

Bond Case Briefs

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MUNICIPAL ADVISORS - INDIANA

City of Marion v. London Witte Group, LLC

Court of Appeals of Indiana - April 28, 2020 - N.E.3d - 2020 WL 2029887

City brought action against company that provided financial advice to city regarding financing for a construction project and alleged claims for negligence, breach of fiduciary duty, and constructive fraud and unjust enrichment.

The Superior Court granted in part and denied in part financial advisor's motion for summary judgment. City appealed and financial advisor cross-appealed.

The Court of Appeals held that:

- City's claims for negligence and breach of fiduciary duty accrued under the discovery rule more than two years before tolling agreement;
- Continuous representation doctrine did not apply to toll limitations period of city's negligence and breach of fiduciary duty claims;
- Doctrine of fraudulent concealment did not apply to toll limitations period of city's claims for negligence and breach of fiduciary duty;
- City could not demonstrate that mayor dominated city such that it was unable to discover injuries to its interests; and
- Two-year limitations applied to city's constructive fraud claim.

Continuous representation doctrine did not apply to toll statute of limitations period of city's negligence and breach of fiduciary duty claims against city's financial advisor on city's construction project; specific matter in which alleged misconduct occurred was not construction project as whole but instead was issue of securing bond as part of financing project, which concluded within first or second year of project, every witness who addressed issue understood that financial advisor's responsibilities concluded when bond issue closed, and compensation structure, in paying financial advisor out of bond proceeds, confirmed that bond issue was discrete engagement.