

**JEFFREY DANA**  
*City Solicitor*



**JORGE O. ELORZA**  
*Mayor*

April 22, 2019

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 16 2019

READ  
WHEREUPON IT IS ORDERED THAT  
THIS SAME BE RECEIVED.

A handwritten signature in black ink, appearing to read "Shawn Belcher".  
CLERK

**JEFFREY DANA**  
*City Solicitor*



**JORGE O. ELORZA**  
*Mayor*

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**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 2019**

Pursuant to Sec. 2-98 of the Code of Ordinances, the City Solicitor submits the following. Currently, there are 845 open civil cases in either state or federal court. Of these, 161 are cases for relief from tax assessment. In 20 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 tax appeals for relief from tax assessment related to the same property for tax years 2017 and 2018.

**695 Eddy Street v. Tax Assessor** – This is an appeal for relief from tax assessment for tax year 2016.

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

**Ace Enterprises, LLC, v. City** – This action stems from alleged breach of contract, unjust enrichment, and estoppel stemming from purported mattress removal services provided by Ace Enterprises, LLC to the City.

**In re Actos End Payor 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 Actos and Actos<sup>plus</sup>, prescription drugs that treat diabetes. The action was dismissed by the United States District Court for the Southern District of New York in September 2015, but reversed in part by the Second Circuit. The City is considering its options under that decision.

**City of Providence v. Aeropostale, Inc. (Securities Litigation)** – This action filed in the United States District Court for the Southern District of New York involves allegations that Aeropostale violated the Exchange Act by making false and misleading statements about the projections of sales at its retail stores. A court-approved settlement awarded the class \$15 million in June 2015, of which the City is expected to receive approximately \$12,800.

**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.

**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.

**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.

**Estate of Jameson Bazelais and Oidin Bazelais v. City** – This lawsuit involves the death by drowning of one minor child and the injury of another at a City swimming pool in 2009.

**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.

**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 Lofts, LLC v. Tax Assessor** – These actions are appeals for relief from tax assessment for tax years 2009-2017.

**City of Providence v. Centrais Eletricas Brasileiras Sa-Elektrobras et al.** – This action, filed in August 2015, in the Southern District of New York against Brazil's largest electric company, alleges violations of federal securities laws in connection with a government bribery and corruption scheme. A court-approved settlement awarded the class \$14.75 million in December 2018, of which the City is expected to receive at least \$8,200.00.

**City of Providence v. Starz, Inc. (Securities Litigation)** – This action, brought in the Delaware Court of Chancery, involves a securities action related to an unfair and self-dealing merger with Lions Gate Entertainment Corp. at the expense of minority shareholders, including the Providence Pension system, by the board of directors and controlling shareholder John Malone. A class settlement award of \$92.5 million is pending court approval.

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

**Dynamo House, LLC v. Tax Assessor** – This is an appeal for relief from tax assessment for tax years 2011, 2012, and 2014.

**Gambardelli v. City** – This action stems from a motor vehicle accident involving plaintiff and a City employee who 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.

**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 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 v. Tax Assessor** – These actions are appeals for relief from tax assessment, primarily on tangible property, for tax years 2014-2017.

**In re Lidoderm Antitrust Litigation** – This action is pending in the United States District Court for the Northern District of California 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 Lidoderm. A court-approved settlement awarded the class \$104.75 million in 2018, of which the City is expected to receive approximately \$21,000.

**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. The First Circuit reversed dismissal of the complaint on appeal, and the matter has been remanded to the United States District Court for the District of Rhode Island for further proceedings.

**Mad Realty v. Tax Assessor** – These actions are appeals for relief from tax assessment for tax years 2010-2012 and 2016.

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

**Manzotti v. City** – This is a civil suit in Federal District Court in which the Fraternal Order of Police President, on behalf of all other officers, alleges violations of the Fair Labor Standards Act concerning the calculation of overtime payments. The matter is being mediated and settlement discussions are underway.

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

**Narragansett Electric v. Tax Assessor** – This is a tangible tax 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 action is an appeal for relief from tax assessment, both tangible and real, for the Omni Hotel for tax years 2016 and 2017.

**One Citizens Plaza v. Tax Assessor** – This is an appeal for relief from tax assessment for tax years 2016 and 2017.

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

**Ophthalmic Partners, LLC v. Tax Assessor** – This is an appeal for relief from tax assessment for tax years 2007-2011 and 2016.

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

**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 2011-2017.

**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.

**In re Solodyn Antitrust Litigation** – This action is pending in the United States District Court for the District of Massachusetts 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 Solodyn. A court-approved settlement awarded the class \$43 million in March 2018, of which the City is expected to receive more than \$25,000.

**Sprague Operating Resources LLC v. Tax Assessor** – These actions are appeals for tax relief from tangible tax assessment for tax years 2015-2017.

**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.

**Textron v. Tax Assessor** – This is an appeal for relief from tax assessment for tax year 2016 and 2017.

**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.

**Vargas v. City (School Board)** – This action, filed in the United States District Court for the District of Rhode Island, involves claims of employment discrimination and retaliation. The Court granted the City's motion for summary judgment in its favor in September 2018, but that decision has been appealed to the First Circuit.

**Washington Street Garage Corporation v. Tax Assessor** – These actions are appeals for relief from tax assessment for tax years 2010, 2011, 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.

**Weybossett Hotel, LLC v. Tax Assessor** – This is an appeal for relief from tax assessment for tax year 2016.