information about the extent and severity of Mr. Curley's conduct and that his acts after his last effort to claim protection under the federal law all compounded to justify the city's decision.

http://cdn.ca9.uscourts.gov/datastore/opinions/2014/12/02/12-16228.pdf (last accessed Dec. 17, 2014)

Newman v. Twp. of Hamburg – malicious prosecution, qualified immunity, probable cause

Daniel Newman was convicted of murder. Fifteen years later, a panel of the Sixth Circuit granted his petition for habeas corpus and found that a reasonable jury could not have convicted him on the evidence presented. Newman sued to recover damages for his wrongful conviction claiming among other things that one of the officers lied in overstating probable cause for his arrest and sought damages for malicious prosecution. The lower court denied the officer's claim of qualified immunity and the Sixth Circuit reversed. Factually, the court concluded that the officer's statement of probably cause while at odds with the statement of another officer was not so factually different to prove the officer misstated facts so much as it reflected the officers had different recollections of what they had been told.

The Sixth Circuit explained why probable cause is a legal issue and how Rule 56 is intended to work: "Newman responds that only a jury may make the probable cause determination. He is half right. If he presents sufficient evidence that would allow a reasonable jury to find that no probable cause existed for his arrest, he indeed may take his claim to a jury. But the point of Civil Rule 56 is to prevent claims from going to a jury when the court, after drawing all inferences in favor of the non movant (here Newman), determines that no reasonable jury could make such a finding. That is this case. Where the requisite material facts are not in dispute, as is true here, probable cause "retains its legal character" and must be decided by the court. *Hale v. Kart*, 396 F.3d 721, 728 (6th Cir. 2005)."

http://www.ca6.uscourts.gov/opinions.pdf/14a0292p-06.pdf (last accessed Dec. 17, 2014)

AGI v. Town of Hickory – governmental immunity, proprietary, airports

Only those of us in municipal law worry about the governmental – proprietary distinction and while it varies from state to state, this case reminds us to consider the distinction as it may arise in our own states to our own clients. The setting here is North Carolina and concerns a question of North Carolina law: whether governmental immunity from equitable claims is waived when a county or municipality acts in a proprietary, rather than governmental, capacity.