Bond Case Briefs

Municipal Finance Law Since 1971

Highlights

- **Ed. Note:** We will be off next week. Double dose of drivel 10/2.
- A Reshuffling of the 8038 Deck: Squire Patton Boggs
- Can EMMA Be Used as a Defense by Banks in VRDO Lawsuit?
- Little Publicized Section of Tax Cut and Jobs Act Could Cause Burden for Governments.
- Fitch Ratings: Leverage Isn't One-Size Fits All for Revenue-Supported Bonds.
- The Trouble With TIF.
- Improving Tax Increment Financing (TIF) for Economic Development.
- MSRB Seeks Comment on Application of Content Standards to Advertisements by Municipal Advisors.
- And finally, The Pantheon of Barrys is brought to us this week by *Ryan v. Napier*, in which a motorist "swerved into the opposite lane and nearly collided with a patrol car driven by Pima County Sheriff's Deputy Matthew Dixon," eventually leading to an intimate encounter with Barry the police dog after Barry's handler announced "stop or you will be bitten" (if I only had a nickel…). Barry, welcome to the pantheon. Let me be the first to introduce you to Mssrs. Manilow and White. Good boy.

- GASB Clarifies Guidance on Majority Equity Interests.
- Rising Rates on Wall Street Loans Push States to End Swap Deals.
- Tax Increment Finance: Innovation & Trends
- MSRB Request for Comment on Draft Interpretive Guidance on Pennying and Draft Amendments to Existing Guidance on Best Execution.
- Why MSRB is Concerned About `Pennying'
- Disaster Recovery Bond Financing: Considerations for Congress
- How Munis Could Play a Role in Disaster Legislation.
- Smart Beta ETFs Take on the $3.8 Trillion Municipal Bond Market.
- What 'Adult Entertainment,' Puerto Rico And Chapter 9 Bankruptcy Have In Common.
- And finally, Just a Minor Discrepancy (Can't We All Get Along?) is brought to us this week by *PBBM-Rose Hill, Limited v. Commissioner of Internal Revenue*, in which landowner was shocked to find itself facing a gross valuation misstatement penalty by the IRS in what appeared to be a minor valuation squabble. After all, what's be big deal here? The IRS determined that the landowner could deduct $100k for a conservation easement, while the landowner claimed a deduction of $151,600. Certainly, reasonable minds could…. Oh, we need more zeros, you say? Ok. How many? Two? Hang on, gotta move a couple commas… So we're talking $15,160,000? As in millions? Oh, that is more.

- **Ed. Note:** Just a (not particularly friendly) reminder that all of the items contained in the

newsletters are archived on bondcasebriefs.com, which serves as a fully-searchable database. We are fully aware that we routinely publish items that may not be immediately relevant to your current practice. The idea is that we'll be here for you in event that you need to get up to speed on recent developments (e.g. micro-bonds, opportunity zones, and that blockchain nonsense all the kids are talking about these days.)

- Task Force on Climate-Related Financial Disclosures Releases Three Key Documents that Serve as Building Blocks to Describe and Support Implementation of the Task Force's Recommendations.
- The California Heat Assessment Tool.
- **Ed. Note II:** The two bullet points above represent sources of both macro and micro information regarding climate-related risk factor disclosures. We'll work to keep you apprised of additional such sources as they become available.
- S&P: SEC Disclosure Rule Changes Will Improve Transparency, But Municipal Bank Loan Structures Can Still Carry Hidden Risks.
- Houston Eyes Designer Bonds to Pay for $15 Billion Ike Dike.
- And finally, When "Insult to Injury" Just Won't Cut It is brought to you this week by, *Lopez v. City of Grand Junction*, in which the Lopez family was just a tad aggrieved when the city ruptured a gas line, resulting in an explosion inside their home. Oh, but it gets so, much worse. The gas entered the home via, yes, their sewer line. We now invite you to lean back, close your eyes, and luxuriate in the many delightful ways to describe the combination of exploding hydrocarbons and fecal matter. You're welcome.

- Seven Things to Know About the SEC's Amendments to Rule 15c2-12: McGuireWoods
- SEC Approves Narrower 15c2-12 Disclosure Amendments.
- Sneaky But Legal Use Of General Obligation Bonds.
- S&P: For Many Muni Issuers, Technology Brings Financial Benefits, But Also Increasing Credit Risks
- How Rising Interest Rates and Widening Credit Spreads Will Drive Greater Use of Bond Insurance.
- Trump Trade War Prompts State Warnings to Bond Investors.
- *Davis v. Detroit Public Schools Community District* – Court of Appeals holds that opponents of public financing for construction of sports arena lacked standing to seek declaratory and mandamus relief to require school board to place on next city election ballot question asking city voters to approve or disapprove of tax increment finance entities' use of property tax revenue intended for school operating purposes to finance sports arena.
- And finally, Ah, So *That's* What Happened To My Pants is brought to us this week by *Norfolk Southern Railway Company v. Johnson*, in which a man was reported as "possibly intoxicated, maybe on something" and was "stripping his clothes off and walking up towards the stockyards." As your Editor, I would like to take this opportunity to express my deepest regrets regarding my unacceptable conduct on the night of…. Wait. What? Some guy named Chris Matano? Not me, eh? Hmm… Suppose that particular apology has, over the years, simply become a bit of a reflex.

- SEC Forces Cities to Reveal Wall Street Loans With Holdings Surging.
- Preston Hollow Capital Brings Private Debt to Municipal Market.
- BDA Submits Comment Letter on CFTC's Proposed Amendments to the De Minimis Exception to the Swap Dealer Definition.
- SIFMA and ISDA Comments to De Minimis Exception to the Swap Dealer Definition.

- MSRB Seeks Input on Draft FAQs on Use of Social Media in Advertising.
- MSRB Requests Comment on Draft FAQs Related to the Use of Social Media under Advertising Rules.
- Louisiana Bans Bank of America, Citi from Bond Sale Over Gun Policies.
- And finally, That's Nice Jeff, But Keep An Eye Out For The Little Yellow Ones is brought to us this week by *Maytown Sand and Gravel, LLC v. Thurston County,* a Supreme Court of Washington case concerning a "gravel mine." For those of you out there concerned that your children will be met with an endless series of commercial failures, may we suggest gravel mining? Perhaps we now have an anticlimax to rival, "For God, For Country, For Yale." "Eureka! I've struck gravel!"

- GASB Proposes Improvements to Reporting of Conduit Debt Obligations.
- How GASB Might Change Conduit Debt Reporting.
- BDA Submits Comment Letter on MSRB Retrospective Review of Underwriter Disclosures to Issuers.
- MSRB Notes Compliance Risks of Issuer-Solicited Charitable Donations: Skadden
- Evaluating Municipal Debt Instruments Using Muni Bond Indices.
- Fitch: Rating Normalcy Awaits U.S. NFP Hospitals After Rating Criteria Rollout.
- The World Bank is Betting Big on Blockchain-Based Bonds.
- NFMA Advanced Seminar on the Impact of ESG & Resiliency Issues on Credit Analysis.
- And finally, BCB's Department of Unfortunate Optics is this week proud to present *Michigan Gun Owners, Inc. v. Ann Arbor Public Schools*. We most assuredly will not be wading into the substance of this issue, for fear of blundering into someone's sights, be they literal or figurative. But I believe we can all agree that something like Very Nice People vs. Other Very Nice People Who Don't Agree With the First Group of Very Nice People would look a little better.

- S&P: Blockchain is Coming to Muniland, and the Changes Could Be Significant.
- Chapter 11 or Chapter 9: Investors Beware.
- For Muni Bond Sales, Brand Matters.
- LA County Uses P3 Lease Revenue Bonds for 21-Story, $295 million Office Tower.
- S&P U.S. State Ratings And Outlooks: Current List
- Landmark Towers Association, Inc. by EWG-GV, LLC v. UMB Bank, N.A. – Court of Appeals holds that special district's levy was a "special assessment," despite argument that it was imposed on real property according to a uniform mill rate, and thus imposing it on condominium in the district violated the due-process rights of condominium's homeowners association, where the levy funded purely local improvements directly and specially benefiting only a planned development in the district.
- Trafalgar Woods Homeowners Association, Inc. v. City of Cape Coral – District Court of Appeal holds that credits against special assessments for irrigation water pursuant to planned development ordinance extended to homeowners association and property owners of individual lots as successors in interest to project developer, rather than only to developer.
- And finally, Is Our Children Learning? is brought to us this week by *Freedom From Religion Foundation, Inc. v. Chino Valley Unified School District Board of Education*, in which school board member Andrew Cruz articulated the board's position on beginning meetings with a prayer thusly, "I think there are very few districts of that powerfulness of having a board such as ourselves having a goal." Let us all now bow our heads and offer up a prayer for the poor children of the

Chino Valley Unified School District. Amen.

- IRS Releases New "Issue Snapshot" on Single-Family Housing Bonds: Squire Patton Boggs
- IRS PLR: City Agreement to Deliver Water to Power Company Won't Result in Private Business Use of Bonds.
- Tax Exemption Offsets Lack of Competition in Municipal Bond Markets.
- SIFMA: Treatment of Municipal Securities under the Liquidity Coverage Ratio Rules.
- S&P: U.S. State And Local Government Credit Conditions Improve As Economic Growth Picks Up.
- Wells Fargo Bucks Muni-Market Herd With Push Into Local Bonds.
- In Wake of Tax Reform, Muni Bond Market Gains Footing.
- And finally, "The Marketing Folks Say Let's Hold Off On The Incest!" is brought to us this week by *Martin v. United States*, which was some kinda eminent domain yadda yadda about a mining claim. Which called to mind a horrifying revelation we recently had regarding the Americana classic, "Oh My Darling Clementine." Stick with us here. The original lyrics tell a very different story than the campfire revisionists would have you believe. Miner. Daughter. Drowning. Sure. But then this, "How I missed her! / How I missed her / How I missed my Clementine / But I kissed her *little sister* / I forgot my Clementine" [emphasis added]. We're gonna need Child Protective Services to get into the catchy folk song business. Like, now.

- IRS Revises Rate for "Taxpayer Exposure" Penalty Calculations.
- How the Volcker Rule Affected Tender Option Bonds.
- SIFMA's Response to MSRB Request for Comment on Draft MSRB Rule G-36, on Discretionary Transactions in Customer Accounts, and Related Draft Amendments.
- MSRB Requests Comment on Amendments to Primary Offering Rules.
- What Dodd-Frank Has Done for Muni Ratings.
- S&P Ratings And Outlooks for: Toll Roads, Public Port Facilities, and Public Parking Facilities.
- And finally, Honey, Have You Seen the Mental Floss? is brought to us this week by *Garcia v. New York City Department of Health and Mental Hygiene*. Mental Hygiene? Hygiene? Like a Q-Tip to the Occipital Lobe? In which case, we're gonna need a fire hose and a couple gallons of industrial bleach here at the BCB workplace.

- Proposed Bonds Arbitrage Regs Clarify Definition of "Investment-Type Property"
- U.S. Chamber of Commerce Comment Letter to IRS on Proposed Bond Arbitrage Regs.
- GFOA: 23rd Annual Governmental GAAP Update
- Seven Things Everyone Asks About Continuing Disclosure: Gilmore Bell
- Municipal Bonds Are Scarce. That's Good News for Borrowers.
- Green Bonds Are in High Demand, But Are They a Better Deal?
- Fitch: Statutory Lien Treatment Lifts AZ, RI Local GO Ratings.
- S&P Live Webcast and Q&A: US Public Finance: Transportation Sector Update – **This Thursday [7/18]**
- And finally, We Just Needed a Little Time to Think it Over is brought to us this week by *Ucci v. Town of Coventry*, in which two brothers sought a declaratory judgment that they were the owners of a disputed strip of land. Town objected, arguing that said strip of land had been dedicated as a

public way. Court agreed that an offer of dedication had indeed been made. Court also noted that the Town was required to respond to the offer of dedication within a reasonable amount of time and that – just perhaps – such period had elapsed due to the fact that the offer had been made 67 YEARS AGO. Shout-out to the Town of Coventry, Rhode Island for putting our collective procrastination problems in perspective.

- **Ed. Note:** As this is possibly the least newsworthy week in BCB history, please feel free to request a 1/50th refund of your annual subscription fee at: Ha!_Yeah,right.@bondcasebriefs.com.
- How High Court Rulings Affect Muni Issuers.
- What It Means When the Biggest Banks Reduce Their Muni Debt Holdings.
- The New Gold Rush for Green Bonds.
- Municipal Bonds Are Scarce. That's Good News for Borrowers.
- And finally, Easterbrook in the House! is brought to us this week by *Jones v. Markiewicz–Qualkinbush*, a case about referenda or some such nonsense. The opinion would have been of no particular interest had it been penned by anyone other than the federal court's (ok, arguably) foremost stylist. I speak, of course, of the Honorable Frank H. Easterbrook, Circuit Judge. You know you're in good hands when the opinion begins with, "Thaddeus Jones, an alderman in Calumet City, Illinois, wants to be mayor." and ends with, "The price of political dirty tricks must be collected at the ballot box rather than the courthouse." Go forth and preach the gospel.

- Hospitals are Moving to Single Ratings: Here's Why
- BDA: MSRB Requests Comment on Draft FAQs for Rule G-40.
- Public Pension Network Responds to Introduction of the Public Employee Pension Transparency Act.
- New Riffs on TIFs: Lessons in Innovative Financing from Detroit
- *Wisniewski v. Murphy* – Appeals Court holds that issuance of $300 million in bonds to finance comprehensive renovation of state capitol complex did not violate state constitution's debt limitation clause.
- And finally, Great Moments in Municipal Competence is brought to us this week by *Archbold–Garrett v. New Orleans City*, in which The Big Easy sold a building at a tax sale, sent a notice of code enforcement lien to the individual who had owned the property *18 years* earlier, for no apparent reason cancelled the lien, demolished the building anyway, neglected to inform the new owners of the pending demolition, and then sent a bill to the new owners for the costs. As the court noted, "Unsurprisingly, they filed suit." Bam! The Honorable Edith H. Jones brings the deadpan! But surely this incident is unlikely to be repeated, as the municipality in question has not recently encountered any type of meteorologic event that would leave it with an abundance of unclaimed properties. Oh.

- GASB Establishes New Guidance for Interest Cost Incurred Before the End of a Construction Period.
- CDFA & ICSC Tax Increment Financing Resources.
- Preparing for the Consolidated FINRA Registration Rules and Restructured Examination

Requirements. Note that, under the new rules, Municipal Securities Representative must pass both the Securities Industry Essentials Examination (SIE) and the Revised Series 52.
- The Markup Rule for Municipal Bonds.
- Tax Law Spurs New Marketing Approach for Georgia GO Deal.
- State Sales Tax Collections Finally Move Into the Internet Age.
- And finally, The World Owl Trust Presents is brought to us this week by State v. Sallee, in which the court's opinion refers to that beloved family institution – Hooters – as "a place to eat, a bar and grill." (Cue tittering judicial clerks.) This leaves unaddressed the avian in the room. Not only is Hooters a place to eat, it is also known for its unceasing dedication to the welfare and preservation of the 200 species of mostly solitary and nocturnal birds of prey typified by an upright stance, a large, broad head, binocular vision, binaural hearing, sharp talons, and feathers adapted for silent flight. At least that's my understanding.

- MSRB Compliance Corner – Summer, 2018
- Wells Fargo Struggles to Get Off the Municipal-Bond Blacklist.
- Rise in Single-Rated Municipal Bonds Spurs Investor Concerns.
- Fitch U.S. Public Power Criteria Revision. ***and*** Fitch: U.S. Public Power Peer Review Highlights Capex, Coverage Trends.
- Understanding the De Minimis Tax Rule.
- A Richer Understanding of What's Already Understood – Treasury Issues Proposed Regulations to Clarify the Meaning of "Investment-Type Property" in an Already Obvious Way.
- Webinar: Emerging Metrics for Physical Climate Risks Disclosures.
- BLX/Orrick 6th Annual Post-Issuance Compliance Workshop.
- Webinar: Emerging Metrics for Physical Climate Risks Disclosures.
- *Assured Guaranty Corporation v. Madison County, Mississippi* – Court of Appeals holds that contribution agreement between county and special purpose government entity, which required county to advance payments on bonds issued in order to fund entity if entity was unable to make payments on its own through special assessments, required entity to reimburse county within two years as a condition precedent to county's obligation to advance payments.
- And finally, Thanks So Much for the Clarification is brought to us this week by *Acevedo v. Musterfield Place, LLC*, in which the Supreme *Judicial* Court of Massachusetts yada, yada, yada. As far as we can tell, Mass is the only state supreme court that insists on pointing out that the ruling in question has not been handed down by The Supreme Courtyard by Marriott. The Supreme Tennis Court of Massachusetts. We'll let you run with it from here.

- S&P: The Transition To Secured Overnight Financing Rate From LIBOR Could Add Credit Risk For U.S. Public Finance Issuers.
- MSRB Initiates Retrospective Review of Underwriter Disclosures to Issuers.
- Rule 4210 Update: BDA Submits Capital Charge Letter to FINRA.
- For an Increasing Number of Governments, One Credit Rating Is Plenty.
- S&P Credit FAQ: Not-For-Profit Health Care Organizations and the Impact From A Revenue Recognition Accounting Rule Change.
- *Indian River County v. Rogoff* – District Court holds that Department of Transportation's (DOT)

withdrawal of authorization for tax-exempt private activity bonds (PAB) to help finance railroad project rendered moot counties' actions alleging that DOT failed to comply with NEPA and other federal environmental statutes before allocating PABs, even though project's sponsor subsequently obtained new allocation of PABs to finance portion of project that did not affect counties.

- And finally, Do I At Least Get A Slingshot? is brought to us this week by *United States v. Jim*, a case title that we find just delightful beyond belief. What on earth could Jim have possibly done to incur the wrath of the entire federal government? That poor, poor bastard. (Alright, alright, the case was actually brought against a Sally Jim. You happy now? Are you? This is why we can't have nice jokes!)

