

JEFFREY DANA
City Solicitor



JORGE O. ELORZA
Mayor

April 27, 2020

The Honorable Sabina Matos
President, Providence City Council
Providence City Hall
25 Dorrance Street
Providence, Rhode Island 02903

Dear Council President Matos:

Enclosed please find my annual report on civil suits and legal proceedings, which I submit pursuant to Sec. 2-98 of the Code of Ordinances.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeffrey Dana".

Jeffrey Dana
City Solicitor

Enclosure

IN CITY COUNCIL
MAY 07 2020

READ
WHEREUPON IT IS ORDERED THAT
THE SAME BE RECEIVED.

A handwritten signature in black ink, appearing to read "Sabina Matos".
CLERK

JEFFREY DANA
City Solicitor



JORGE O. ELORZA
Mayor

**ANNUAL REPORT OF CIVIL SUITS AND LEGAL PROCEEDINGS
FROM THE CITY SOLICITOR TO THE CITY COUNCIL
IN ACCORDANCE WITH SEC. 2-98 OF THE PROVIDENCE CODE OF ORDINANCES
APRIL 2020**

Pursuant to Sec. 2-98 of the Code of Ordinances, the City Solicitor submits the following. Currently, there are 806 open civil cases in either state or federal court. Of these, 101 are cases for relief from tax assessment. In 19 cases, the City is the suing entity. In the rest of the matters, the City is a defendant in a (non-tax related) civil action. Below is a list of significant civil actions in which the City is either a plaintiff or a defendant.

21 Peace Street, LLC and Prospect CharterCare v. Tax Assessor – These are two separate appeals for relief from tax assessment related to the same property for tax years 2017 and 2018.

AARE, LLC v. Tax Assessor – This is an appeal for relief from tax assessment for tax year 2015-2017.

In re Actos End Payor Antitrust Litigation – This action, brought in the United States District Court for the Southern District of New York, involves the City's attempt to recover damages as a result of unfair trade practices and anti-competitive conduct of the prescription drug maker of Actos and Actosplus, prescription drugs that treat diabetes. The action has survived two dismissal attempts, and the latest dismissal decision by the district court is pending in the Second Circuit on appeal.

Alameda County Employees' Retirement Association v. BP p.l.c. (Securities Litigation) – This action, pending in the United States District Court for the District of Texas, Houston Division, involves a securities action brought to recover monies for the Providence Pension system.

In re The Allstate Corporation Securities Litigation – This action, pending in the United States District Court for the Northern District of Illinois, Eastern Division, involves a securities action brought to recover monies for the Providence pension system.

Andrews v. City (Medicare) – This case concerns retired police and fire members who opted out of a settlement. The settlement ended litigation that was a certified class action challenging an ordinance requiring Medicare eligible retired employees of the City to enroll in Medicare as a condition of receiving or continuing to receive health benefits. The individuals who have opted out of the retiree class have brought a separate action. This action was tried and a decision was entered for the City. The members who opted out have appealed to the Rhode Island Supreme Court.

Athena Providence Place LLC v. Tax Assessor – This is an appeal for relief from tax assessment for tax years 2013-2015. This matter is currently pending before the Rhode Island Supreme Court.

In re Baker Hughes Incorporated Merger Litigation – This shareholder derivative suit brought by the City of Providence seeks compensation to the Providence pension system and other relief related to the defendants' breach of fiduciary duties.

In re Barclays Liquidity Cross and High Frequency Trading Litigation (City of Providence v. BATS Global Markets, Inc. et al. – Securities Litigation) – This action, pending in the United States District Court for the Southern District of New York, involves a class action complaint against various brokerage firms, securities exchanges, and high-speed traders of shares of stock between 2009 and the present based on their manipulation of stock prices and unfair gain arising out of high frequency trading technology. The City is attempting to recover damages and/or injunctive relief to halt future lost earnings to its pension fund.

Biltmore Providence Owner, LLC v. Tax Assessor – This is an appeal for relief from tax assessment for tax year 2019.

Burgos v. City et al. – This is a lawsuit involving a motor vehicle accident with a Providence Rescue vehicle. Plaintiff has sued and alleges substantial bodily injury. The parties have agreed to a settlement in which the City will pay the Plaintiff \$291,500.00. This settlement has been approved by the claims committee and the payment is being processed.

