMLA President Dennis Herrera and his great team won a victory against temporary rental giant Home Away in convincing the court that Home Away must comply with a subpoena for its records to allow the city to audit the financial records to determine if the company has fully complied with its requirement to pay taxes on its rentals.

<https://www.sfchronicle.com/business/article/HomeAway-must-give-San-Francisco-records-on-12761054.php>

5. In nearby San Jose, congratulations go to Rick Doyle and his team for winning an evolving issue in zoning. The city had ordered a medical marijuana collective to cease operations at a site as violative of the city's zoning. The collective defended on grounds

that it was a non-conforming use. Not so. The ordinance specifically provided that all uses not permitted were prohibited.

<http://www.courts.ca.gov/opinions/documents/H042938.PDF>

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