- Hawkins Advisory: Cybersecurity – Municipal Disclosure
- NASACT Webinar: GASB Review 2018
- Keeping Special Revenues "Special"
- Update On S&P U.S. Public Finance Priority-Lien Tax Revenue Debt Criteria RFC.
- Assessing Exposure to Climate Risk in U.S. Municipalities.
- How an Arcane, New Accounting Standard is Helping Reporters Follow the Money.
- Lynne Bajema Testifies on GASB'S Revenue and Expense Recognition.
- Why Environmental Impact Bonds Are Catching On.
- And finally, He Would Have Wanted It That Way is brought to us this week by *Horton on Behalf of Estate of Erves v. City of Vicksburg*, in which the Supreme Court of Mississippi repeatedly refers to a fatal fall down a flight of concrete steps as a "tumble". Struck us as a tad playful, that choice of verb. But then again, perhaps Mr. Erves' final thought was, "Whee! Hey look, I'm taking a tumble!" Who are we to say?

- GASB Establishes New Implementation Guidance to Assist Stakeholders with Recent Pronouncements.
- Custodial Receipts: A Useful Tool for Restructuring Insured Municipal Bonds.
- The Week in Public Finance: Governments Haven't Had Rules for Revealing Their Private Debt — Until Now.
- Banking Bill Expected to Help Lower State and Local Borrowing Costs.
- Better Disclosure Is One Florida Issuer's Path to Lower Borrowing Costs.
- Three Sneaky Ways Brokers or Dealers Can Take Advantage of Bond Transactions.
- Fitch: Build IL Downgrade Contrasts State/Local Dedicated Tax Approach.
- A Narrow Win for Bondholders Still Sets an Ominous Precedent in Illinois.
- BDA's 10th Annual National Fixed Income Conference is Open for Registration.
- And finally, James Madison, I Need a Hug is brought to us this week by *Manley v. Law*, in which the Federal Court of Appeals had to gently break it to a school board member that she did not have a "protected liberty interest in her emotional well-being upon which she could base her procedural due process claim." While we do not recall this particular issue arising in Con Law, that is almost certainly due to the fact that this is simply the first incident in which the government has failed to tend to the emotional well-being of (3/5 of) its citizens. Surely no group has been treated as insensitively as school board members who have been publicly shamed for "accosting a student outside a high school play." Surely.

- MSRB Requests Comment on Re-Establishing Standalone Rule on Discretionary Transactions in Customer Accounts.
- SEC Adopts Amendments to Modify MA Forms.
- NFMA Submits Amicus Brief Concerning Puerto Rico Highway Revenue Bond Ruling by U.S. District Court.
- The Curious Case of Hartford: How Can a State Rescue a Debt-trapped City?
- Using Asset Recycling as an Infrastructure Funding Mechanism.
- Fitch's Tolerance for U.S. NFP Hospitals to Stay Viable and Profitable: Five Years.
- *CED Properties, LLC v. City of Oshkosh* – Supreme Court of Wisconsin holds that city was not judicially estopped from specially assessing property owner for special benefits resulting from roundabout construction, even though city conceded no special benefits arose in condemnation action. Quite an interesting eminent domain case.
- And finally, We Winter in Alaska and Summer in Hades is brought to us this week by *Lane v. City & Borough of Juneau*, in which we learned that the City of Juneau, Alaska operates a free campground whose "winter residents included alcoholics, the 'chronically unemployed,' and 'people who were not welcome in homeless shelters' because of 'previous incidents or violence.' We have found our people. We have found our home. Change of address form to follow.

- MSRB Establishes Advertising Rule for Municipal Advisors and Enhances Dealer Advertising Rule.
- U.S. Muni Bond Firms Race to Comply with New Price Transparency Rule.
- Not So Great GASB: Accounting Rule Pushes Hospital Near Default.
- S&P: What To Know About Contingent Debt In The U.S. Not-For-Profit Health Care Sector.
- New BUILD Program Replaces TIGER Grants.
- U.S. Tax Reform: Mapping The Potential Winners And Losers By County.
- What Municipal Analysts Need to Know about Governmental Accounting.
- Orrick Webinar: Advance Refunding Substitutes and Related Issues.
- And finally, Great Moments in Pedagogy is brought to us this week by *Robinson v. Morrill County School District #63*, in which the Supreme Court of Nebraska upheld the termination of a school "curriculum and assessment coordinator" whose only minor shortcoming was "refusing to come out of his office at school to meet or interact with other staff members." Jeez, such sticklers. Best of luck coordinating your new surfeit of free time, Mr. Robinson. You'll be missed.

- S&P: Bank Loan Structures Risks Remain, But GASB 88 Is A Positive Step Toward Transparency In Financial Reporting.
- Muni Regulator to Seek Comment on 'Pennying' by Dealers.
- With Self-Driving Cars on Horizon, Cities Worry About Parking.
- Mutual Funds Stand to Gain as Muni Buyers Get First Look at Fees.
- Brokers Polish Resumes as New Muni-Bond Rules Threaten Business.
- The Muni-Market's Terrible, Horrible, No Good, Very Bad Year.
- Hawkins Advisory: Rev. Proc. 2018-26: Supplemental Remedial Action Rules for Tax Advantaged Bonds.
- CDFA // BNY Mellon Webcast Series: Housing Finance 201: Partnerships & the Capital Stack.
- Intro EB-5 Finance WebCourse.

- *Congregation v. Mayor and City Council of Baltimore* – Court of Special Appeals holds that stormwater fee that city assessed on religious congregation's properties was an excise tax rather than a property tax, user fee, or service charge, and thus congregation's status as a religious organization did not exempt it from the fee.
- And finally, BCB's newly-inaugurated Department of Puppies, Rainbows & Bestiality this week proudly brings you *Ochoa v. County of Kern*, in which a police officer was investigated for "annoying/molesting a child under the age of 18 years old." Wait. What? Annoy and/or Molest? We highly, highly recommend that you immediately cease any/all contact with children if it is not immediately clear to you which of those is a delightful hobby and which a serious felony.

- **Ed. Note:** We will be off next Tuesday (4/1) (El Cap!) and will return with a double dose of drivel on **Wednesday**, May 8.
- NFMA Recommended Best Practices in Disclosure for Water and Sewer Bonds.
- EPA Taking WIFIA Loan Applications.
- Boston's New Site Aimed at Municipal Bond Investors is Powered by Local Startup BondLink.
- SIFMA: Draft FAQs Regarding Rule G-42 and the Making of Recommendations.
- BDA Submits Comment Letter: MSRB Seeks Input on a Compliance Resource to Help Distinguish Advice and Recommendations (Rule G-42).
- Commentary: Muni Industry Best Served by Wider Acceptance of Group Net Syndication Rule.
- *BOKF, NA v. Estes* – District Court holds that bank – that had served as indenture trustee for a series of allegedly fraudulent conduit municipal bond offerings for the purchase and renovation of senior living facilities – was subject to FINRA arbitration in action brought by bondholders. *See also*, Compelling a Muni Indenture Trustee to Arbitrate Before FINRA: Kramer Levin
- *Weiss v. People ex rel. Department of Transportation* – Court of Appeal holds that procedure for pretrial resolution of issues affecting the determination of compensation in eminent domain cases does not apply to inverse condemnation actions.
- And finally, Other Than That, Mrs. Lincoln, How Was the Play? is brought to us this week by *Hubacz v. Village of Waterbury*, in which a cop happily copped to "cheating on a police exam, insurance fraud, taking uniforms from a prior employer, failure to report income on his tax returns, and impersonating a police officer for discounts and to intimidate high school classmates" but was unable to draw a causal link between these acts and his ongoing right to protect and serve. The court's opinion failed to mention it, but we're quite sure he received a warm and heartfelt send-off from said high school classmates.

- MSRB Provides Overview Of Municipal Market Derivatives Regulatory Framework.
- BDA Submits Comment Letter: FINRA Requests Comment on the Application of Certain Rules to Government Securities and to Other Debt Securities More Broadly.
- New "Remedial Actions" for BABs and other Direct Pay Bonds and Long-term Leases of Bond-financed Property.
- IRS Expands Remedial Action for Nonqualified Use of Tax-Advantaged Bonds.
- *Ross Sinclaire and Associates, LLC v. Huntington National Bank* – Court of Appeal holds that buyer of multifamily housing mortgage revenue bonds knew or should have known of indenture trustee's alleged breach of trust no later than when trustee filed foreclosure action against residential complex that was the collateral for the bonds and requested the appointment of a receiver, and thus the four-year statute of limitations for buyer's claims against indenture trustee for common-

law breach of fiduciary duty and breach of trust began to run no later than that time.
- And finally, Showdown at the *Euphorbia milii* is brought to us this week by *GeorgiaCarry.Org, Inc. v. Atlanta Botanical Garden, Inc.*, in which old ladies and bored school children were startled to discover that a fellow visitor to the local botanical garden was packing heat. The gentleman in question was very gingerly escorted off the premises by garden staff. I don't know about you, but when I think Special Weapons And Tactics, I think: horticulturist.

- GASB Establishes New Guidance on Debt Disclosures, Addresses Direct Borrowings and Direct Placements.
- Fitch Releases Revised U.S. Public Finance Tax-Supported Rating Criteria.
- Criteria FAQ: An Overview Of S&P Global Ratings' Updated Methodology For Special Assessment Debt.
- Muni Bond Leverage: Risk vs. Reward of Tender Option Bonds.
- Brookings 7th annual Municipal Finance Conference.
- And finally, Because Everyone Knows that Six Tigers is Just too Many is brought to us this week by *Hauser v. Ventura County Board of Supervisors*, in which a woman applied for a permit to keep "up to" five live tigers on her property, despite the presence of 56 residences and two summer camps in the immediate vicinity. Sure, lives may be lost in the most horrific manner imaginable, but we must weight the cost of *up to* five tigers mingling with children against the almost-certain alleviation of the neighborhood's yappy little dog infestation.

- Compelling a Muni Indenture Trustee to Arbitrate Before FINRA: Kramer Levin
- S&P: Could Connecticut's Proposed Bond Covenants Lead The Way To A New Financial Management Tool For Other U.S. States?
- What Does "Control" Mean in the Context of Affiliated 501(c)(3) Organizations?
- Tech Hasn't Hurt Muni Ratings Yet.
- *Tarrant Appraisal District v. Tarrant Regional Water District* – Court of Appeal holds that regional water control and improvement district was entitled to tax exemption under statute exempting property owned by the state or a political subdivision and used for a public purpose from taxation, as long as its property was used for a public purpose, and had no obligation to prove that the property was devoted exclusively to use and benefit of the public; overruling *Grand Prairie Hosp. Auth. v. Tarrant Appraisal Dist.*
- *Aca Financial Guaranty Corporation and UMB Bank, N.A. v. City of Buena Vista, Virginia* -District Court holds that city was not under legally-enforceable contractual obligation to make payments to bank pursuant to loan arrangement; although city entered into lease agreement and forbearance agreement promising to repay loan, both agreements expressly made payments subject to appropriations by city council. **Cautionary tale in which the insertion of the phrase "subject to appropriations" in loan documents rendered repayment obligations legally unenforceable "moral obligations".**
- And finally, *Shephard v. Regional Board of School Trustees of De Kalb County* this week brings us the story of a group of concerned parents who petitioned to detach their properties from the boundaries of one school district and annex them to another district following an incident in which carbon monoxide was leaked from an adjacent landfill, sending 63 students and staff to the hospital. The court ruled that the parents had failed to establish that any "significant direct educational benefits" would result from such a change. Then again, there would still seem to be a

significant direct benefit of not being, like, you know, dead.

- Hawkins Advisory: Municipal Market Regulatory Update.
- Credit Enhancement For Charter School Facilities Program.
- How Puerto Rico's Bankruptcy is Roiling the Municipal Bond World.
- S&P: How Our U.S. Local Government Criteria Weather Climate Risk.
- Introduction to Environmental Impact Bonds.
- Infrastructure Series: Cost-Sharing with State and Local Governments.
- Public Finance Practices Saw a Huge Boom at the End of 2017.
- Despite New Rules to Disclose Corporate Tax Breaks, Just Half of Local Governments Are.
- Federal Income Tax Consequences of State Economic Development Incentives After Passage of Tax Cuts and Jobs Act.
- And finally, *Mississippi Department of Wildlife, Fisheries, and Parks v. Webb* this week brings us the charming story of a wheelchair-bound paraplegic – sporting a .25 BAC – who led two fish and game boats on a high-speed chase down the Tchoutacabouffa River that ended with a highly-foreseeable fiery crash. A police officer testified that, "an individual with a .25 BAC has severe impairment of all mental, physical and sensory function" and that "a person with such impairment "couldn't stand up, couldn't articulate, no hand or eye coordination." Or as we call it here at the BCB workplace, a "Tuesday afternoon."

- MSRB Publishes Issue Brief on Minimum Denominations of Municipal Securities.
- S&P: New GASB Statements 74 And 75 Provide Transparency For Assessing Budgetary Stress On U.S. State & Local Government OPEBs.
- Compliance Workshop on MSRB Rule G-17: Making Disclosures to Issuers.
- Blockchain Basics for Government Finance and Audit Professionals: Webinar
- *In re February 14, 2017, Special Election on Moses Lake School District #161 Proposition 1* – Court of Appeals holds that the 10-day period in which to file election challenge petition seeking to invalidate school district bond election commenced when county canvassing board recertified election result after recount, rather than when board initially certified result.
- *Kingman Airport Authority v. City of Kingman* – District Court holds – as a matter of apparent first impression – that the reserved powers doctrine applies to federal Contracts Clause claims between two political subdivisions, both of which possess the power of eminent domain.
- And finally, Better Than a Sharp Stick In the Eye? is brought to us this week by DeKalb-Cherokee Counties Gas District v. Raughton, in which a sanitation worker's plan to seek shelter in the leeward side of a dump truck "because the truck shielded him from the wind, which had been blowing dust in his eyes" went just a tad sideways when the sidewall of the truck dislodged, disgorging its payload of bricks and concrete blocks. He arrived at the Pearly Gates just a bit worse for wear, sporting bewildered (yet dust-free!) eyes.

- Fitch to Include Disclosure on PR Special Rev Ruling in Related Issuer Research.
- GASB Invitation to Comment on Revenue and Expense Recognition.
- California Shows Bond Buyers Willing to Jettison Industry Staple.
- S&P Global Trade At A Crossroads: U.S. States And Localities May Take Another Look At Budget

Forecasts.
- First Municipal Bond ICO Is in the Works.
- Combining Tax-Exempt Bonds with Public-Private Partnerships under Current Law: Squire Patton Boggs
- And finally, Dare to Dream is brought to us this week by *Cormier v. City of Lynn*, in which the Supreme Judicial Court of Massachusetts held that the injuries to a student who had been pushed down a flight of stairs were the result of the "failure of school district and its employees to act, rather than from an affirmative act." The affirmative act of pushing an elementary school student down the stairs? We're gonna go out on the proverbial limb here and suggest that that just ain't cool. Yet what teacher hasn't at some point fantasized…. Might make one hell of a fundraiser, no? Kinda like that carnival dunk tank thing. But with more paralysis.

- Tax-Exempt Advance Refunding of Taxable Bonds (Including BABs)? A Report from the Tax and Securities Law Institute.
- SIFMA Comments on Amendments to MSRB Rule G-21 and New Rule G-40.
- Insights: Threat to State Tax Revenues, What's Next for Advanced Refundings?
- Insolvent "On Behalf Of" Municipal Bond Issuers: Chapter 9, Chapter 11, or Ineligible?
- Yes, Special Revenue Bonds Remain Special: Mintz Levin
- Follow the Money: How to Track Federal Funding to Local Governments.
- S&P: When Analyzing Municipal Utility Credit Quality, Strong Management Is Often An Asset.
- And finally, Thanks For Nothing is brought to us this week by *Kelly v. DiNapoli*, in which police officer was ordered not to enter a home that had collapsed during Hurricane Sandy until a "technical response unit" could be dispatched. The cop – responding to the "blood-curdling" screams coming from the residence – ignored the order and fought his way into the building where he rescued a woman who had been impaled and pinned to the floor. In the process, he sustained devastating physical injuries. His reward? The denial of disability benefits because the incident hadn't been an "accident" and the guy was just engaged in the ordinary course of his duties. Let that be a lesson to all you would-be heroes (a disproportionate number of which, of course, practice public finance law.)

- NFMA Municipal Analysts Bulletin. *See:* GASB/GASAC Project & Resource Update beginning on Page 8.
- SIFMA Comments to MSRB Form G-45 under Rule G-45, on Reporting of Information on Municipal Fund Securities; Regarding 529 College Savings Plans and ABLE Programs.
- How Should You Respond When SEC Examiners Come Knocking?
- Will Chicago's "AAA-Rating" on Its Sales Tax Securitization Corp. Hold During Bankruptcy?
- Tax Reform's New Incentives for Investments in Low-Income Communities: Part 1; Part 2; and Part 3. (Shout Out to Holland & Knight!)
- How Municipal Issuers Can Advance Refund Taxable or Tax-Advantaged Debt.
- GASB Webinar on Invitation to Comment on Revenue and Expense Recognition.
- And finally, Take It Up With Newton: Chainsaw Edition is brought to us this week by *Westmas v. Creekside Tree Service, Inc.*, in which a woman was walking the paths of a spiritual retreat center when she was struck and killed by a branch lopped off by a tree trimmer. How is this possible? Ninja tree trimmers? I don't know about you, but I've a) never failed to notice the combination of heavy equipment and loud implements associated with tree maintenance, or b) noticed such an

operation and thought it advisable to walk right under that tree. But hey, that's just me.

- Further Fallout from the 2017 Tax Legislation – Beware of Reissuance of Bank-Held Tax-Exempt Obligations.
- What GFOA is Warning on Alternatives to Advance Refundings.
- GFOA: Potential Impacts of Tax Reform on Outstanding and Future Municipal Debt Issuance.
- Big Banks Got Huge Tax Cuts, Then Hiked Cities' Interest Rates.
- When Public-Private Partnerships Fail: A Look at Southern Indiana's I-69 Project.
- S&P: Diagnosing Distress In U.S. Local Governments.
- Fitch Report: Puerto Rico Ruling Muddies Special Revenue Debt Waters.
- Intro Tax Credit Finance WebCourse.
- *City of Bowling Green, Kentucky v. Mills Family Realty, Inc.* – In case brought by city for misappropriation of bond proceeds and TIF revenue, District Court denies city's RICO claim, finding that city had failed to establish an investment injury arising from the defendants' use or investment of the bond funds and TIF revenue into their own businesses that was distinct from any alleged injury the city suffered as a result of the predicate racketeering offenses of withdrawing those same funds; federal action dismissed for lack of subject matter jurisdiction.
- And finally, When Stereotypes Attack is brought to us this week by *Brooks v. Powers*, in which Westbrook's Finest were questioned as to their whereabouts on the night in question. And thus we learned that: "When the defendants arrived for work, they punched in, got into a cruiser, and drove to a donut shop. After that, they drove to the marina to inspect the boat." "…they did not need to get out of the cruiser to inspect the boat: 'We would just look to make sure that the boat was still there…" "Once they completed their inspection, the officers drove to a convenience store. Powers stayed with the cruiser while Milardo went in to get some snacks." Sleep well, good citizens of Westbrook. You're clearly in good hands.