Ceprano v. City – This is a wrongful termination and libel suit commenced by the City's former Tax Collector. Summary judgment entered for the defendants as to most, but not all, of the counts of Plaintiff's complaint.

City of Providence v. William P. Barr – This action was brought by the City against the United States Attorney General and the United States Department of Justice related to unlawful conditions related to immigration enforcement that they attached to the City's annual Congressionally-awarded public safety grant funding in fiscal years 2017 and 2018. The City prevailed in the United States District Court for the District of Rhode Island, and that court's fiscal year 2017 decision was affirmed by the First Circuit. The lower court's decision with regard to fiscal year 2018 funding is currently on appeal in the First Circuit.

City of Providence v. Lawrence Ellison et al (Securities Litigation) – This action, pending in the United States District Court for the Northern District of California, involves a securities action brought to recover monies related to the Providence pension system's investments in Oracle Corporation.

De Los Santos v. City (School Department) et al. – This action involves claims of discrimination by a Providence School Department employee.

In re Effexor XR Antitrust Litigation – This action is pending in the United States District Court for the District of New Jersey and involves the City's attempt to recover damages as a result of unfair trade practices and anti-competitive conduct by the prescription drug maker of Effexor.

Elmwood LLC Curo v. Tax Assessor – This action is an appeal for relief from tax assessment for tax year 2019.

Employees' Retirement System of the City of Providence v. Spirit Aerosystems Holdings, Inc. (Securities Litigation) – This action, pending in the United States District Court for the Northern District of Oklahoma, involves a securities action to recover monies for the Providence pension system due to false and/or materially misleading statements related to the grounding of Boeing's 737 MAX.

Gambardelli v. City – This action stems from a motor vehicle accident involving plaintiff and a City employee. The City employee later died of unrelated causes. Plaintiff has sued and alleges substantial bodily injury and permanent disability.

In re Generic Pharmaceuticals Pricing Antitrust Litigation - The City has filed several lawsuits under this umbrella litigation in the United States District Court for the Eastern District of Pennsylvania which involve the City's attempt to recover damages as a result of anticompetitive collusion among pharmaceutical manufacturers of various generic drugs, including Albuterol, Baclofen, Benazepril HCTZ, Clomipramine, Digoxin, Econazole, Fluocinonide, Lidocaine-Prilocaine, Pravastatin, Propranolol, and Ursodiol.

Jackson County Employees' Retirement System et al v. Carlos Ghosn (Securities Litigation) – This action, pending in the United States District Court for the Middle District of Tennessee, Nashville Division, seeks recovery to the Providence pension system for violations of the securities laws related to Nissan Motor Company's concealment of executive compensation paid to its former CEO and Chairman of the Board, Carlos Ghosn, a current international fugitive from related criminal proceedings in Japan.

The Estate of Laprocina v. City – This action involves a pedestrian who was struck by a car on Allens Avenue in the City of Providence. Plaintiff sued the City and other parties, alleging that one or more of the defendants were responsible for maintaining the nearby streetlight, and that the accident was in part caused by the streetlight not being lit. Plaintiff also alleges that Mr. Laprocina's resulting medical bills were substantial and that as a result he was both physically and mentally disabled from the time of the accident to the time of his death. Mr. Laprocina passed away, allegedly, due to complications from his injuries.

Lehigh Cement Co. v. Tax Assessor – This is an appeal for relief from tax assessment for tax year 2019.

In re Lipitor Antitrust Litigation – This action is pending in the United States District Court for the District of New Jersey and involves the City's attempt to recover damages as a result of unfair trade practices and anti-competitive conduct by the prescription drug maker of Lipitor.

In re Loestrin 24 Fe Antitrust Litigation – This action involves the City's attempt to recover damages as a result of unfair trade practices and anti-competitive conduct of the prescription drug maker of Loestrin 24. A proposed class settlement in the amount of \$62.5 million is pending court approval in the United States District Court for the District of Rhode Island.

Mann-Univar v. Tax Assessor – This is an appeal for relief from tax assessment for property in the ProvPort area for tax years 2013-2015, 2017, and 2018.

