

# **Bond Case Briefs**

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## **The ‘Citigation’ Phenomenon: Municipalities Teaming up With Plaintiffs’ Firms to File Suits.**

The 20-attorney legal department in Providence, R.I., mostly defends the city against lawsuits. But since 2011, it has partnered with outside law firms to file more than two dozen lawsuits alleging a variety of securities and antitrust violations. The outside law firms have funded the litigation in return for a share—a third—of any monetary award.

As we report in today’s Wall Street Journal, Providence is one of many municipalities trying its hand at affirmative litigation, amid a slow economic recovery and uneven regulatory enforcement at the state and federal level.

Lawrence Rosenthal, a law professor at Chapman University in California who worked in Chicago’s law department, said political and practical considerations figure into decisions by governments to partner with outside law firms.

“It requires no investment of taxpayers funds. All the money is fronted by the plaintiffs firms,” he said. “Many smaller municipalities lack in-house expertise as well as in-house resources, so they really have very little choice but to use outside counsel.”

Still, municipalities may pay a price.

“You necessarily turn over control, and the litigation can then turn into a pursuit of the private investor’s goals at the expense of public policy objectives,” Mr. Rosenthal said.

Such partnerships trace to the tobacco litigation in the 1990s, when states paired with trial lawyers to sue cigarette makers. The latest wave of cases builds on a decade-old trend of municipalities and municipal pension funds taking companies and banks to court, plaintiffs’ lawyers said.

Municipalities have moved beyond such securities litigation in recent years, filing lawsuits alleging among other things that defendants sold them products at unfair prices, damaged the environment and infrastructure, illegally marketed painkillers and discriminated against minority residents.

Providence adopted its current litigation strategy in 2011.

We report,

Jeff Padwa, Providence’s city attorney from 2011 to 2014, said he devised an affirmative-litigation strategy over dinner with then Mayor-elect Angel Taveras days before Mr. Taveras’s 2011 swearing-in. At the time, the city’s unemployment rate was 11% and its tax base was shrinking.

Mr. Padwa said he modeled the legal department after the Connecticut attorney general’s office in the 1990s under Richard Blumenthal, who positioned the state as one of the leaders in the tobacco litigation and joined other states in a suit against Microsoft over alleged antitrust

violations.

“Just a few years ago, many municipalities considered class actions with trepidation and maybe even skepticism,” said Paul Geller, a founding partner of Robbins Geller Rudman & Dowd LLP, one of the country’s largest plaintiffs’ firms that specializes in securities litigation.

Mr. Geller said new requests by municipalities for class-action lawyers now surface weekly.

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