- Orrick: Tax Issues When Fixing Rate and Fee Adjusters in Tax-Exempt Loans.
- Impact on Muni Bonds of New Accounting Guidelines for Local Governments.
- New MSRB MuniEdPro® Course: Upcoming Mark-Up Disclosure Requirements and Determination of Prevailing Market Price.
- GASB Requests Public Input on Revenue and Expense Recognition.
- Fitch: Puerto Rico Ruling Could Have Wide-Ranging Impact on Municipal Debt.
- Criteria FAQ: S&P Global Ratings' Approach To Rating U.S. Local Government Bonds Secured By Dedicated Limited Ad Valorem Tax Pledges.
- Credit FAQ: An Overview Of S&P Global Ratings' Updated Methodology For Rating U.S. Solid Waste System Financings.
- Neighborly Issuer Brief: A Volatile Stock and Bond Market Makes for a Difficult Space for Munis and Issuers.
- Understanding Costs and Benefits: Leases
- *Paul Cheatham IRA v. Huntington National Bank* – Court of Appeals holds that contract claim for breach of trust indenture entered into between trustee for municipal bondholders and county as obligor, whether asserted against trustee or obligor, arose out of contract with bondholders and was thus a "right in the security" that automatically transferred to subsequent bond purchasers.
- *Zeppelin v. Federal Highway Administration* – District Court holds that it had power, under Administrative Procedure Act, to enjoin Colorado Department of Transportation (CDOT) from

sending money to city and county to fund stormwater project, despite fact that CDOT was not federal agency, where CDOT actively consented to federal involvement in its operations and requested federal funds.

- And finally, Unclear on the Concept: Judicial Edition is brought to us the week by *St. Bernard Port, Harbor & Terminal District v. Violet Dock Port, Inc., LLC*, in which the Superior Court judge stated that it wasn't his job to "split the baby," and thus he had no choice but to (apparently randomly) opt for either the city's $16M valuation or the landowner's $35M valuation in eminent domain case. None of that pesky adjudicating for me, thanks. Just in case the Superior Court judge wasn't feeling up to opting between literal and figurative, a bemused Supreme Court of Louisiana went ahead and remanded to the Court of Appeals to split that baby.

- Tax Reform Incentives for Investments in LI Communities: Holland & Knight
- Understanding the Investing in Opportunity Act: CDFA Webinar
- S&P: Dark Store Tactic By Big-Box Retailers Could Pressure U.S. Municipal Budgets And Credit Quality.
- Assessing and Managing the Risks Posed by Climate Change to State and Local Governments: A Brookings Institute Webinar
- GASB Request for Comment: Revenue and Expense Recognition.
- MSRB Holds Quarterly Board Meeting.
- SIFMA U.S. Municipal Issuance Report.
- *In re Lombard Public Facilities Corporation* – Bankruptcy Court holds that bankrupt public facilities corporation that was formed by village to obtain financing for and construct a convention center within village limits – and which had issued bonds – was not a "governmental unit," of the kind ineligible for Chapter 11 relief.
- And finally, Adventures in Environmental Irony is brought to us this week by *Smokebrush Foundation v. City of Colorado Springs*, in which the city rained down toxic airborne asbestos particles on the adjoining business while dismantling a coal gasification plant. And that business? You guessed it: a "wellness center." We realize that burning sage is a traditional purification ritual, but ya' might want to consider something just a tad bit stronger this time around.

- Advisors To Face Tsunami Of Cash Bond Redemptions, Money Manager Says.
- S&P Criteria: Issue Credit Ratings Linked To U.S. Public Finance Obligors' Creditworthiness.
- S&P Credit FAQ: An Overview Of S&P Global Ratings' Updated Methodology For Issue Credit Ratings Linked To U.S. Public Finance Obligors' Creditworthiness.
- S&P 2018 Sector Outlooks for: Municipal Housing; Charter Schools; Higher Education; and Public Power and Electric Cooperative.
- Muni Market Participants Applaud PABs in Purported Infrastructure Plan.
- Fintech Startup Wants to Help Advisers Find and Sell Muni Bonds.
- SIFMA Response to MSRB Request for Comment on Compliance Support.
- MSRB Proposal Would Govern How Muni Advisors Advertise.
- And finally, Who's a Good Witness? Who's a Good Witness? is brought to us this week by *Brown v. State*, in which motorist moved for a new trial because police officer who had collided with her (at 2 mph) turned out to have had a dog in the backseat of his vehicle and "the dog was not disclosed as a witness to the accident." If a German Shepherd can be compelled to testify, only seems fair to swear in a large weasel and – quite literally – badger the witness.

- Interest Rate Increase Coming For Many Tax-Exempt Borrowers: Holland & Knight
- What do Walt Disney World and the 2018 Tax-Exempt Bond Market Have in Common?
- MSRB Seeks to Establish Advertising Rule for Municipal Advisors and Update Dealer Standards.
- S&P Credit FAQ: Understanding Climate Change Risk and U.S. Municipal Ratings.
- Moody's: Climate Change Adaption and Mitigation Could Affect Cities' Bond Ratings.
- CDFA Launches Federal Financing Webinar Series.
- And finally, Tolstoy's Packing Heat! is brought to us this week by *Paiva v. Parella*, in which the Supreme Court of Rhode Island noted that, "a local licensing authority need not write a decision rivaling *War and Peace* in length, but its decision must still address the salient reasoning for the denial of a [concealed firearm] license." Fair enough, but contemplate the hilarity of a requirement that any such decision letter clock in at 1,225 pages. We'd read that.

- Localities Will Deliver the Next Wave of Transportation Investment.
- S&P: U.S. Local Government Sector 2018 Outlook: Resourcefulness Will Be Key To Managing New Obstacles.
- Market Commentary: The 2018 Outlook for Investors.
- State Private Activity Bond Volume Caps Boosted 5.2%.
- Deduct This. and Taxes as Charity? New Jersey Towns Try to Elude G.O.P. Tax Law. on early work-arounds to the elimination of the SALT deduction.
- S&P Live Webcast and Q&A: 2018 U.S. State and Local Government Outlooks.
- And finally, shout-out to the Court of Appeals of North Carolina for wading in and opining on the most judicially divisive, vexing legal issue of our time: does a gun range constitute farming? "Old McDonald had a gun range" just doesn't have quite the same ring to it, now does it? E-I-E-I-O.

- The Tax Cuts and Jobs Act: The Impact on the Municipal Bond Market. *WEBINAR TOMORROW*
- MSRB Reminds Dealers of Existing Guidance on Filtering of Bids and Offers.
- Fitch Credit Outlook Teleconferences.
- S&P U.S. Public Finance Year In Review.
- U.S. Tax Reform: What Will The New Law Do To Municipal Credit Quality?
- The Tax Reform Roller Coaster Ends – Summary of Provisions Affecting Public Finance.
- And finally, Take That, Hippie! is brought to us this week by *State ex rel. Town of Tiverton v. Pelletier*, in which the Supreme Court of Rhode Island found itself grappling with the definitions of "manufacture" and "compost" in a case where a man was charged with – you guessed it – manufacturing compost. Dude's argument was that no one can, like, manufacture compost because it's, like, a natural process, man. He also noted that the statute in question didn't define "compost" because it's, like, beyond definition, man. The court suggested "controlled, biological decomposition of selected solid organic waste materials under aerobic conditions resulting in an innocuous final product." Works for me. You good? Cool.

- **BCB 2017 Year-In-Review:** Mostly sucked.
- GASB Issues Implementation Guide on Other Postemployment Benefits.

- Moody's: Local Government Pension Liabilities Soar in Fiscal Year 2016.
- 2018 Outlook: IRS Implementing Data Driven Muni Bond Audits.
- Muni Market's Trusted Buyers Could Disappear After Tax Cuts.
- How the Tax Bill Will Change Governments' Borrowing Costs.
- And finally, Oh, So *That's* What Those Things Are For is brought to us this week by *High v. Kuhn*, in which we trained our bewildered gaze on none other than the Supreme Court of Mississippi in a desperate plea for clarification. And clarify they did, informing us that a property owner had sought the "establishment of a private road over neighbor's property, *for purposes of ingress and egress*" [we wanted to emphasize that last bit, so we went ahead and did so]. Ingress and egress, you say? Not Civil War reenactments? The manufacture of weapons-grade plutonium? Five-day international cricket test matches? Nope. Good old-fashioned coming and going.

- **Ed Note:** *UMB Bank, N.A. v. Landmark Towers Association, Inc.* knocked us a bit sideways this week when the Supreme Court of Colorado held a very hard line in enforcing the 10-day deadline to challenge the formation of a special district and to contest the resulting bonds and property taxes in what appears to be a clearly fraudulent scheme. The case was remanded for consideration of issues not included in the opinion, so we do not yet know how consequential this will be. We'll keep you posted and invite any/all of the fine firms involved in this case to weigh in.
- NFMA Releases Recommended Best Practices in Disclosure for Local General Obligation Debt Disclosure.
- NFMA Releases White Paper on General Obligation Bond Payment Protections: Statutory Liens and Related Disclosure.
- NFMA Releases Recommended Best Practices in Disclosure for Water and Sewer Bonds.
- NABL: The Bond Lawyer – Fall 2017 – In particular, "Federal Securities Law" by Paul S. Maco of Bracewell LLP.
- MSRB to Amend Requirements for Obtaining CUSIP Numbers.
- Surge in Private Muni Issuance Leaves Disclosure Black Hole.
- When Climate Change Becomes a Credit Problem.
- Final Tax Reform Legislation Saves PABs and Stadium Bonds, Kills Advance Refundings and Tax Credit Bonds.
- *UMB Bank, N.A. v. Landmark Towers Association, Inc.* – Supreme Court of Colorado holds that challenge by homeowners' association – which represented condominium owners whose properties were included in special district – to district's creation was a challenge to the means by which results of the election creating the district were obtained, rather than a challenge to the substance of a ballot issue, and thus ten-day period specified in statute on filing a statement of intent to contest an election applied to association's challenge, where association's contentions were that illegal voters participated in the election and that eligible electors did not receive notice of the election.
- And finally, No Equitable Tolling For You! is brought to us this week by the aforementioned *UMB Bank, N.A. v. Landmark Towers Association, Inc.*, in which a newly-created special district held an election to issue $35 million in bonds. To create "voters," the proposed development created a 10-foot by 10-foot "director's parcel" and issued purchase options to six people. Voila. Voters. Of course the whole scheme eventually ends in tears. It strikes us that a fitting punishment would be to require these six folks to serve their sentences together in a 10′ x 10′ condo. We'll let you decide if they should be joined by the rotting corpse of the developer who (R.I.P.) killed himself.

- S&P Criteria FAQ: What Does The Focus On Credit Fundamentals Mean For Proposed U.S. Public Finance Tax-Secured Criteria?
- GASB Proposes Guidance on Capitalization of Interest Cost and Implementation of Recent Pronouncements.
- S&P: Pension Obligation Bonds' Credit Impact On U.S. Local Government Issuers.
- SIFMA Submits Letter Responding to MSRB Amendment No. 1 with SEC Clarification of MSRB Rule G-34(a)(i) on the Use of CUSIPs.
- Open Market Escrow Bidding – Some Thoughts from Bidding Experts (Not Us – The Real Experts)
- Securitized Muni Bonds Can Make Good Sense.
- TSLI 2018 Registration is Now Open!
- MSRB Announces New Town Hall Series Coming in 2018.
- And finally, Who Will Speak for the Shotguns? is brought to us this week by *Kitsap County v. Kitsap Rifle and Revolver Club*, Rifles and revolvers? Seems a bit odd. The club was fighting a looming closure due to the fact that bullets had been "straying" into the surrounding communities. We absolutely adore the imagery of bullets just nonchalantly wandering over to the neighborhood for a chat. We'll leave you with this Facebook review, "The best range in the area so far. It is very peaceful and relax here. I have been visiting several ranges around the area and this rang is clearly top them all."

- While You Were Sleeping . . . . The Senate Passed Its Version of the Tax Cuts and Jobs Act.
- Passage of Senate Tax Bill Leaves Fate of PABs to Reconciliation.
- GASB Issues Exposure Draft: Implementation Guidance Update.
- Now Available: 7th Edition, Federal Securities Laws of Municipal Bonds Deskbook.
- Muni Buyers Are Handed a Holiday Bounty With Governments Rushing to Market.
- Every Basis Point Counts to Muni-Bond Issuers Rushing to Market.
- S&P Request for Comment: U.S. Municipal Retail Electric And Gas Utilities. ***and*** S&P Criteria FAQ: Proposed Criteria For U.S. Municipal Retail Electric And Gas Utilities.
- And finally, You Keep Using That Word. I Do Not Think It Means What You Think It Means is reprised this week by *Association of Irritated Residents v. Kern County Board of Supervisors*. "Irritated?" Take a moment and mentally compile a list of your most common irritants. Is one of those irritants a county-issued permit to allow a local refinery to double its capacity via the importation into the community of trainloads of a particularly combustible hydrocarbon? Oh, it is? Well then, never mind.

- **Ed. Note:** It's been a rather quiet week (enjoy it while it lasts), so we're taking this opportunity to let you know that we'll henceforth be publishing Neighborly Insights, which is written by George Friedlander of the Court Street Group. The first issue is here. We won't be including it in the Highlights, as it is geared more toward the market side, rather than the legal, but it's otherwise an extraordinary resource. That is all.
- Alternatives to Tax-Exempt Advance Refundings Would Cost Issuers.
- Have They Got a Bond for You.
- Fitch Focuses on Rental Car Facilities in Revised Airport Criteria.
- SLGS Will Soon be Unavailable for Subscription: Squire Patton Boggs

- *San Diegans for Open Government v. Public Facilities Financing Authority of the City of San Diego* – Court of Appeal holds that nonprofit taxpayer organization's alleged interest – on behalf of taxpayer who was resident of city – would be sufficient to maintain an action for judgment restraining and preventing any illegal expenditure of city funds or action for reverse validation, and thus organization had standing under narrower provisions of conflict-of-interest statute to challenge validity of municipal ordinance authorizing issuance of bonds to refund and refinance remaining amount owed by city for construction of professional baseball stadium based on alleged financial interest in the sale of bonds by a member of the financing team that participated in preparation of the bonds.
- And finally, You Keep Using That Word. I Do Not Think It Means What You Think It Means is brought to us this week by *Oregon State University v. Superior Court*, in which the court repeatedly refers to the plaintiff's "alleged injuries." When the crane you are operating collapses as you are loading a shipping container, resulting in severe internal injuries and the amputation of your foot, I think it's safe go ahead and dispense with the "alleged."

- GASB: Understanding Costs and Benefits: Fiduciary Activities.
- MSRB's Request for Comment on Retrospective Review of Primary Offering Practices. *and* MSRB Release on Offering Practices Draws Frosty Reception From Some.
- SEC Finds Widespread Compliance Failures Among Municipal Advisors. *and* MSRB Launches Compliance Workshop Series.
- S&P: Securitization Plan Won't Affect Chicago GO Debt Rating. *and* Fitch Teleconference Replay: Chicago Sales Tax Securitization Corp, IL.
- S&P Criteria FAQ: Our Evolving Approach To Special Tax And Priority-Lien Tax Debt.
- MSRB: Municipal Securities Provisions of the "Tax Cut and Jobs Act" *and* Muni Groups, Upset by House Tax Bill, Pin Hopes on Senate.
- NABL Ethics Teleconference: Risk – The Game of Reduction of Professional Exposure, Loss Prevention, and Bond Counsel Liability.
- And finally, Well Who Wouldn't Be Aggrieved? is brought to us this week by *Manwaring Investments, L.C. v. City of Blackfoot*, in which owner of commercial building challenged the state and federal constitutionality of his tiny municipality's method of assessing wastewater fees. Case went all the way up to the state supreme court. That rifle-like crack you heard was the whiplash-inducing double-take performed by your editor upon reading that the *entire* monthly assessment for the building in question was the whopping total of $60.08 Sixty dollars and eight cents. Uh, it's the principle?

- **Ed. Note:** The proposed tax plan and its potential implications for the muni market have, predictably, resulted in an outpouring of lamentations, jeremiads, and all-purpose exhortations. We are dutifully posting each and every one of these for archival porpoises and you're welcome to them. However, we will reserve Highlights item status for concise status summaries and final legislative enactments. Please be kind, as this is our first attempt at actually providing a useful service and we have grave doubts regarding our aptitude for that sort of thing.
- Senate Bill Saves, Enhances PABs, but Eliminates Advance Refundings.
- MSRB Files Amendment to Proposal on Obtaining CUSIP Numbers. ***and*** Hold-to-Maturity CUSIP Exemption Tweaked in New Filing.
- Markup Rule Deadline May Be Hard To Meet.

- NFMA Comment Letter on MSRB Regulatory Notice 2017-19.
- Public-Private Development: Aligning Interests Through a Ground Lease.
- Bondholders Fret as Alchemy Turns Chicago's Junk to Gold.
- S&P Request for Comment: Priority-Lien Tax Revenue Debt. ***and*** Live S&P Webcast: Request For Comment: Priority Lien Tax Revenue Debt.
- *Columbus Board of Tax Assessors v. Medical Center Hospital Authority* – Supreme Court of Georgia holds that the fact that bonds used to finance construction on property were validated as having a public purpose did not conclusively render hospital authority's leasehold interest in a continuing care retirement facility public property exempt from ad valorem taxation.
- And finally, we learned this week – via *Appeal of Krenik* – that collector vehicles in Minnesota must be "screened from ordinary public view by means of a fence, shrubbery, rapidly growing trees or other appropriate means." Wait, what? Just how rapid we talking here? Rapid as a fence? Kill you in your sleep rapid? Not since middle-school sex ed have we been so thoroughly terrified and intrigued.