McAllister Towing v. Tax Assessor – This action is an appeal for relief from tax assessment for tangible property (primarily a tugboat) for tax years 2012-2016.

Metcalf Courts v. Tax Assessor – This for tax years 2015-2019.

Narragansett Electric v. Tax Assessor – This is an appeal for relief from tax assessment for tax years 2014-2018.

In re Niaspan Antitrust Litigation – This action is pending in the United States District Court for the Eastern District of Pennsylvania and involves the City's attempt to recover damages as a result of unfair trade practices and anti-competitive conduct by the prescription drug maker of Niaspan.

OMNI Rhode Island, LLC v. Tax Assessor – This is an appeal for relief from tax assessment, both tangible and real, for tax years 2016, 2017, and 2018.

One Financial Holdings, LLC v. Tax Assessor – This is an appeal for relief from tax assessment for tax years 2014 and 2015.

Orchard Garage, LLC v. Tax Assessor – This is an appeal for relief from tax assessment for tax year 2015.

Park Avenue v. Tax Assessor – This is an appeal for relief from tax assessment for tax years 2015-2019.

Penaloza, Rodriguez and Rosa on behalf of their children, NC, JP and JR, and a class of Similarly Situated Children in the Providence School District v. Providence School District. – Purported class action suit filed by RI Legal Service and the ACLU challenging the Providence School Department's use of the Consultation Model for non-English speaking students in the district. Plaintiffs contend that the model was in violation of Department of Education regulations by failing to provide instruction by certified ELL teachers for the requisite service hours. PSD prevailed on Summary Judgment at the Commissioner's level regarding the propriety of the model. The ACLU and RILS have appealed to the Council for Elementary and Secondary Education.

The Providence Journal v. Tax Assessor – This is an appeal for relief from tax assessment for tax years 2011-2019.

Quattrucci v. City of Providence (Cost of Living Adjustment) – This case concerns retired police and fire members who opted out of a settlement. The settlement ended litigation that was a certified class action challenging an ordinance that suspended a cost of living adjustment benefit. The individuals who have opted-out of the retiree class have brought a separate action to challenge the suspension of the COLA benefit. This action was tried and a decision was entered for the City. The members who opted out have appealed to the Rhode Island Supreme Court.

School Housing Aid Litigation – This is an action challenging the state's attempt to recoup an alleged overpayment in aid to the City.

SIMS Metal Management/SMM New England v. Tax Assessor – This is an appeal for relief from tax assessment for tax years 2015-18.

Sprague Operating Resources LLC v. Tax Assessor – This is an appeal for relief from real and tangible tax assessment for tax years 2015-2018.

In re Suboxone (City of Providence v. Reckitt Benckiser Pharmaceutical, Inc., et al.) – This matter is pending in the United States District Court for the Eastern District of Pennsylvania and involves the City's attempt to recover damages as a result of unfair and deceptive trade practices by Reckitt Benckiser in its sale of Suboxone, an opioid dependence prescription drug.

In re Thalomid and Revlimid Antitrust Litigation (City of Providence v. Celgene Corp.) – This action is pending in the United States District Court for the District of New Jersey and involves the City's attempt to recover damages as a result of unfair trade practices and anti-competitive conduct by the prescription drug maker of Thalomid and Revlimid.

Washington Street Garage Corporation v. Tax Assessor – This is an appeal for relief from tax assessment for tax years 2010-2012 and 2014.

Westminster Street Hotel v. Tax Assessor – This is an appeal for relief from tax assessment for tax year 2013.

Weston v. RCS Capital Corp. et al. (Securities Litigation) – This matter, filed in the Southern District of New York, alleges fraud by Defendant in the purchase deal of Cole Capital from American Realty Capital Properties, Inc. that artificially raised the RCS stock price. A court-approved settlement awarded the class \$31 million, of which the City is expected to receive approximately \$13,000.

In re Zetia (Ezetimibe) Antitrust Litigation – This action is pending in the United States District Court for the Eastern District of Virginia, Norfolk Division, and involves the City's attempt to recover damages as a result of unfair trade practices and anti-competitive conduct by the prescription drug maker of Zetia.