

JEFFREY DANA
City Solicitor



BRETT P. SMILEY
Mayor

April 25, 2023

The Honorable Rachel M. Miller
Providence City Council President
Providence City Hall
25 Dorrance Street
Providence, Rhode Island 02903

Dear Council President Miller:

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 "Jeff Dana", is written over a horizontal line.

Jeffrey Dana
City Solicitor

Enclosure

IN CITY COUNCIL
MAY 04 2023

READ
WHEREUPON IT IS ORDERED THAT
THE SAME BE RECEIVED.

James L. Mastrosacchi CLERK

JEFFREY DANA
City Solicitor



BRETT P. SMILEY
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 2023 -**

Pursuant to Sec. 2-98 of the Code of Ordinances, the City Solicitor submits the following. Currently, there are 767 open civil cases in either state or federal court. Of these, 72 are cases for relief from tax assessment. In 14 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.

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 two appeals to the Second Circuit.

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.

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.

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. AbbVie Inc. et al (Antitrust Litigation) – This action was brought by the City in the United States District Court for the Southern District of New York against the prescription drug maker of Bystolic to recover damages for unfair trade practices and anti-competitive conduct.

City of Providence v. Jazz Pharmaceuticals PLC *et al.* – This action pending in the United States District court for the Northern District of California 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 Xyrem, a drug prescribed for the treatment of cataplexy and narcolepsy.

De La Cruz *et al.* v. City – This action involves an elderly pedestrian and two very young minor pedestrians who were struck by a car while crossing in a crosswalk on Potters Avenue near its intersection with Dexter Street. There are seven Plaintiffs including the elderly pedestrian, two minor children, and the four parents of the two minor children. Plaintiffs allege substantial bodily injury and permanent disability, as well as loss of consortium and infliction of emotional distress.

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

First Providence Hotel Investors v. Tax Assessor – this is an appeal for relief from tax assessment for tax years 2020 and 2022.

Franchina v. City – This matter stems from Ms. Franchina’s successful discrimination lawsuit against the City that occurred in the Federal District Court in 2016. On the basis of the verdict, which was upheld by the First Circuit Court of Appeals, Ms. Franchina filed suit against the City again, claiming the classification of her current pension as ordinary disability, as opposed to accidental disability, was a discriminatory decision.

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.

Metals Recycling, LLC v. Tax Assessor – This is an appeal for relief from tax assessment for tax years 2015-2021.

Narragansett Electric v. Tax Assessor – This is an appeal for relief from tax assessment for tax years 2014-2021.

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.

Retirement System of the City of Providence v. Urs Rohner *et al.* – This action, pending in the United States District Court for Southern District of New York, involves allegations of breach of fiduciary duty owed by the board and executive management of Credit Suisse related to the multibillion-dollar collapse of the Archegos Fund, in which the City’s pension fund had been invested.

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 Services 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.

PRI LP v. Tax Assessor – This is an appeal for relief from tax assessment for tax year 2020.

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 2015-19.

Starnino v. City – This action was brought by a former firefighter who claims that, despite his termination for cause, he is entitled to a disability income stream or pension of some type based on his interpretation the City’s collective bargaining agreement with the firefighters’ union, after he suffered a work-related injury but was denied an accidental disability retirement pension.

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.

Thibeault as Guardian of Jhamal Gonsalves *et al.* v. City of Providence *et al.* – Plaintiffs sued in Federal District Court, alleging that Jhamal Gonsalves was operating a moped scooter on Elmwood Avenue when he lost control of his moped and crashed into a stone wall. At about the same time that Mr. Gonsalves crashed his scooter, a Providence Police Officer crashed into a stop sign on the sidewalk of Bissell Street, near where Mr. Gonsalves crashed. Plaintiffs allege that the Providence Police Department caused Gonsalves to crash his moped during an illegal pursuit, and that this resulted in serious bodily injury to Gonsalves. They allege negligence, assault, excessive force, and constitutional violations.

In re Xyrem (Sodium Oxybate) Antitrust Litigation – This action was brought by the City in the United States District Court for the Northern District of California against the prescription drug maker of Xyrem to recover damages for unfair trade practices and anti-competitive conduct.

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.