- So it Begins: First Draft Tax Reform Bill Eliminates 501(c)(3) Bonds and All Other Private Activity Bonds, All Advance Refunding Bonds, All Tax Credit Bonds, and Governmental Bonds for Sports Venues.
- Market Commentary: Tax Reform Proposal Hammers Munis.
- When Transparency Pays: The Moderating Effect of Disclosure Quality on Changes in the Cost of Debt.
- CDFI Fund Opens Application Period for Bond Guarantee Program.
- NFMA Advanced Seminar on High Yield Bonds.
- Register for NABL's New Ethics Teleconference.
- *Ferlin v. Chuckanut Community Forest Park District* – Court of Appeals holds that raising and spending money generated from property tax levy imposed by park district to aid city in paying off its loan that city took out to purchase park land was a legitimate park purpose, and thus district did not exceed its statutory authority by adopting levy, although district did not own title to real property contained in the park in fee simple.
- And finally, Chuckanut! (See the above-referenced case.) Could there conceivably be a better word? Is there anything it can't do? Noun. Verb. Mysterious euphemism. Hilarious insult. Bringer of Middle-East peace. The one thing we can all agree on in these trying times. Roll it around in your mouth. Savor it. You're welcome, you Chuckanut!

- U.S. SEC Close to Forming Group to Scrutinize the Bond Market.
- MSRB Holds Quarterly Board Meeting October 2017
- *1001 Ogden Avenue Partners v. Henry* – Appeals court holds that improving, maintaining, equipping, altering, and repairing school buildings qualify as "corporate purposes" for which boards of education may issue working-cash-fund bonds without direct referendum.
- *Robert W. Baird & Co. Incorporated v. Whitten* – In Underwriters' legal malpractice action against Bond Counsel resulting from suit brought against Underwriters by Bondholders, Court of Appeals holds that Bond Counsel was entitled to Bond Litigation Counsel's billing records in connection with Bond Counsel's affirmative defense, but that the privilege had not been waived as to other communication between Underwriters and their Bond Litigation Counsel.
- And finally, Come on Lady, Give Me a Break, is brought to us this week by *Savinon v. New York*

City Transit Authority, in which a city bus driver neglected to open the rear door of his bus, possibly because he was FENDING OFF A BRUTAL ASSAULT. His courageous efforts were rewarded by a false imprisonment lawsuit by a woman who claimed to have suffered a panic attack. False imprisonment? Panic attack? I'll see your panic attack and raise you an actual violent physical attack. That gonna work for you?

- Treasury Issues Priority Guidance Plan for Municipal Bonds.
- MSRB Letter to SEC Investor Advocate.
- GASB Survey on Note Disclosure Requirements.
- S&P Credit FAQ: Understanding Climate Change Risk And U.S. Municipal Ratings.
- Bonds + Financing Sustainability: BNY Mellon // CDFA Webcast Series
- *Township of Leoni v. Township of Columbia* – Court of Appeals holds that bond contract among township that owns/operates sewer system, townships that utilize the system, and the county granted only the county – not owner/operator township – the right to direct other townships to increase their funding to support sewer system. ***Practice note:*** Those of you who structure multi-party utility agreements might want to take a look at this one, as owner/operator had no idea that it was not entitled to directly require user townships to make up shortfalls. Court suggested mandamus action against county, which was the only entity authorized to require additional contributions by the user townships.
- And finally, We're Sure It Just Slipped His Mind is brought to us this week by *City of Arvada ex rel. Arvada Police Department v. Denver Health and Hospital Authority*, in which Terry Ross was hospitalized after shooting himself in the head when police officers responded to a domestic disturbance. "About a month after he left the hospital, Ross committed suicide. When he died, he had not yet paid for his Denver Health treatment." We can't help but be charmed by the court's optimistic use of "not yet" and couldn't agree more that Mr. Ross' number one priority after the suicide attempt was surely the settling of his account at Denver Health. If only that second bullet had slipped his mind as well…

- SIFMA Submits Comments to SEC on MSRB Clarification of Rule G-34(a)(i) on the Use of CUSIPs.
- Dealers, Issuers, Advisors Call for Changes to CUSIP Proposal.
- MSRB Seeks to Collect Additional Fee Information About ABLE Programs and 529 College Savings Plans.
- Commentary: Questions Remain as Bond Market Prepares for Markup Disclosure Rule.
- New IRS Audit Procedures: Hawkins Advisory
- S&P: Rising OPEB Liabilities For The 15 Largest U.S. Cities Could Strain Budgets And Pose Credit Risks.
- IRS Releases New Public Approval Proposed Regulations: Mintz Levin
- Proposed TEFRA Rules Get Positive Reception from Bond Attorneys.
- And finally, So Many Questions/So Few Answers, Theological Edition, is brought to us this week by *Schmitz v. Denton County Cowboy Church*, in which the court jumps directly to the business at hand – why on earth the town granted a permit to construct a massive rodeo complex on a parcel zoned single family residential – without addressing the glaring question: WHAT IN THE NAME OF ALL THAT IS HOLY IS A "COWBOY CHURCH?" Do they worship the Great Buckaroo in the Sky? Is calf roping a sacred ritual? Are rodeo clowns their clergy? Is John Wayne a patron saint? Your guess is as good as ours, pardner.

- MSRB Mark-Up Disclosure Implementation Forum: Webcast
- NFMA Summary: GASB 87, New Governmental Lease Accounting Standards.
- BDA's 2016-17 Federal Regulatory and Legislative Priorities and Accomplishments.
- Why Governmental Accounting and Financial Reporting Is – and Should Be – Different: GASB White Paper
- MSRB Provides Continuing Education Planning Tool for Municipal Advisors.
- MSRB Releases New MuniEdPro® Courses on Best Execution and Gift-Giving.
- IRS Tax Exempt & Government Entities FY 2018 Work Plan.
- "TEFRA is a Four-Letter Word"
- *Wittemyer v. City of Portland* – Supreme Court of Oregon holds that city "arts tax," imposing $35 tax on each resident of city who was at least 18 years old, had income of $1,000 or more per year, and did not reside in household that was at or below federal poverty guidelines, took income and household resources into account, and thus was not unconstitutional "poll or head tax," though income was not taken into account in determining amount of tax.
- And finally, What Could Possibly Go Wrong? Ingrate Edition, is brought to us this week by *Lycourt-Donovan v. Columbia Gas of Ohio, Inc.*, in which gas company learned of naturally-occurring concentrations of natural gas forming in neighborhood basements and – by all accounts – did an exemplary job of detection, prevention, remediation, communication, etc. And still they were sued by the ingrate homeowners for doing what certainly must be Plan A in any such scenario – TURNING OFF THE BLEEPIN' GAS! Somewhere (probably in Ohio), Columbia Gas of Ohio executives sleep – vengeful visions of fireballs dancing in their heads.

- SEC Continues Public Finance Enforcement Agenda Two Recent Cases Filed: Orrick
- IRS Issues New Proposed Regulations on the TEFRA Public Approval Requirement: Greenberg Traurig
- IRS Issues New Proposed TEFRA Regulations: Nixon Peabody
- The Future For the Municipal Bond Tax Exemption is Bright Following the Release of the Unified Framework For Tax Reform.
- Good Jobs First Subsidy Tracker Makes GASB 77 Data Accessible.
- MSRB: Issuers Shouldn't Choose Underwriter's Counsel.
- Foreign Cash Fleeing Low Yields Flows Into U.S. Muni Bonds.
- What Are Cities Spending Big On? Increasingly, It's Debt.
- And finally, Then Again, I've Been to Yonkers is brought to us this week by *Lockwood v. City of Yonkers*, in which a firefighter trainee was "instructed to jump, head first, out of a second story window approximately ten to eleven feet off the ground." Which he did. Gravity – cruel taskmistress that she is – interceded and he "fell directly onto the concrete ground below." Simply dumbfounding. Peer pressure? Hazing? You tell me. "But, mom, all the cool kids want to be Yonkers firemen!"

- MSRB Identifies Compliance Considerations for Municipal Securities Dealers.
- The Bond Lawyer: Summer 2017
- S&P: Cyberattacks Pose A Real, If Varying, Credit Risk Across U.S. Public Finance Sectors. **Ed. Note:** This may serve as a handy guide for new & improved risk factors and disclosures.

- As Flood Risks Intensify, Stormwater Utilities Offer a More Resilient Solution.
- Someone Left the Crayons Out, and Now the Tax Lawyers Are Drawing Pictures.
- *California Cannabis Coalition v. City of Upland* – Supreme Court of California holds that requirement – under constitutional provision limiting ability of local governments to impose, extend, or increase any general tax – that a general tax be submitted to the voters at a general election does not apply to taxes that are imposed by initiative after securing the electorate's approval in a manner consistent with statute setting forth local government's duty with respect to voter initiatives whose proponents request a special election.
- And finally, Please Remind Me Again Why We Aren't Paid Hourly is brought to us this week by *Corrigan v. Illuminating Company*, in which one can positively feel the waves of resigned disgust wafting off the Facts and Procedural Background section of the Supreme Court of Ohio's opinion, which begins, "For over ten years, the parties have litigated the fate of this tree." May visions of chainsaws dance through your heads.

- NFMA Comment: GASB Proposed Statement No. 3-30, Certain Disclosures Related to Debt, Including Direct Borrowings and Direct Placements.
- MSRB Solicits Input on Retrospective Review of Primary Offering Practices.
- Commentary: Key Takeaways from the SEC's Post-MCDC, Beaumont Cease and Desist Order.
- MSRB Issues Advisory on Selective Disclosure of Material Information: Day Pitney
- An Overview Of S&P Global Ratings' Proposed Methodology For Special Assessment Debt + S&P Request for Comment: Special Assessment Debt + S&P Live Webcast: Request for Comment (RFC): Special Assessment Debt.
- Force Majeure and Similar Considerations for the Energy Industry in the Aftermath of Hurricane Harvey: Mayer Brown
- Exposing Government Favoritism.
- Florida Judge Refuses to Validate Poinciana CDD Bonds.
- SEC, MSRB, FINRA to Hold Compliance Outreach Program for Municipal Advisors.
- MSRB Begins Daily Release of Previously Unavailable Municipal Market Statistics: Webinar **(Short notice! – 9/21)**
- Tax Reform: What Does it Mean for Main Street, Wall Street and K Street? **(Short notice! 9/21)**
- And finally, For This I Went To Law School? is brought to us this week by *Hatfield v. Board of Supervisors of Madison County*, in which THE SUPREME COURT OF MISSISSIPPI wonders just how it came to be that the issue of Arlin George Hatfield, III's right to raise "60 chickens, guineafowl, and ducks" on his property fell into their august, berobed laps. Regardless, we condemn in the strongest terms the Court's tepid embrace of the myriad, cringeworthy punning opportunities here presented. One winking nod to "afoul?" Really? Shame. Shame.

- **Ed. Note:** We will be off next week. See ya' on the 19th.
- Conduit Financing With Tax-Exempt Bonds: Orrick
- Recent United States Supreme Court Ruling Has Far-Reaching Ramifications for Bond Financing: Bryant Miller Olive
- Commentary: Duty of Care Enforcement for Municipal Advisors.
- MSRB Seeks to Clarify and Extend Requirements for Obtaining CUSIP Numbers.
- S&P Credit FAQ: What We Look At When Analyzing Cash Flow Notes.
- IRS Sets New Deadlines for Issuers to Recover Muni-Related Overpayments.

- *Kreutzer v. Aldo Leopold High School* – Court of Appeals holds – as a matter of first impression – that a charter school is a "public school" subject to suit only as permitted by an exception to the Tort Claims Act's (TCA) general rule of immunity
- And finally, Chief Judge Linda M. Vanzi, Literary Giant is brought to us this week by *Kreutzer v. Aldo Leopold High School*, in which Judge Vanzi gifted us this hauntingly poignant depiction of a student's post-altercation existence: "Marcelle missed three months of school as a result of her injuries, stopped participating in dance, and eventually moved to New Jersey." Hemingway. Carver. Vanzi.

- MSRB Amends Municipal Fund Security Advertising Requirements.
- This Week In Securities Litigation – SEC Municipal Actions
- Credit FAQ: An Overview Of S&P Global Ratings' Proposed Methodology For Solid Waste System Financings.
- Governments Are Turning to Banks for Easy Money.
- Risky Business: Bank Loans to Local Governments.
- IRS Focuses on Tax Exempt Financings Involving Developers: Orrick
- How Much Climate Change Will Cost Each U.S. County.
- SIFMA Fixed Income Markup Disclosure Seminar.
- *State ex rel. Langhenry v. Britt* – Supreme Court of Ohio holds that city ordinance adding admission-proceeds-tax exemption relating to new bonds issued by county to finance renovations to basketball arena was legislative rather than administrative, and therefore, subject to referendum.
- And finally, Department of Redundancy Department is brought to us this week by *State ex rel. League of Women Voters of New Mexico*, in which the Supreme Court of New Mexico signed off on the removal of references to "idiots" and "insane persons" in the state's voting laws. "Voters." "Insane Persons." "Idiots." We hold these synonyms to be self-evident.

- Treasury Clarifies Effective Date of Revised Definition of 'Available Amount.'
- SR-FINRA-2017-027 – Proposed Rule Change.
- Startup Seeks Cities to Test Bonds that Put a Twist on Pay-for-Success.
- Climate Bonds Pioneered by Goldman Lure Storm-Plagued Cities.
- Advanced TIF Course & Intro Rural Finance Course.
- *Clearwater Construction, Inc. v. Northampton County General Purpose Authority* – Commonwealth Court holds – as a matter of first impression – that only parties meeting the statutory definition of "development entity," i.e., parties to a public-private transportation partnership agreement, were permitted to file claim regarding controversies not involving the Commonwealth under the Public-Private Transportation Partnership Act (P3 Act).
- And finally, Fox v. Henhouse is brought to us this week by *Irvin v. Brown*, in which a candidate for *county assessor* was informed that he perhaps should have at some point filed his own tax returns. The candidate claimed that he had no income but, when pressed for details, admitted that he had in fact made "some type of money" (Cowrie shells? Beads?). We're gonna go way out on ye olde limb here and suggest that this just might not be the right man for the job.

- U.S. Municipal Credit Report, Second Quarter 2017

- Deloitte White Paper on the DOL Fiduciary Rule.
- BDA to Submit Comment Letter: DOL Fiduciary Rule.
- Why Cities Should Stop Fighting Big Banks and Create Their Own.
- BDA Submits Comment Letter: Urges the Secretary of the Treasury to Withdraw the Proposed IRS Political Subdivision Rule.
- Show Me the Money: Financing Public Facilities in the Age of Scarcity.
- P3 Infrastructure Delivery: Principles for State Legislatures.
- *United States ex rel. Fields v. Bi-State Development Agency of the Missouri-Illinois Metropolitan District* – Court of Appeal holds that bi-state agency that operated public transportation services in Missouri and Illinois was not an arm of the compacting states and instead was comparable to a local governmental entity, and thus, agency was not entitled to Eleventh Amendment immunity from suit in federal court.
- And finally, Loophole of the Week is brought to us this particular week by *Campbell v. United States*, in which Mr. Campbell walked free when the court determined that the "grassy median" between two actual parking lots did not constitute a "parking area" for the purposes of the statute prohibiting a motorist from being drunk off his/her ass in a "parking area." Mr. Campbell was described as, "reclined in the driver's seat, semiconscious or unconscious, and a half-empty bottle of Absolut vodka in the vehicle's center console." Or, as we refer to it here at the BCB offices, a "Tuesday afternoon."

- MSRB Modernizes Customer Account Transfer Rule.
- GFOA Releases Research Report on Fiscal Sustainability.
- "The Fixed Income Dealer Evolution" An Overview of the Competitive Landscape for Regional Dealers.
- New EPA Tool Helps Communities Access More Than $10 Billion in Water Infrastructure Financing.
- Rising Costs, Declining Revenues Forcing Smaller Firms to Exit Municipal Finance Business, MUFG's Head of Public Finance Says.
- UBS On Its Own For Debt Bonds Defense, Insurers Say.
- Oh Great; More Issue Price Talk.
- CDFA – Frost Brown Todd Infrastructure Finance Webcast Series.
- *Milewski v. Town of Dover* – Supreme Court of Wisconsin holds that statutory scheme governing process for challenging tax assessor's property valuation, which scheme conditioned property owners' right to contest tax assessor's valuation of their real property as excessive on their granting of assessor's request to view property, was unconstitutional as applied to property owners who exercised their Fourth Amendment right to deny assessor's request to inspect home's interior, and who were thereafter denied their Fourteenth Amendment due process right to contest their increased tax burden.
- And finally, Scam Alert: Golf Pro Edition is brought to us this week by *Craw v. City of Lincoln*, an employment dispute in which the court repeatedly referred to the plaintiff's occupation as a "purported" golf pro at a city course. It had previously been our understanding that this term, in this context, would be more applicable to, say, a Nigerian Prince (or BCB Editor!) than to what is presumably a verifiable occupational position. Then again, perhaps golf pros have become craftier than we could ever have imagined, turning to the dark arts in pursuit of muni course glory. Let's certainly hope not.

- NABL Releases Paper on Direct Purchases.
- GASB Proposes Implementation Guide for Other Postemployment Benefits.
- MSRB's G-42 Guidance Notes Ambiguities for MAs in Conduit Issues: Burr & Forman
- MSRB Publishes Market Advisory Addressing Conflicts of Interest with Issuer Designation of Underwriter's Counsel.
- FINRA And The MSRB Issue FAQs On Bond Mark-Up Disclosure: WilmerHale
- PLR 201726007 – Insights into the Facts & Circumstances Test for Private Business Use after Rev. Proc. 2017-13.
- Recent Developments in Pension Obligation Bonds: Orrick / Bond Buyer Webinar
- *Douglas v. Stillwater Area Public Schools, Independent School District 834* – Court of Appeal holds that school district did not abandon bond referendum's broad purpose when it decided to close three elementary schools and cancel improvements scheduled at the schools, and thus, district's changes in plans for using bond proceeds did not require voter approval and did not violate statute requiring it to spend bond proceeds for purposes stated in ballot language.
- And finally, Great Moments in Misguided Bromance is brought to us this week by *City of Lincoln v. County of Lancaster*, in which a deputy sheriff threw a friendly punch to the shoulder of a city police officer. "Unbeknownst to the deputy, the police officer had recently undergone surgery on the shoulder." $63k in worker's comp and various lawsuits ensued. All of which overlooks the colossal silver lining here: at least it wasn't a recent vasectomy.

