

Latest Trends in Public Entity Litigation

STEWART HARMAN

394th District Court of Texas - Live Stream

394th Judicial District Court

Recording of this hearing or live stream
is prohibited.

Violation may constitute contempt of
court and result in a fine of up to \$500
and a jail term of up to 180 days.

394th Judicial District Court



Summary of Cases

- ▶ 1983 Claim for MVA involving Firetruck and Auto
- ▶ 1983 Claim for removal from tow rotation
- ▶ Negligence claim for Crossing guard who left position early
- ▶ Breach of Contract for moving burial plot
- ▶ Negligence for hammock failure - Failure to cut down trees in park
- ▶ Negligence for failure to provide a safe sidewalk
- ▶ 1983 Claim for Failure to Intervene
- ▶ Unlawful Seizure for detaining Individual during welfare check (doing too much)

Summary of Cases Cont.

- ▶ Gabby Petito (not doing enough)
- ▶ Negligence for creating a dangerous hazard during installation of sprinkler system
- ▶ Unlawful discrimination and relation under Title VII of sitting councilmember
- ▶ Negligence for trip and fall on sidewalk
- ▶ 1983 Claim for excessive force
- ▶ **Constitutional takings claim for burst water main that flooded basement warehouse**
- ▶ Negligence for motorized scooter accident on sidewalk

11 Public Entity Risks in 2023

- ▶ Violent Events
- ▶ Strained Resources
- ▶ Law Enforcement Changes
- ▶ Driver Shortages
- ▶ Bullying
- ▶ Sexual misconduct
- ▶ Cyberattacks and ransomware
- ▶ Aging infrastructure
- ▶ Property valuation
- ▶ Biometric privacy laws
- ▶ Increased employment related litigation

Trial Lessons Learned

- ▶ Butcher v. West Jordan City
 - ▶ Plaintiffs were 7 tow companies and their 7 owners. They shared a tow yard owned by one of the owners, which tow yard had only a gravel surface and was within 200 feet of a drinking water well.
 - ▶ Once discovered the lot was not in compliance, Companies removed from the tow rotation and ordered to cease and desist operating on the lot.
 - ▶ Claims for Violations of Due Process, Equal Protection, Breach of Contract, Zoning Estoppel, negligence and intentional interference with economic relations.
 - ▶ Prior to trial, obtained dismissal of negligence, breach of contract, substantive due process and IIER claims.

Trial Lessons Learned Cont.

- ▶ Prior to trial, prevailed on motion in limine on economic damages.
 - ▶ Limited to only nominal damages on DP and EP claims and emotional distress damages if could show prudential standing
- ▶ Jury found DP violations and EP violation (as to property owner only) and awarded nominal damages, along with emotional distress damages
- ▶ Court denied claim for zoning estoppel
- ▶ Currently battling out Attorneys' fee claim

Questions?

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