- Improving Financial Disclosure by State and Local Government Borrowers.
- BDA Submits Comment Letter: Proposed Limited Safe Harbor from FINRA Debt Research Rules for Desk Commentary.
- New MSRB Fee to be Assessed on Underwriters to 529 College Savings Plans.
- INFRA Grant Program Encourages Use of P3s.
- Fitch: Illinois Legislation Gives Chicago New Financing Tool.
- MSRB Webinar: What to Expect from Your Municipal Advisor.
- *Assured Guaranty Corporation v. Madison County, Mississippi* – In action by bond guarantor against county, Court of Appeals holds that plain language of Contribution Agreement entered into between county and special-purpose district conditioned county's obligation to advance bond payments on district's continued performance of its obligation to reimburse county for any such payments within a period of two years.
- *Tennessee Republican Party v. Securities and Exchange Commission* – Court of Appeals upholds SEC rule limiting campaign activities of persons who advise city and state governments on issuing municipal securities.
- And finally, we ran across this little event and thought to ourselves, "Hey, maybe our fine readers would like to spend a week in Cambridge (so lovely in January) attending a week-long public finance seminar at the Kennedy School of Government. Fun for the entire family!" All for the low, low price of WHAT?! Should I ever elect to shell out $8,500 for a week's festivities, I'll be expecting the, uh, perks that JFK himself would have required and which cannot be further enumerated in a family publication such as this. Happy Birthday, Mr. President indeed.

- GASB Issues Exposure Draft, Certain Disclosures Related to Debt, including Direct Borrowings and

Direct Placements.
- MSRB Provides Guidance on Duties of Non-Solicitor Municipal Advisors in Conduit Financing Scenarios.
- MSRB Provides Implementation Guidance on Mark-up Disclosure.
- SIFMA Asks SEC to Reject 'Inefficient' MSRB Account Transfer Proposal.
- SIFMA Submits Comments to the IRS on Proposed Regulations Defining Political Subdivisions.
- Treasury: Proposed Political Subdivision Regulations are "Burdensome," Issue Price Regulations are "Insignificant."
- *Missouri-American Water Company's Request for Authority to Implement a General Rate Increase for Water and Sewer Service Provided in Missouri Service Areas v. Office of Public Counsel* – Court of Appeals holds that Public Service Commission's consolidation of water systems into three districts for setting rates did not grant an undue or unreasonable preference or advantage to one locality over another.
- And finally, We here at BCB may not know much, but we're gonna go out on the proverbial limb here and aver that any story containing the statement, "He also threw out his shirt, soiled with feces, which struck Pool in the chest and hands." is not going to end well. (See *Hicks-Fields v. Harris County, Texas*)

- **Ed. Note:** Hey, folks. As very little went down this week, please feel free to submit a request for a 1/50 *pro rata* refund of your subscription price. Send enquires to AirborneSwine@bondcasebriefs.com
- SIFMA Submits Comments to the SEC on Proposed Rule Change to Amend MSRB Rule G-26, on Customer Account Transfers.
- Groups Ask MSRB to Broaden CUSIP Exception for Private Placements.
- Unlocking Value from Public Assets: Leveraging Private-Sector Expertise to Generate New Public Benefits.
- Goldman Leaps Into Ranks of Top Muni Underwriters With Big Sales.
- NABL: Political Subdivision Regs on List of Burdensome Regs.
- *Valley Forge Towers Apartments N, LP v. Upper Merion Area School District* – Supreme Court of Pennsylvania holds that Uniformity Clause did not permit school district to selectively appeal only assessments of commercial properties, such as apartment complexes, while choosing not to appeal assessments of other types of property, such as single-family residential homes.
- *People v. Superior Court* – Supreme Court of California holds that an independent contractor can be a public officer or employee prohibited from having a financial interest in a contract made in his official capacity, disapproving *People v. Christiansen*.
- And finally, Not Exactly the Casino Royale is brought to us this week by *McAnally v. Thompson*, in which whistleblowing town police captain contacted the FBI to request its assistance in investigating possible municipal malfeasance. The site of their clandestine rendezvous? "In the parking lot behind the Dairy Queen in Wasilla." Captain MacAnally, I knew Bond, James Bond. Bond, James Bond was a friend of mine. You sir, are no….

- GASB Establishes Single Approach for Reporting Leases.
- BDA Submits Comment Letter: MSRB Second Request for Comment on Draft Amendments to and Clarifications of MSRB Rule G-34, on Obtaining CUSIP Numbers.
- MSRB Publishes Compliance Advisory for Municipal Advisors + Webinar

- S&P: Typical U.S. Water and Sewer Utilities and the Margin Between High and Medium Investment Grade Ratings.
- Tax-Exempt Financing of Churches, Parochial Schools and Other Sectarian Institutions After Trinity Lutheran Church: Permitted? Required? Let us Pray for Answers.
- Why Disclosure really Matters Now – The S.E.C. Enforcement Agenda.
- BLX/Orrick Post-Issuance Compliance Workshop.
- Reminder: GASB Review 2017
- And finally, Please Let Us Be Wrong is brought to you this week by *Thompson v. City of Albuquerque*, in which "Minor children brought loss of consortium action against city, police chief, and police officer who shot and killed children's father." It has always been our understanding that loss of consortium was available exclusively for spouses who had been deprived of the uh, affections, of the other spouse. We pray that we are wrong about that. Otherwise, someone should probably contact social services.

- **Ed. Note:** Please be sure to take a look at our coverage of *Matter of Trusteeship Under That Certain Indenture of Trust….*.
- NFMA Recommended Best Practices in Disclosure for Local Government General Obligation Debt.
- MSRB Publishes Guide for Customer and Municipal Advisory Client Complaint Problem and Product Codes (and Webinar).
- MSRB Files Proposed Amendments to Municipal Fund Security Advertising Requirements.
- Issue Price: Notes from the Field.
- U.S. DOT Offers Guidance on Public-Private Partnerships.
- CDFA Fundamentals of Economic Development Finance Course.
- *Tunica County v. Town of Tunica* – Supreme Court of Mississippi upholds constitutionality of local and private law requiring county to distribute portions of revenue-based gaming fee to town and school district.
- And finally, So Many Questions is brought to us this week by *Garrard County v. Middleton*, in which the county jailer sued (and won) to prevent the county from reducing his salary. Reasonable minds will surely agree that he deserves to be richly compensated for running the jail *that does not exist*. So what's he do all day? Does he strut around in uniform/gun or slink around anonymously hoping not to attract attention to the absurdity of his employment? Has he constructed a little hamster penal colony? But wait, there's more! This is an honest-to-god ELECTED position! We now invite you to close your eyes and visualize the candidate debates.

- MSRB Publishes Guide for Customer and Municipal Advisory Client Complaint Problem and Product Codes.
- Former GSA Head Reiterates Urgency for Scoring Reform.
- BE AWARE: Governments Being Hit by Sophisticated Electronic Fraud Scams.
- GFOA Alert: Public-Private Partnerships (P3).
- Early Tax Abatement Disclosures Under GASB 77: Incomplete, Mislabeled – and Occasionally Spectacular.
- *California Taxpayers Action Network v. Taber Construction, Inc.* – Court of Appeal holds that tax objector alleged sufficient facts to state cause of action against contractor, as corporate consultant, for violation of conflict of interest provision in statute barring public officials or employees from being personally financially interested in contracts they formed in their official

capacities, stemming from contractor's lease-leaseback construction contracts with school district. *On remand, this case appears poised to invalidate the entire lease-leaseback construction contract system as currently configured.*
- And finally, You've Been a Very Naughty Boy, Prepare for Strict Scrutiny is brought to us this week by *For the People Theatres of N.Y. Inc. v. City of New York*, which dealt with zoning regs for adult businesses. You'll doubtless be pleased to learn that your "specified anatomical areas" are subject to intermediate scrutiny. But you should probably run this by HR prior to office-wide implementation of any such scrutiny.

- As the Countdown to the New Issue Price Regulations Continues, Let the Document Negotiations Begin!
- Outline For Discussion Of New Issue Price Rules.
- Black & Veatch: 2017 Water Industry Report.
- CDFA Water Finance Resource Center.
- A Comprehensive Look At S&P Global Ratings' U.S. Public Finance Water And Wastewater Ratings.
- KBRA Rating Letters for Insured Bonds.
- S&P Request for Comment: Limited-Tax General Operating Debt.
- S&P Request for Comment: Issue Credit Ratings Linked To U.S. Public Finance Obligors' Creditworthiness.
- Couple of interesting tax cases: *DirecTV, Inc. v. Town of New Hampton* and *Upper Moreland Township v. 7 Eleven, Inc.*
- *Vermillion State Bank v. State by Department of Transportation* – Court of Appeal holds – as a matter of first impression – that a landowner is the only person that may petition for attorney fees and costs under statute providing for such awards to landowners in inverse condemnation actions, and an attorney has no right to seek fees and costs under the statute independently of the landowner.
- And finally, The Grinch that Stole Grinchiness is brought to us this week by *Carr v. Town of New London,* in which the Town went to the mats to contest homeowners' request for a tax abatement. The petty reason for the homeowners' whining about their tax bill, against which the Town made such a valiant stand? The home in question HAD BURNED TO THE GROUND. Which, come to think of it, is probably some kind of code violation. Look into that, Town of New London.

- Fitch: Pension Impact Adjusted in U.S. Public Finance Criteria.
- Special Assessment Techniques for Transformative Community Improvements.
- MSRB Seeks Additional Comment on Requirements for Obtaining CUSIP Numbers.
- MSRB Adds Exception in Revised Proposal Requiring CUSIPs for Private Placements.
- BDA Submits Comments to Department of the Treasury and the Internal Revenue Service on Recommendations for the 2017-2018 Priority Guidance Plan.
- Federal Infrastructure Tax Credit Legislation Makes Key Changes from 2015 Proposal.
- *The Tavern, LLC v. Town of Alpine* – Supreme Court of Wyoming holds that campground owners sufficiently alleged that, in constructing and financing (loans, rather than bonds) new sewer system, town exceeded its constitutional and statutory authority, as required to state a claim for

injunctive relief.

- *Better Government Association v. Illinois High School Association* – Supreme Court of Illinois holds – as a matter of first impression – that voluntary association of public and private high schools was not "subsidiary body" of governmental unit under Freedom of Information Act (FOIA), and thus was not subject to FOIA's disclosure requirement.
- And finally, Can Someone Please, Please Explain This? is brought to us this week by *Ada County Highway District v. Brooke View, Inc.*,, a seemingly garden-variety eminent domain case. Highway District offers subdivision $7,738.47 as just compensation for a 1,425 square foot section of property to complete a sidewalk and drainage project. Subdivision declines. Highway District condemns, subdivision sues over valuation. Court awards $148,390.21, plus prejudgment interest and attorney fees. So far, so good. But, but, but (insert spluttering noises of your choosing). Prejudgment interest = $48,792.66. Non-discretionary costs = $44,051.46. Discretionary costs = $365,703.63. Attorney's fees = $744,243.56! So the county is rung up to the tune of $1.35 million for utilizing 1,425 sq. ft. of land for a public works project? How is this possible? Is this normal? Can I assume that this is how it's done in China? Why haven't they come for us with pitchforks and torches?

- When Should an Issuer of Tax-Advantaged Bonds Use the Hold-the-Offering-Price Method to Establish the Issue Price of the Bonds?
- MSRB Webinar: Municipal Advisor Solicitor Guidance.
- SEC and MSRB to Hold Webinar on Series 50 Exam for Municipal Advisors.
- MSRB Files Amendments to Modernize Customer Account Transfers.
- S&P Global Ratings Announces New Green Evaluation Service.
- Local Governments' Hidden Reason to Oppose Tax Cuts: Bank Loans.
- Rising Seas May Wipe Out These Jersey Towns, but They're Still Rated AAA.
- S&P: The Top 10 Management Characteristics of Highly Rated State and Local Borrowers.
- Successful Investing in Charter Schools Part III: Market Advancements
- And finally, the Supreme Court of Colorado this week took up the issue of whether "Blunt Wraps" qualify as "tobacco products" for tax purposes in *Colorado Department of Revenue v. Creager Mercantile Co., Inc.* The court helpfully informed us that, "Like traditional rolling papers, Blunt Wraps are designed to be filled with tobacco, marijuana, or other smoking material and smoked." And then this bombshell: "See generally Redman, How to Roll A Blunt, on Whut? Thee Album (Columbia Records 1992)." Wait, the Blue Book now covers the proper citing of rap artists? Mad props to the clerks who snuck this into a Supreme Court opinion. But what on earth were the Justices smoking? Oh. Never mind.

- MSRB to Establish Continuing Education Requirements for Municipal Advisors.
- The Countdown to June 7, 2017….. Are You Ready?
- SIFMA: All Bonds Used for Publicly Accessible Infrastructure Should be Treated as GOs.
- SIFMA Submits Comments to the SEC on Proposed Amendments to Rule 15c2-12.
- BDA Submits Comment Letter: SEC Proposed Amendments to 15c2-12.
- Dodd-Frank Rollback Could Hinder Funding of Accounting Standards Board.
- Municipal Bond Market: A Tech Tipping Point Is Here.

- Those of you involved in the dissolution of CA redevelopment agencies should take a look at *City of Santa Maria v. Cohen*.
- And finally, Missing the Forest for the Trees (if by "Trees" You Mean "Sex Offenders") is brought to us this week by *United Union of Roofers, et. al. v. North Allegheny School District*, in which roofers' union sued school districts to enjoin the districts from running standard-issue background checks on roofers. A bold move, to be sure, but some folks might recommend that you instead hang your head and quietly slink away, rather than call attention to the fact that EIGHT members of a single roofing crew failed their background checks. Just a thought.

- BDA / Nixon Peabody Issue Price Summary Document.
- NFMA Comments on Proposed Amendments to SEC Exchange Act Rule 15c2-12.
- A Requiem for Reasonable Expectations: Squire Patton Bogs
- New IRS Arbitrage Publication and TEB Training Texts Now Available.
- Amid Divestment Protests, More Cities Explore Public Banks.
- Commentary: Advances in Advance Refunding.
- Municipal Bonds 201: A Breakfast Seminar Presented by Municipal Bonds for America (MBFA)
- Any tax nerds out there might want to take a gander at *County of Douglas v. Nebraska Tax Equalization and Review Commission*. (The qualifier "might" is deployed due to the fact that we didn't understand a word of it.)
- And finally, the Supreme Court of Connecticut wonders exactly how it got dragged into a landlord/tenant dispute about a dog named "Mellow" this week in *Presidential Village, LLC v. Phillips*. Please note that the Phillips were fighting to remain in the "Presidential Village." Having reported from the front lines of New Haven, we can assure you that naming a New Haven apartment complex the "Presidential Village" is the cruelest of ironies. Then again, perhaps the slightly more accurate "Rat-Infested Hellhole" was already taken.

- SIFMA Finalizes Muni Issue Price Model Documents.
- MSRB Holds Quarterly Board Meeting.
- GASB Implementation Guidance Update No. 2017-1
- IRS Teeing Up More Flexible Rules for Public Approval of PABs.
- Munis Could Be Hurt by Plan to Slash Corporate Tax Rates.
- Demys'TIF'ying Tax Incentives.
- IRS Publication 5271, Complying with Arbitrage Requirements: A Guide for Issuers of Tax-Exempt Bonds.
- S&P 2017 U.S. Public Finance Credit Forum.
- BLX Post-Issuance Compliance Workshop.
- KBRA NE Municipal Finance Summit.
- *Long v. City of Helen* – Supreme Court of Georgia holds that fact that city's attorney fees and litigation expenses were principally borne by city's insurer did not preclude city from recovering fees and expenses.
- *City and County of Denver v. Expedia, Inc.* – Supreme Court of Colorado holds that online travel companies were "vendors" with responsibility to collect lodger's tax and remit it to city, and that companies' markup for selling reservations to lodgers, which companies retained, was subject to tax.
- And finally, Adventures in Assessments is brought to us this week by *City of North Little Rock v.*

Pfeifer, in which "The City's attorney appeared before the Board, explained the uses of its properties within the proposed district, and requested a reassessment. The Board then raised the assessed value of the City's larger parcel from $530 to $82,850 and lowered the assessment of its smaller parcel from $8200 to $8196." While first revaluation is genuinely stunning, the second is just plain gobsmacking. (I'd love to tell you that I did a violent double take when I saw the numbers, but it took me a minute or so to do the math.) What conceivable factor(s) could possibly result in a $4 reduction? Once again, we welcome your conjectures.

- Think Trump Tax Cuts Spell Doom for Municipal Bonds? Think Again.
- Owners of These Muni Bonds May Reap Windfall From Trump Tax Plan.
- States to Battle White House for Tax Deduction, Muni Exemption.
- Trump's Tax Plan And Munis.
- The Yield Curve – What It Is and Why It Matters: Squire Patton Boggs
- Following the Money 2017: Special Districts
- *Estermann v. Bose* – Supreme Court of Nebraska holds that joint water management entity created by four natural resource districts pursuant to Interlocal Cooperation Act (ICA) was authorized to exercise the power of eminent domain.
- *Magnolia 8 Properties, LLC v. City of Maple Plain* – Court of Appeal holds, as a matter of first impression, that discretionary-acts exception to municipal liability is absolute and shields a municipality's planning-level decisions from strict-liability claims.
- And finally, Surreptitious Plumbing, LLC is brought to us this week by *Godfrey v. Upland Borough*, in which homeowners accused their borough of "surreptitiously" installing storm and sewage-water systems on their property and subsequently engaging in a years-long, elaborate, cover-up in which the raw sewage in their basement was attributed to a crack in their own sewer line, a malicious prosecution for the failure to fix that line, destruction of evidence, etc. etc. Jeez, paranoid much? Wait. What? That's a thing that actually occurred? Our sincerest apologies to the sewage-spackled Godfreys.

- NFMA Issues Comment on GASB Project No. 3-251, Financial Reporting Model Improvements – Governmental Funds.
- USAFacts: This Goes Way Beyond Open Data.
- MSRB to Mull MA Impact Analysis, Critical Comments at Meeting.
- Funding of Infrastructure: Framing the Issues.
- S&P: U.S. State And Local Governments Wait For The Economic Boost To Kick In.
- Bankable Construction Contracts In P3 Projects: Dentons
- Is the Pendulum of Bond Pricing Beginning to Swing Back Toward Discount Bonds? If So, We Need to Be Prepared for the Resulting Bond Yield Calculations.
- NCPPP Announces Spring, Summer P3Bootcamps.
- *Heartland Apartment Association, Inc. v. City of Mission* – Supreme Court of Kansas holds that city's transportation "user fee," which was assessed on developed real property based on a formula that attempted to estimate the number of vehicle trips a particular property generated, was a prohibited excise tax, rather than a fee.
- And finally, we learned this week that "Dentons is the world's first polycentric global law firm." Uh, congratulations? Perhaps fewer Wiccans in the marketing department? What can this possibly mean? The belief in multiple law firms that animate the universe? We welcome your conjectures.

- Help! Why Did the Tax Lawyers Change the Issue Price Certificate?
- NABL's Model Issue Price Certificates – Some Observations.
- SEC Issues New Material Event Notices Under Proposed Rule 15c2-12 Amendments: Holland & Knight
- Groups Urge MSRB to Drop Idea of Requiring CUSIPs for Private Placements.
- Reminder: New IRS Issue Price Rules Go Into Effect June 7.
- IRS TEB Update: Automated Return Acknowledgement for Form 8038 Series Returns; Interactive Form 8038-CP.
- And finally, we ran into an annexation case this week entitled, *Enlargement and Extension of Municipal Boundaries of Town of Terry v. Town of Terry*. In order to ensure that we had not heretofore failed to cover some aspect of the municipal annexation process, we innocently Googled, "enlargement and extension." Golly gee, mister, some of the results produced by our research appeared to have little or no connection with annexation at all. But, out of an abundance of caution, perhaps you should ask an Associate to replicate our results.

- Fitch Releases Exposure Draft for Public Sector Revenue-Supported Debt Master Rating Criteria.
- Groups Urge MSRB to Drop Idea of Requiring CUSIPs for Private Placements.
- Senators Reintroduce Bipartisan Bill to Provide Financial Stability to Muni Bonds.
- Bond Insurance Capital: Can You Ever Have Too Much?
- Model Issue Price Certificates Released: Squire Patton Boggs
- Those of you who represent utilities should check to ensure that they are authorized to recoup undercharges arising from their own clerical errors. See *Nibco Inc. v. City of Lebanon*, in which a municipality lost out on $1.27 million.
- *Creegan v. State* – Supreme Court of Kansas holds – as a matter of first impression – that Kansas KDOT's nonconforming use of its subdivision parcels in violation of restrictive covenant running with subdivision land that required property to be used for single-family residence purposes constituted a "taking" under the Fifth Amendment of interests in real property possessed by property owners of dominant subdivision parcels.
- *Barfield v. Sho-Me Power Electric Cooperative* – Court of Appeals holds that electric cooperative's installation of fiber-optic cable alongside it electric lines for operation of commercial telecommunications network was outside scope of cooperative's easement and constituted trespass.
- And finally, Great Moments in School Construction Transparency is brought to us this week by *New York City School Const. Authority v. Ennead Architects, LLP*, in which architecture firm was sued for faulty design of custom-etched floor-to-ceiling glass windows ($100k each!) in new high-school construction. Among other issues, there was some concern expressed over the fact that clear glass windows had been installed in the girls' locker room, "allowing passersby to gaze in." As the BCB workforce is currently childless (as it's been strongly suggested that this should be the terminus of our collective gene pool), we're turning to you to see if this is the kind of issue that might be raised at the next PTA meeting.

- The SEC's Proposed Changes To Rule 15c2-12 Could Have Far-Reaching Impact On Issuers And Obligors Of Municipal Securities: Foley & Lardner
- SIFMA Releases Muni Issue Price Model Documents for Industry Comment.
- SIFMA Proposes 'Revocable Bids' in Draft Document for Issue Price Rules.
- GFOA Advisory: Pension Obligation Bonds.
- BDA Comment Letter: MSRB Request for Comment on Amendments to MSRB G-21 and Advertising Standards for Municipal Advisors (MSRB G-40).
- NAMA Wants MSRB to Withdraw Proposed Muni Advisor Advertising Rule.
- And finally, Thelma and Louise Need Huggies is brought to us this week by *Ex parte City of Homewood*, in which police responded to a report of shoplifting at the local Babies "R" Us and encountered the suspects exiting the parking lot. Cue your garden variety high-speed chase. The suspects subsequently lose control of the vehicle, which crashes into a light pole, KILLING THE TWO MOTHERS contained therein. That's taking dedicated parenting to an entirely new level.

- Cambridge Minibond Official Statement. (In a rare – and likely ne'er-to-be-repeated – moment of initiative, we tracked down the Official Statement for the City of Cambridge, Massachusetts General Obligation Bonds, 2017 Series A (Minibond Program) that you've been hearing about recently.)
- NFMA Recommended Best Practices in Disclosure for Charter School Debt Offerings.
- Counsel of Development Finance Agencies Bookstore.
- Foley & Lardner: New Regulations on Issue Price of Tax-Exempt Bonds.
- SIFMA: SEC Approves Move to Shorter T+2 Settlement Cycle for Munis and Other Securities.
- Orrick: IRS Revenue Procedure 2017-13 Safe Harbor Requirements for Services Contracts.
- Neighborly Issuer Solutions Position
- And finally, *Castille v. St. Martin Parish School Board* this week brings us the inspiring story of Mr. Gerald Castile, who since 1977 has been faithfully transporting Louisiana school children without complaint. Well, maybe the occasional complaint… Our favorites include (but are hardly limited to) initially deeming a particular route undesirable until "it changed over time and became more desirable as the route became less populated." Suppose that does indeed cut down on that whole pick up/drop off hassle. And then there was the route, "populated with children from families that were known to have little or no respect for the bus operators." Known? Was this knowledge passed down through generations of bus operators? How exactly does a family become bus operator disrespecters? Is it passed down through generations of bus operator disrespecting families? So many questions but, most importantly, how do we end this tragic cycle? How?

- GASB Issues Omnibus Statement Addressing a Broad Range of Practice Issues.
- SEC Proposes Expansive New Continuing Disclosure Requirements Regarding Private Debt and Other Financial Obligations.
- SEC Seeks Comment on Proposed Amendments to Municipal Securities Disclosure Rule.
- Cambridge, Mass., Community-Sourced Minibonds Could Spark Market Trend.
- Changes in the Audit Process for Tax Advantaged Bonds Related to IRS Division Reorganization.
- Report from TSLI – What Can We Expect in the Near Term from the IRS?
- *William Beaumont Hospital System v. Morgan Stanley & Co., LLC* – Court of Appeals holds that

allegations by nonprofit hospital system that broker-dealers withheld information about structure of auction-rate securities (ARS) market and their support-bidding practices, that they misrepresented availability of fixed-rate versus formulaic-rate structures, and that they failed to warn hospital system about deteriorating ARS market did not satisfy heightened fraud and mistake pleading standard.

- And finally, Great Moments in Judicial Overreach is brought to us this week by *Den Hartog v. City of Waterloo*, which contains this stupefying zinger, "The exact extent to which we may go in deciding questions of fact from the record is vaguely defined; it lies in a shadow land, a 'twilight zone,' whose boundaries do not admit of definite charting." We'll give you a moment to let that sink in.

- **Ed. Note #1:** Please note that the inclusion of any and all references to the new administration, and the leader thereof, arise only in the course of our ordinary (shoddy) reportage and is in no way filtered to express any particular political viewpoint whatsoever. We barely manage to keep this leaky tub afloat as it is, so certainly don't need to be steering into that iceberg.
- **Ed. Note #2:** Briggs & Morgan is looking for a public finance paralegal in its Minneapolis office. We mention this to remind you that our Classifieds are free of charge, so feel free to send us solicitations for everything from used futons to lightly-soiled associates.
- The SEC's Proposed Changes to Rule 15c2-12 Could Have Far-Reaching Impact on Issuers and Obligors of Municipal Securities: Foley & Lardner
- Bond Documents Being Revised for Issue Price Rules.
- How Poker Reminded Me That the Rev. Proc. 97-13 Safe Harbors for Management Contracts Live On: Squire Patton Boggs
- Donald Trump is Poised To Do Great Harm to U.S. Cities (But Not For the Reasons You Might Think).
- Issuer Considerations: Bank Loans – SDMN Webinar
- Webinar Recap: Mismeasurement of the Efficiencies of the Municipal Tax-Exemption.
- And finally, please take a moment out of your busy day to savor the following insight from the Supreme Court of Rhode Island, "The right to keep alpacas does not run with the land." We can't quantify precisely why it is that we find this so hilarious, but we do. We just do.

- SEC to Propose Issuer Disclosures on Bank Loans, Private Placements.
- SEC Proposes Rule Amendments to Improve Municipal Securities Disclosures.
- MSRB Draft Rules Would Clarify CUSIPs Needed for Private Placements.
- The Coming Transparency Wave: GASB 77
- Hawkins Advisory: Municipal Market Regulatory Update.
- IRS Publishes Population Figures for Housing Credit, Private Bonds.
- NFMA Municipal Analysts Bulletin.
- MSRB 2016 Fact Book.
- And finally, Great Moments in Misguided Linguistic (Pubic) Hair-Splitting, is brought to us this week by *Board of Liquor License Commissioners for Baltimore City v. Kougl*, in which Detective Fletcher Jackson of the Baltimore City Police Department's Special Enforcement Section, Vice Division, took it upon himself to conduct an undercover investigation at Club Harem, an adult entertainment establishment. During his investigation, one of the Club's employees, Jamaica Brickhouse, approached Detective Jackson and engaged him in conversation. "After introducing

herself, Brickhouse exposed her breasts to Detective Jackson and invited him to touch them. He complied." While we appreciate your dutiful compliance, Detective, is it not the case that one complies with a directive and accepts an invitation? It remains a distinct possibility that Detective Jackson's busy – yet rewarding – work schedule will prevent him from delving further into this distinction.

- SIFMA Submits Comment to the MSRB on Draft Amendments to Modernize MSRB Rule G-26 on ACATS.
- GFOA OKs Best Practices on Refundings, Investing, and Financial Services.
- GFOA Approves New Best Practices.
- Overview of GFOA's New Best Practices: Webinar
- Bipartisan Bill Reintroduced to Ease Tax Curbs on Small Issuer IDBs.
- The Countdown to August 18, 2017 – Something You Should Know.
- *Goldman, Sachs & Co. v. City of Reno* – In ARS-related litigation, District Court holds that city's initiation of FINRA arbitration against underwriter constituted a breach of the forum selection clauses in the broker-dealer agreements, but that underwriter could not claim attorneys' fees as damages for that breach.
- And finally, Great Moments in Fish Wrangling is brought to us this week by *Citizens for Odor Nuisance Abatement v. City of San Diego* – a case about seal poop – in which the court gifted us with this immortal statement, "Our decision does not depend on the fact that the Asian carp are advancing upstream of their own volition." Unlike the many other cases that turn upon volitional carp.

- Will President Trump's Regulation Cuts Reduce Ongoing Disclosure for Bond-Financed Projects?
- MSRB Proposes New Ad Rule for MAs, Revised One for Dealers.
- MSRB Requests Comment on Updating Dealer Advertising Requirements and Applying Similar Standards to Municipal Advisors: Webinar
- Tax Guidance to Slow Under Trump. Even More Emphasis on Letter Rulings in Bond Transactions?
- Issuers Giving Themselves More Time to Disclose Financials.
- Interesting items regarding common carrier eminent domain power in Texas here and here.
- *Town of Sterlington v. East Ouachita Recreation District No. 1* – Court of Appeal denies action brought against parish recreational district challenging proposed expenditure of ad valorem tax proceeds to secure limited tax bonds for constructing and improving sports facilities, holding that district acted within the purpose of the tax dedication by expending tax proceeds for sports tourism.
- And finally, Your Fifth Amendment Guide to Self-Incrimination is brought to us this week by *Colorado County v. Staff*, in which Officer Marc Staff met with the DA in order to encourage the prosecution of a motorist he had previously arrested. Officer Staff came bearing gifts: the dash-cam footage of the arrest. After viewing the footage, the gobsmacked DA felt obligated to notify Sheriff R.H. "Curly" Wied that Staff's behavior toward the motorist was "demeaning" and involved "screaming," "taunting," and "apparent rage" that "escalated" the incident and "resulted in an arrest for an accident in which … no damage to any vehicle" had occurred. Can there possibly be anything more humiliating than being fired by a man called, "Curly?" Let's hope not.

- How a Corporate `War' Over Covenants May Affect Munis.
- What Makes a Bond "Green"?
- MSRB: Continuing Disclosure Timing Remains Stable.
- Why Some Bargain Municipal Bonds Aren't Tax Free.
- MSRB Enhances EMMA Alerts Tool.
- Moody's Seminars: Financial Analysis of Local Governments.
- SIFMA Releases 2017 U.S. Municipal Issuance Survey: Long-Term Issuance Likely to Taper.
- SIFMA U.S. Municipal Credit Report, Fourth Quarter and Full Year 2016
- *Acciona Windpower North America, LLC v. City of West Branch, Iowa* – Court of Appeals holds that TIF development agreement required city to pay tax rebate to wind turbine manufacturer once it paid its taxes for given fiscal year and did not impermissibly limit city's ability to decline to pay rebates.
- And finally, Charles Darwin, County Road Commissioner is brought to us this week by *Patterson v. Cowley County*, in which the kinfolk of two inebriated decedents sued the county for neglecting to mention that a local road abruptly dead-ended at a river. Although initially appearing to be a matter of simple negligence, could it be possible that this was in fact a genius plan to funnel the residents of the shallow end of the gene pool into, well, a literal pool? The perfect marriage of evolution and intelligent design.

- GASB Issues Guidance on Fiduciary Activities.
- Fitch Disagrees with Moody's Legal Analysis on Chicago Public Schools.
- Fitch Calls Out Moody's on Chicago Schools Analysis.
- MSRB Plans to Codify CUSIP Requirements for Private Placements.
- Making Sound Cost Decisions in Pay for Success Projects.
- GASB Webinar: Financial Reporting Model Improvements – Governmental Funds.
- Exploring the Impact of GASB 77: CDFA // BNY Mellon Development Finance Webcast
- *U.S. Bank National Association v. Podes* – In action to recover damages in connection with defaulted bonds, appeals court holds that expert's damage report – which calculated the value of the bonds as simply the interest rate on the face value of the bonds held to maturity – did not constitute an impermissible net opinion.
- And finally, a devastating blow was dealt this week to trolls residing under bridges everywhere via *Doug Garber Construction, Inc. v. King*, in which Bernice Garber appealed the award of $112k for property taken by the state for a new freeway interchange, opining that the property was in fact worth $347 million in lost profits as the new location of the freeway would have allowed her to asses a $2 toll on each vehicle entering the city. The Supreme Court of Kansas responded with this exceedingly polite, deadpan gem: "Even if we ignored the speculative character of Ms. Garber's envisioned "Golden Gateway" to Lawrence, and even if a private citizen could lawfully collect tolls from drivers on a public roadway, such testimony is inadmissible to establish property valuation."

- MSRB Files Minimum Denomination Rule With SEC.
- MSRB Files Standalone Minimum Denomination Rule With SEC.
- City Announces First Minibond Issuance, Invites Residents to Directly Invest in Cambridge.
- Revenue Procedure 2017-13: Management Contracts – Still Trying To Get It Right.

- IRS Clarifies New Management Contract Safe Harbors.
- IRS Modifies Safe Harbor Guidance and Deadlines for Section 45 and 48 Energy Credits: Grant Thornton
- CDFA // BNY Mellon Development Finance Webcast: Opportunities and Advancements in Water Finance
- And finally, Putting the Ordnance in Municipal Ordinance is brought to us this week by *Ohioans for Concealed Carry, Inc. v. Oberlin*, in which advocacy group successfully challenged local ordinance banning firearms in public parks and recreation areas. Where to even begin? "Say hello to my little friend!" "You can take my binkie when you pry it from my cold, dead fingers." "Hasta la vista, baby." "Heck, I'd settle for a well-regulated diaper." "Wanna play shotgun tag?" "Watch out for that little Burr kid."

- Updated GASB Codification and Other Publications Available to Assist State and Local Stakeholders.
- SEC Approves New Complaint Process for MAs; Update for Dealers.
- MSRB to Apply Customer Complaint Rules to Municipal Advisors and Modernize Existing Rules for Dealers.
- The Hidden Risks of P3s.
- Breaking News: Rev. Proc. 2017-13 Released
- IRS Releases Interesting Private Letter Ruling on Build America Bonds.
- NASACT Webinar – GASB's Financial Reporting Model.
- S&P U.S. Municipal Water Utility Sector 2017 Outlook: Potholes, Policies, And Pensions.
- And finally, Crime and Punishment: The Playground Years is brought to us this week by *O'Brien v. City of Mentor*, in which a group of teenagers decided to play "cops and robbers" in a city park. In a desperate flight from justice, one of the robbers guillotined himself when chased into a wire the city had strung up across two tennis courts. Let that be a lesson to you, fledgling felons. We expect this dispatch to result in a City of Mentor population spike, now that we know there's still a place where teenagers play "cops and robbers." Thus may it always be.

- Forecasting the Bond Market in 2017: CDFA // BNY Mellon Development Finance Webcast
- Student Housing: Comparing Options for Tax Exempt Financing – Orrick
- GOP Expected to Take Aim at Local Tax Deductions.
- Slowing of Muni Tax Regs Seen in 2017, But Three Projects Watched.
- GFOA and Issuer Groups' Message to Congress: Munis Build Infrastructure.
- New York Federal Reserve Staff Report on Regulation and Bond Market Liquidity.
- *Tutor Perini Corporation v. Banc of America Securities LLC* – Court of Appeals holds that genuine issues of material fact remained as to whether broker-dealer acted unfairly or deceptively by making material omissions regarding nonviability of auction rate securities market during time that broker-dealer was specifically recommending and selling student loan auction rate securities to investor while market teetered on brink of collapse, thus precluding summary judgment on investor's state securities law claims against broker-dealer. Beautifully-written opinion, if you got the time.
- And finally, Great Moments in Deadpan Understatement is brought to us this week by *Torres v. Faxton St. Lukes Healthcare*, in which police were summoned to a home where a violently psychotic Paul Bumbolo was accosting his uncle on the front porch of the family home. Paul had

just killed the family dog, because it was "the devil." After taking this all in, including the fact that Paul couldn't remember his own name and referred to himself as, "the god of war", the police reached the conclusion that his behavior was, "abnormal." The police report also states that the aunt found her nephew's behavior, "unusual." This became important after Paul was summarily released from the hospital, only to return home and slaughter the entire family. Which we conclude was "unfortunate".

- MSRB Webinar: Amended Rules on Mark-Up Disclosure and Prevailing Market Price.
- 2016 Year-End Review: Squire Patton Boggs
- Water Research Foundation Publishes Report on Infrastructure Funding.
- GAAP Update Digital Recording Now Available.
- GASB Issues Invitation to Comment in Project Designed to Improve Financial Reporting Model.
- FINRA 2017 Exam Priorities Include MA Registration, Best Execution.
- *UBS Financial Services Inc. v. Asociación de Empleados del Estado Libre Asociado de Puerto Rico* – District Court holds that substance of client's arbitral claims against investment consulting and brokerage service providers, alleging misrepresentation by service providers in connection with investments in Puerto Rico municipal bonds, arose under federal law, and thus federal question jurisdiction existed for court to hear service providers' petition to confirm arbitration award under Federal Arbitration Act.
- And finally, *Greene v. Succession of Alvarado* this week brings us the story of one Donald Greene who – understandably unaccustomed to the concept of icy roads – was stunned to find his truck suddenly skating down a bridge on Louisiana's intercoastal highway. When the caroming finally ceased, Mr. Greene made the rookie mistake of exiting the vehicle, where he was promptly flung from the bridge by the next vehicle to come slaloming along. I understand that you of more northerly climes may be tempted to cast the proverbial first snow plow. But then again, would you know what to do when attacked by an Oyster Po' Boy? Would you?

- In American Towns, Private Profits From Public Works.
- 5 Hot Topics Hitting Public Finance in 2017.
- Muni Investors: Beware Of The De Minimis Tax Rule.
- NASACT Webinar: Getting Ready for Infrastructure Change.
- *Matter of Application of The Oklahoma Turnpike Authority* – Supreme Court of Oklahoma holds that bonds requested by Oklahoma Turnpike Authority to finance four turnpike construction projects all related to the construction and/or improvement of turnpikes, and therefore, statute providing funding for the four projects under one bond issue did not violate single subject rule contained in the state constitution.
- And finally, Worth a Try! is brought to us this week by *Western Petroleum, LLC v. Williams County Board of Commissioners*, in which an oil company set up a trailer park for its itinerant workforce (your editor gets a special tingly feeling each time he hears the term, "man camp") and was subsequently fined for a violation of the county temporary housing regs. The applicable fine is $1k/day, but the county assessed a $1k/day per (purported) violation fine. Given the number of days, and the number of trailers, Western Petroleum's tab came to $29,635,000. We did a little digging and learned that the entire 2017 annual operating budget for Williams County is $22.7 million. The ND Supreme Court wasn't buying it, but ya' gotta dream. Ya' gotta dream.

- NABL Teleconference on Final Issue Price Regulations.
- The New Issue Price Regulations – "Bought Deals," Bored Bidders, and Other Problems.
- Early Views On The US Energy And Infrastructure Sectors Under A Trump Administration: Sherman & Sterling
- KKR Seeks Buyer for Water Ventures, Testing Appetite for Trump-Style Infrastructure Deals.
- *In re Transient Occupancy Tax Cases* – Supreme Court of California holds that transient occupancy tax was not payable on amounts retained by travel companies above the amounts remitted to hotels as the agreed wholesale costs of room rentals plus the hotel-determined markup.
- *Fernandez v. UBS AG* – District Court holds that investors in Puerto Rico tax-free closed-end mutual funds had Article III standing to assert breach of fiduciary duty, aiding and abetting breach of fiduciary duty, and breach of contract claims against broker-dealers, investment advisors, and fund administrator on behalf of putative class of investors; detailed analysis of applicable statutes of limitation.
- And finally, Our Work Here Is Done is brought to us this week by *Trimble v. City of Albany*, in which firefighters hosed down a minor house fire, struck heroic poses, and instructed the family to pack up a few things and spend the night with relatives. And so they did. The minor glitch in the plan smoldered in a window well as they slept, eventually erupting into flame. The family returned, only to find a pile of ash. The fire department returned, only to find a lawsuit. And the circle of life rolls on.

- Final Issue Price Regulations Significantly Change Current Rules.
- Final Issue Price Regulations Issued: Squire Patton Boggs
- IRS Releases Final Issue Price Regulations with Significant Changes: Andrews Kurth
- NABL: The Bond Lawyer – Fall 2016
- Municipal Advisors: Mark Your Calendars with Annual Compliance Dates.
- The Creative Financing Behind New Jersey's Mega-Mall Project.
- Municipal Advisors: Mark Your Calendars with Annual Compliance Dates.
- *Move, Inc. v. Citigroup Global Markets, Inc.* – Court of Appeals holds, as a matter of first impression, that Federal Arbitration Act (i.e. Finra arbitration) is subject to doctrine of equitable tolling.
- And finally, the court in *People v. Hoyt* this week publicly exposed us to the generosity of the Empire State when it informed us that the state legislature, "did not intend to occupy the entire field of offenses involving public lewdness." So book a ticket and pack your trench coat. We're just hoping that the field's upstate, very clearly marked, and hey, maybe a fence wouldn't be the worst idea.

- Third Circuit Appellate Court Rules That Post-Acceleration Payment in Bankruptcy Constitutes Optional Redemption: Mintz, Levin
- Final Issue Price Rules Make Allowances for Competitive Sales.
- IRS Publishes Issue Price Definition for Tax-Exempt Bonds.
- New Type of Chicago School Debt Gets Investment-Grade Rating.

- Fitch Rates $500MM Chicago Board of Ed (IL) Bonds 'A' on Special Revenue Analysis; Outlook Stable.
- Kroll Bond Rating Agency Assigns the Long-Term Rating of BBB with a Negative Outlook for the Chicago Board of Education Dedicated Capital Improvement Tax Bonds, Series 2016.
- *Becker v. Bank of New York Mellon Trust Company, N.A.* – District Court certifies class action by bondholders against indenture trustee that had failed to maintain perfected security interests in the property securing the bonds, allegedly resulting in a reduced award to the bondholders by the bankruptcy court in issuer's Chapter 11 bankruptcy.
- And finally, The Wheels On the Bus Go Buelta y Buelta is brought to us this week by *McNair v. City and County of San Francisco*, in which school bus driver Michael McNair's professional qualifications were called into question after he (oh, so very *inter alia*) "improperly drove a group of children from San Diego, California to Tijuana, Mexico." Field trip! Mr. McNair's explanation for this little incident features the mother of all understatements, "I made a mistake and just didn't think." Appreciate the candor, but we'll be hanging on to the keys all the same.

- **Ed. Note:** The first bullet point in last week's Highlights – IRS Publishes Arbitrage Guidance for Tax-Exempt Bonds – is not a new item, but rather a reprint of a July story that was covered extensively at that time. We apologize for the error. We'd sack the responsible party if we had any of those around.
- GASB Proposes Implementation Guidance Designed to Clarify Recent Pronouncements.
- MSRB Provides Guidance on Application of Rules to Transactions in Managed Accounts.
- SIFMA Submits Comments to the Federal Reserve System on FRTB.
- SIFMA Warns Fed Basel Capital Standards for Trading Would Hurt Munis.
- GFOA New Best Practices Address Cash Flow Analysis, Investment Policy.
- Disruptive Technology in the Muni Bond Market.
- New Information Document Request (IDR) – What's the Point?
- MSRB's Mark-Up Disclosure Rule to Take Effect May 14, 2018: Webinar
- Trump Infrastructure Plan May Undermine Municipal Market.
- And finally, Just Setting the Scene is brought to us this week by *Mayor v. Harris*, in which little Riley Harris fell through the bleachers of a municipal stadium while attending a youth football game. For reasons thoroughly unapparent to us, the court found it necessary to let us know that Riley's pre-plunge activities included a trip to the snack bar, where "Riley bought a pickle…" But then no further information on the pickle's fate. You can't get us all emotionally invested in the pickle and leave us hanging! What about the pickle?

- IRS Publishes Arbitrage Guidance for Tax-Exempt Bonds.
- How Did Arbitrage "Rebate" Get its Name?: Squire Patton Boggs
- MSRB Reminds Investors of Risks of Rising Interest Rates in Municipal Market.
- MSRB Reminds Dealers of Time of Trade Disclosure Obligations Related to Market Discount Bonds.
- Issuers Took More Time to Complete Financial Audits in 2015.
- TE/GE Announces New Information Document Request Management Process.
- *Tutor Perini Corporation v. Banc of America Securities LLC* – Court of Appeals reverses District Court's grant of summary judgment in favor of broker-dealer and its parent company in investor's action asserting securities fraud claims under federal and state law by alleged misrepresentations

and omissions regarding ARS market that eventually collapsed; finds multiple issues of material fact.

- *New Jersey Alliance for Fiscal Integrity, LLC v. New Jersey Sports and Exposition Authority* – Appeals court authorizes transaction in which the New Jersey Sports and Exposition Authority will issue Redevelopment Area Bonds and Economic Redevelopment Grant Revenue Bonds and then sell those bonds to the Wisconsin Public Finance Authority, which will raise the money to purchase the bonds by issuing its own bonds and servicing the debt on those bonds with the revenue from the New Jersey bonds.
- And finally, If It Walks Like a Duck, Talks Like a Duck, and Looks So Peaceful and Lifelike Like a Duck is brought to you this week by *River's Edge Funeral Chapel and Crematory, Inc. v. Zoning Hearing Board of Tullytown Borough*, in which the court had to explain to the zoning board (presumably slowly and using very small words) that a business entailing "meeting with clients, arrangements, embalming, cremating, dressing of deceased, casketing, and conducting funeral services" is what we here in America call a "funeral home." Common sense clearly not a permitted use in Tullytown Borough.

- S&P: The Post-Election Landscape For Municipal Bonds.
- An Open Letter to the IRS on Revenue Procedure 2016-44: Squire Patton Boggs
- MSRB Files Amendment to Mark-up Disclosure Proposal.
- Trump and State and Local Governments: The Known Unknowns.
- *And finally,* Pleasure Doing Business With You is brought to us this week by *Weaver v. Stewart*, in which an intoxicated motorist had his vehicle impounded, bailed himself out, headed down to the towing company, fetched his car, and (still drunk) plowed back into oncoming traffic. Litigation ensued. The driver was subsequently asked to help sort all this out and speculated that it should have been obvious that he was all kinds of messed up. The court discounted his opinion, noting rather archly that the driver, "has no memory of that particular encounter." Practice tip: "I have no memory of that particular encounter" is contraindicated as a spousal retort.

- U.S. Municipal Credit Report, Third Quarter 2016
- S&P Reassessing, Deferring Some Ratings Due to Errors in Sector Models.
- This Government Bond Insures Against Failure.
- An Inconvenience of Qualified Equity: Squire Patton Boggs
- Trump's Tax, Infrastructure Plans Jeopardize Exemption for Munis.
- GFOA Webinar: Current Issues in Debt Management.
- *Regional Convention and Sports Complex Authority v. City of St. Louis* – Appeals court holds that status as a registered voter and signatory to a referendum petition is not an interest of adequate directness or immediacy as required to intervene as a matter of right in case concerning public financing of sports complex.
- *City of Bakersfield v. West Park Home Owners Association and Friends* – Court of Appeal holds that certificates to be issued by Public Benefit Corporation under an installment sale agreement entered into with city constituted "bonds" under article XIX, section 6 and Streets and Highways Code section 2107.4, and thus City could not pledge gas tax revenues in non-voter approved financing. Worth reading this opinion for its analysis of Public Benefit Corporations and pledged revenues.
- And finally, this week's BCB Travel Alert is brought to you by *Ex Parte Sedigas*, in which the court

upheld the constitutionality of the Waco city ordinance prohibiting any employee who appears nude in a sexually oriented business from knowingly or intentionally touching a customer or the clothing of a customer on the premises. (Wait, what about employees appearing nude while working the McDonald's drive-thru?) Jeez, talk about taking the party out of parte.

- Pay for Success Project Assessment Tool.
- MSRB Files Proposed Rule Change to Extend MSRB's Proposed Customer Complaint and Related Rules to Municipal Advisors and to Modernize Those Rules.
- MSRB Seeks New Complaint Process for MAs, Updated One for Dealers.
- Bond Attorneys' Workshop Round-up: Squire Patton Boggs
- IRS Releases Three-Part Video Series on Conduit Issuers.
- MSRB Municipal Advisor Registration Compliance Webinar.
- Attn. California practitioners – California Debt Limit Allocation Committee Releases Proposed Regulations: Orrick.
- *GE Funding Capital Market Services, Inc. v. Nebraska Investment Finance Authority* – District Court holds that Investment Agreement entered into between Investment Finance Authority and GE Capital was ambiguous as to whether the redemption of a particular series of revenue bonds automatically terminated the investment account associated with that series of bonds. Check your Investment Agreements to ensure that redemption triggers termination.
- And finally, in our ongoing quest to bring you the answers to questions you haven't asked, we proudly present *State v. Alaska Laser Wash, Inc.*, which obviously sent us on a quest to ascertain the role of actual laser beams in the Alaska car wash industry. Sadly, the answer is, "none whatsoever." We did, however, turn up a priceless gem in the Alaska Laser Wash FAQs. (Yep, this is indeed how we fritter away your hard-earned subscription dollars.) The question: "How often should I wash my car?" The answer: "It depends." Have truer words e're been spoken?

- SEC Approves FINRA Rules Addressing "Pay-to-Play" Practices: Ropes & Gray
- FINRA Examiners Probing Firms' Involvement with Bank Loans.
- Justice Probes Municipal-Bond Issuers Over Treasury Profits.
- S&P: How Quality and Timeliness of Information are Incorporated Into U.S. Public Finance's Rating Process.
- IRS PLR: Intergovernmental Organization Qualified as Wholly Owned Instrumentality of Member Cities.
- What's in your Partnership Agreement? Why Non-Taxpaying Entities Should Care About Allocations of Taxable Income.
- Bond Buyer Webinar: New Developments in Higher Education Finance.
- Moody's Analytics Training & Certification.
- And finally, Tempting Fate is brought to us this week by *Cochran v. Presbyterian Church of Bloomingdale*, in which a married couple (played by teens in the movie) are out on a motorcycle ride when it begins to rain. Inexplicably, they choose a church cemetery as the appropriate spot in which to don their rain gear. While changing, the husband leans against a tombstone, which topples over onto his wife. The couple then sue the municipally-owned church. We're gonna go out on a limb here and suggest that provoking supernatural forces both high and low just might not be the wisest course of action. Correction: that's not tempting fate, that's straight up inciting fate.

- Dealers: Proposed MSRB Minimum Denomination Rule Would Hurt Liquidity.
- GASB Proposes Implementation Guidance for Other Postemployment Benefit Plans.
- NABL: TEB Adds Exam Resolution Method.
- TEB Says Muni Audits Can Be Closed After Full Redemption.
- SEC Will Tell All MCDC Submitters If They Face Enforcement Action.
- Ceresney Warning: Expect Continued SEC Enforcement Activity Regarding Municipal Securities.
- S&P Q&A: U.S. State Rating Methodology.
- The Bond Buyer Web Seminar: Muni Compliance Update
- And finally, Just a Little Off the Top, Mr. Escobar is brought to us this week by *Thompson v. Civil Service Com'n*, in which the union rep was required to get just a little creative when asked to explain how it was that ten city police officers happened to submit hair samples that tested positive for cocaine. That's right, TEN. That's right, COCAINE. Fortunately, he proved up to the task by convincing the court that it couldn't be certain that the positive tests weren't the result of "environmental" factors, rather than the personal ingestion of a controlled substance. I feel as if there might be something that could help me envision such "environmental" factors (other than, of course, the existence of an environment in which police officers habitually and collectively snort cocaine), as I'm drawing a blank. Johnson & Johnson's Cali Cartel Conditioner? Doesn't seem likely. Wait, I know what's missing! Cocaine!

- SEC Approves Fund Liquidity Rules, Sparking Concern for Munis.
- Dealers to SEC: Markup Proposal Overly Complex, Would Hurt Liquidity.
- With Soaring Demand Come Weaker Assurances for U.S. Municipal Investors.
- Electronic Muni Debt Platform Gains Traction with Ohio.
- More on Rev. Proc. 2016-44: What Light Is Shed on Net Profits Compensation?
- IRS Requests Comments on Tax-Exempt Bond Forms.
- IRS PLR: Organization Is Instrumentality of State Political Subdivisons.
- *Nichols v. City of Rehoboth Beach* – Court of Appeals holds that debt incurred by city from bond issue approved by special election was insufficient basis for taxpayer to have municipal taxpayer standing in her action against city alleging that election violated the Fourteenth Amendment with regard to requirements to vote in election, where city did not expend funds from bonds on the allegedly illegal elements of the special election.
- *In re City of Detroit, Michigan* – Court of Appeals holds that equitable mootness is viable doctrine that applies in Chapter 9 cases just as it applies in cases under Chapter 11.
- And finally, Stating the (Painfully) Obvious is brought to you this week by *Foust v. Forest Preserve Dist. of Cook County*, in which the court ruled that a tree limb was not a condition of a forest preserve trail. Um, ok. And why was this seemingly uncontroversial question at issue? Because the limb in question broke off and crushed a woman to death as she was innocently riding her bike down the trail. That's one atrociously unlucky cyclist or one viciously homicidal tree. Regardless, we'll take this as further proof (as if we needed any) that fresh air, nature, exercise, and all that will definitely kill you. Consider yourselves warned.

- **Ed. Note:** We'll be off next week, but will return with the proverbial vengeance on 10/18.
- GASB Proposes Omnibus Statement Addressing a Broad Range of Practice Issues.

- MSRB Proposes Standalone Minimum Denomination Rule.
- MSRB Improves Bank Loan Disclosure on EMMA Website.
- MSRB Improves Bank Loan Disclosure on EMMA After Issuer Complaints.
- GASB Webinar on Fiduciary Activities Project.
- DC Water Closes Historic Deal.
- Following Revenue Procedure 2016-44, Is There Still a 'Facts and Circumstances' Test for Private Business Use?
- Just in Case You Didn't Notice – Rev. Proc. 2016-44 Treats as Compensation under a Management Contract the Reimbursement of Amounts Paid by the Manager to its Employees.
- *Department of Transportation v. Amerco Real Estate Company* – Supreme Court of Colorado holds that general authorization by transportation commission, to the extent it purported to delegate to transportation department the choice of particular properties to be taken for a project to alter a state highway and the manner of their taking, constituted an unlawful delegation of the commission's statutorily imposed obligation.
- And finally, Goes Without Saying is brought to you this week by *730 Equity Corp. v. New York State Urban Development Corp.*, in which the court determined that the highest and best use of condemnee's property was a "12-story budget hotel." That strike anyone else as oddly specific? No mention of the waffle bar? Or perhaps the court simply believes that to be highest/best use for any and all properties. And who are we to argue? We also ran across *Corbett v. County of Lake* this week, in which the court noted that the "determinative" factor in deciding whether or not a public path was dangerously overgrown was the fact that the plaintiff and her friends had dubbed it the "bunny trail" due to the abundance of wildlife. We recommend that you preemptively begin referring to every route you may utilize as the "[path, highway, boulevard, etc.] of Immediate and Horrible Death." Just in case.

- How MCDC Has Changed Continuing Disclosure Practices.
- Try These Weird Tricks to Split a Bond Issue Into Separate Portions: Squire Patton Boggs
- How Can Water Systems Pay for Aging Infrastructure?
- Why Dealers Are Struggling with Proposed Markup Disclosure.
- NABL: The Bond Lawyer – Summer 2016
- GASB RFC: Exposure Draft, Certain Debt Extinguishments.
- NFMA Introduction to Municipal Bond Credit Analysis.
- *Phillips v. Snyder* – Court of Appeals upholds constitutionality of Michigan's Local Financial Stability and Choice Act, which provides for temporary appointment of emergency managers for municipalities or public school systems facing financial crisis.
- And finally, Dog (literally) Bites Man/Man (figuratively) Bites Dog is brought to you this week by *Panattieri v. City of New York*, in which Dog A mixed it up with Dog B on a city street. The owner of Dog A claimed that Dog B had been the actual aggressor in the incident and that any injuries possibly sustained by Dog B's owner must have been inflicted upon him by Dog B as he attempted to restrain the savage beast from attacking Dog A. Let's review the evidence, shall we? Items include: one healthy (albeit municipally-condemned) pit bull; one puncture-free pit bull owner; one deceased chihuahua; and one heavily-perforated chihuahua owner. Tough one to call.

- In a First Federal Jury Trial, Miami, Boudreaux Found Guilty.
- SEC's Miami Win Likely to Embolden Muni Crackdown: Lawyers

- Demographics Can Spell Trouble for a City's Finances. (Check out the interactive feature.)
- So, Just What Are Appropriation Backed Municipal Bonds?
- Bank Loan Disclosure Enhancements Coming to EMMA.
- Reckoning Time for a City's Bad Fiscal Decisions.
- *Indian River County v. Rogoff* – District Court holds that there was substantial likelihood that operator of railway construction project would not proceed with project if DOT did not support project with tax-exempt PABs, and thus counties, through which portion of railway would run, suffered redressable injury, as required for them to have Article III standing in their action challenging DOT's decision under various federal statutes.
- *FMS Bonds, Inc. v. Bank of New York Mellon* – District Court declines to dismiss bondholder's breach of fiduciary duty claims against indenture trustee for failing to accurately track issuers' transfers of their obligations and for failing to file proofs of claim in issuers' subsequent bankruptcies; punitive damages available for bondholder's claim that trustee breached its fiduciary duty by seeking further indemnification from bondholders in order to rectify trustee's own alleged mistakes and negligence.
- And finally, Unclear on the Concept is brought to you this week by *Milbert v. Wells Twp. Haunted House, Inc.*, in which a Township built and operated a haunted house minus a firm grasp on the understanding that this type of thing should deliver family-friendly thrills and chills and not, you know, actual death. Suppose the silver lining is that the boxes in the "swinging coffin ride" turned out to be dual-use. The court also gifted us a lesson in Newtonian physics when it specified that the coffins were lowered "by gravity." Thanks for clearing that up.

- Developing and Implementing Procedures for Post-Issuance Tax Compliance for Issuers of Governmental Bonds.
- GFOA, NABL Issue Guidance on Post-Issuance Tax-Compliance.
- Expanding Municipal Securities Enforcement: Profound Changes for Issuers and Officials.
- First Municipal Advisor Political Contribution Disclosures Due in October.
- MSRB Proposes Historic Dealer Markup Disclosure for Retail Investors.
- BDA Submits Comment Letter to the SEC on FINRA's Retail Confirmation Rule.
- S&P: What's Next For U.S. Municipal Green Bonds?
- Enrollment for Series 50 Exam Begins September 12, 2016.
- *Nichols v. City of Rehoboth Beach* – Court of Appeals holds that city's expenditure of municipal funds to hold a special election for approval of bond issue was not sufficient to establish municipal taxpayer standing on taxpayer who sought to challenge certain voting procedures used in the special election authorizing the bonds.
- And finally, Unclear on the Concept is brought to you this week by *Carolina Convenience Stores, Inc. v. City of Spartanburg*, in which the city attempted to resolve a hostage standoff in a convenience store by breaching the building with a bulldozer. An honest-to-god bulldozer. Upon noticing that, mysteriously, the building suddenly looked a tad dinged up, the owners "were asked to tear it down as it did not comply with ordinances regarding vacant commercial buildings in its damaged state." [Cut to the dumbfounded Patels.] And then we get to the part where we try – and fail – to cram the words "negotiate" and "bulldozer" into the same sentence. Job well done, Spartanburg. Job well done.

- SEC Investor Advocate Worried About Narrowing of Muni Market.

- Treasury Department Releases 2016-17 Priority Guidance Plan for Tax-Exempt Bonds – And It's Already About One-Third Complete!
- MSRB Seeks Mark-up Disclosure for Municipal Securities Transactions.
- Dallas' Statler Hotel Sells City's Incentives in Unheard Of Bond Offering.
- GASB Proposes Guidance for Debt that is Extinguished Early Using Only Existing Resources.
- NABL: IRS Modifies Rev. Proc. 2016-44 Transition Date.
- IRS Releases Updated Safe Harbors For Management Contracts In Tax-Exempt Bond-Financed Projects: Thompson Coburn
- Those of you interested in pensions, might want to take a look at *Marin Association of Public Employees v. Marin County Employees' Retirement Association*, *Puckett v. Lexington-Fayette Urban County Government*, and *Lenander v. Washington State Department of Retirement Systems.*
- And finally, *Res Ipsa Oh My God, What's that Smell?* is brought to you this week by *Tangedal v. Mertens*, in which property owners sued county inspectors for gross negligence following the implosion of their septic tank. "You're honor, we're contesting negligence. We'll stipulate to gross."

- SEC Announces MCDC Issuer Enforcement Actions.
- SEC: Issuer Settlements Show Widespread, Pervasive Disclosure Problems.
- Democratizing Tax Increment Financing through Participatory Budgeting – A Tool Kit.
- The Lowdown On Enhancement Programs For School District Bonds.
- Hawkins Advisory: 2016 Final Arbitrage Regulations.
- IRS Issues New Safe Harbors for Management Contracts to Facilitate P3s.
- Rev. Proc. 2016-44 Greatly Expands Rev. Proc. 97-13 Safe Harbor for Management Contracts, Opening the Door for Long-Term Management Contracts.
- Some Lawyers Have Questions About New Management Contract Safe Harbors.
- New IRS Management Guidance is Flexible, Furthers P3s: Ballard Spahr Webinar.
- And finally, Huggies on Conveyance (2nd ed.) this week brings you *City of Jackson v. Jordan*, in which the Supreme Court of Mississippi informs us that, "An infant's avoidance of a conveyance of property may be evidenced by any act clearly demonstrating a renunciation of the contract." We would now like to invite you to close your eyes and envision the infantile act your particular infant would use to demonstrate the renunciation of a contract. Your tool kit includes – but is certainly not limited to – soggy diapers, crayon fragments, curdled mush, miscellaneous choking hazards, regurgitated peas, and a Black's Law Dictionary covered in drool. Enjoy!

- MSRB to Shorten Time Frame for Resolving Open Inter-Dealer Transactions.
- S&P: What Will A Continuing-Disclosure Settlement Mean For Muni Credit?
- Issuers Structure Deals to Meet Retail Demand for Lower Coupons.
- CDFA Intro Public-Private Partnership (P3) Finance WebCourse.
- SIFMA Municipal Bank Loans and Direct Placements Seminar.
- California practitioners and eminent domain aficionados (and who isn't?) will want to take a look at *City of Perris v. Stamper*.
- Both Sherman & Howard and Kennedy & Graven are in the market for public finance attorneys and have placed ads in our Classifieds section. Although we prefer to advertise used futons, I suppose that certain exceptions can be made. Please feel free to avail yourselves of this service. There's no charge.

- And finally, Delusions of Leverage is brought to you this week by *Bingman v. City Of Dillingham*, in which taxpayers negotiated to redeem their foreclosed property by offering the city a tax-free promissory note that matured in 20 years. "We're gonna make them an offer they can easily refuse."

- BDA and Others Submit Comments to the SEC on CDAs.
- Why Market Groups Want SEC Disclosure Guidance.
- MSRB Provides Guidance on Trade Reporting Rule.
- NFMA Issues Comment Letter on Primary and Secondary Market Disclosure in the Municipal Market.
- Issuers: Watch a Step-By-Step Video on Customizing EMMA Issuer Homepages.
- Taming Premium Bonds.
- SIFMA Issues U.S. Municipal Credit Report, Second Quarter 2016
- Ignore the Rules (If They Don't Apply): Squire Patton Boggs
- CDFA Intro Energy & Water Finance Course.
- GFOA 21st Annual Governmental GAAP Update.
- *Columbus, Georgia Board of Tax Assessors v. Medical Center Hospital Authority* – Court of Appeals holds that hospital authority's leasehold interest in a continuing care retirement facility was public property exempt from ad valorem taxation, as revenue bond validation proceedings had conclusively established that the retirement facility furthered a legitimate function of the hospital authority.
- And finally, this week's BCB Travel Alert (aka Tiptoeing Through the Minefield) is brought to you by *Flanigan's Enterprises, Inc. of Georgia v. City of Sandy Springs, Georgia*, in which the Court of Appeals upheld the constitutionality of a Sandy Springs municipal ordinance prohibiting the sale, rental, or lease of obscene material, including "any device designed or marketed as useful primarily for the stimulation of human genital organs." (I think we can all agree on the prohibition of rentals and leases.) The court held that consenting adults had no fundamental right to engage in private sexual intimacy. Never mind the *right*, certain of us would settle for the fundamental *opportunity*. We must leave you now before we say something that results in the cancellation of our sole remaining subscription.

- MSRB Files Clarifying Amendment to Rule G-37.
- Why MSRB Is Giving a $5.5M Rebate to Dealers.
- BDA Submits Comment Letter to the SEC on FINRA's CMO Reporting and Dissemination Proposed Rule.
- American Paradox: It's Never Been Cheaper for Cities and States to Borrow Money…And They Refuse to Do It.
- Split Coupons Make Municipalities Pay Up in Low-Rate Environment.
- CDFA Releases Annual Volume Cap Report.
- New Rules for Lessees of Investment Tax Credit Property: Baker Botts
- Final Arbitrage Regulations Require "Look Through" to a Grantee's Use of Bond Proceeds: A Big "So What?": Squire Patton Boggs
- IRS FY2017 Update: Effect of Sequestration on State & Local Government Filers of Form 8038-CP.
- What Municipal Analysts Need to Know about Governmental Accounting.
- And finally, Understatement of the Week is brought to you this particular week by *City of Missoula*

v. Mountain Water Co., in which the City of Missoula served up "thousands" of documents (that's right, documents, not pages) three weeks prior to trial. Although he denied Mountain Water's motion for a continuance, the trial judge was at least generous enough to admit that the resulting discovery burden had indeed been, "difficult". The thousands of associates that died during this three-week discovery window are no doubt posthumously grateful for this acknowledgment. R.I.P. You did not die in vain. Wait, the City won. Guess you did die in vain. Sorry 'bout that.

- A Summary of the Final Regulations on Non-Issue Price Arbitrage Restrictions: Squire Patton Boggs
- U.S. Muni Regulator Scraps Pursuit of Bank Loan Disclosure Rule.
- Social Finance Publishes New Report: Social Impact Bonds: The Early Years.
- Why the SEC Says it Can't Fight a Challenge to a Pay-To-Play Rule.
- Why the MSRB is Shortening its Dealer Closeout Timeframes.
- S&P: U.S. State And Local Government Credit Conditions Outlook: Economic Growth Outlook Dims Amid Rising Global Uncertainty.
- Think Tank Warns of Downsides to P3 Noncompete Clauses.
- The Municipal Bond Industry Responds to Tax Foundation's Recent Paper.
- NCPPP Launches Fall Schedule for P3 Bootcamp.
- Manufacturing Finance: Bonds & Tax Increment Supporting the Industrial Renaissance.
- And finally, BCB's Department of Pyrrhic Victories is proud to bring you *Bay Point Properties, Inc. v. Mississippi Transp. Com'n,* in which landowners were awarded the encumbered value of their property burdened by an MTC easement. Nice win. The value of that easement? $500. Cool. Landowner's legal costs? $680,000. We certainly don't claim to be economists. Nor mathematicians. Heck, I wouldn't trust us to do basic arithmetic. That being said, anyone else picking up a vague sense that there may be something – I don't know – just a little bit off with those numbers?

- IRS PLR: City's Purchase of Interest in Electric Generating Facility Won't Result in Private Business Use of Bonds.
- IRS Releases Final Arbitrage Regulations (Unrelated to Issue Price): Squire Patton Boggs
- Municipal Bank Loans and Direct Placements SIFMA Seminar: October 25, NYC
- Customizing EMMA® Issuer Homepages.
- MSRB Files Amendment to Proposal to Modernize Close-Out Procedures.
- Hawkins Advisory: (Annual Qualified Mortgage Information)
- Fed's Final Treatment of Municipal Securities as High-Quality Liquid Assets Disappoints the Industry: Butler Snow
- Bill to Raise Issuer Limit For Bank-Qualified Bonds Offered in Senate.
- And finally, Ingrate Superheroes is brought to you this week by *Kinsey v. City of New York,* in which Mr. Kinsey climbed a five-story building, jumped, and lived to sue the City of New York for allowing him to escape an ambulance and engage in said stunt. Incroyable all around. Your editor's superhero alter-ego is Punctual Man. He's the first person on the scene, but then just stands there terrified and, let's face it, probably wets himself.

- NFMA Releases Draft White Paper on Disclosure of Statutory Liens.
- Why Issuers Must Increase Statutory Lien Disclosure.
- Black & Veatch 2016 Strategic Directions: U.S. Water Report.
- Expanding Municipal Securities Enforcement: Profound Changes for Issuers and Officials.
- NASACT Releases Voluntary Guidelines for Stable NAV LPIGs.
- NABL: IRS Issues Final Non-Issue Price Arbitrage Regulations.
- What's in Treasury's Newly Released Final Arbitrage Rules.
- The SEC's Municipal Advisor Rule: Webinar.
- And finally, BCB's Department of the Spectacularly Ill-Conceived gleefully brings you *McLean v. Pine Eagle School District, No. 61*, in which a high-school teacher claimed to have been traumatized by an active-shooter drill conducted at the school during an in-service day at which only teachers were present on the campus. Oh, boo hoo. Wait, what's that? School administrators smashed their way into the school dressed in black and wearing masks, ran down the halls throwing firecrackers, busted into classrooms, "shot" teachers at point-blank range with real guns firing blanks, screaming at the teachers that they were dead? This resulted in multiple injuries as the teachers stampeded for the doors? One teacher "wet herself"? Well at least they'd been told to expect a drill right? No? Well, now that you put it that way….

- DOL Fiduciary Rule Gets It Half Right On the Municipal Bond Market.
- MSRB Reminds Municipal Securities Dealers of July 18, 2016 Effective Date of Changes to Trade Reporting Requirements.
- P3s and Tax-Exempt Bonds: Butler Snow
- Bonus Yields Found in Muni-Bond Niche Tax-Free to Most Americans.
- Recent IRS Private Letter Ruling Provides Helpful Guidance on Management Contracts: Squire Patton Boggs
- Comparing Financing Structures for Student Housing.
- *Indian River County v. Rogoff* – District Court holds that counties lacked standing to challenge DOT's issuance of PABs based on alleged harms arising from construction and operation of railway.
- And finally, Location, Location, Location! is brought to us this week by *City of Dallas v. Sanchez,* in which the City of Dallas received two virtually simultaneous 911 calls from the same apartment complex regarding a drug overdose. The City promptly dispatched an ambulance, which dealt with the situation and left the premises. All well and good, unless you're the *other* drug overdose victim left there to die. Oops. Depending on one's personal proclivities, either the best – or worst – apartment complex of all time. We'll let you decide. Word has it there's an opening.

- GFOA: Interpreting Local Government Financial Statements – How to Avoid 25 Common Mistakes eBook.
- A Primer on Financing Infrastructure: Obtaining the Tools to Get the Job Done.
- BDA Submits Comment Letter to SEC on MSRB's Proposal to Update Close-Out Procedures.
- MSRB Notice of Filing of Proposed Rule Change Relating to Content of Municipal Advisor Representative Qualification Examination (Series 50).
- House Blueprint for Tax Reform Worries Muni Pros.
- IRS Memo on Closing Agreement Sanction Payments.
- Lawmakers Target the Tax-exemption for Municipal Bonds……Again.

- Manufacturing Finance: Bonds & Tax Increment Supporting the Industrial Renaissance.
- *Green v. Village of Winnetka* – Appellate Court holds that property owner's first amended complaint stated cause of action that village's Stormwater Utility Fee bore no relationship to stormwater service being provided in his declaratory judgment action alleging that Fee was tax disguised as fee.
- *Moline School Dist. No. 40 Board of Educ. v. Quinn* – Supreme Court of Illinois holds that classification created by amendment to Property Tax Code that provided real property tax exemption on leasehold interests and improvements on land leased from county airport authority to fixed based operator was not rationally related to legitimate governmental interest, and therefore violated special legislation clause of state constitution.
- And finally, A Pleasant Day On The Lake is brought to you this week by *Estate of McFarlin v. State*, in which a guy takes his girlfriend and her four kids out for a 35 mph pleasure cruise and fails to notice the warning signs indicating the presence of a subsurface dredging cable. First, the good news: the boat clears the cable. Now, the bad: (hint: the presence of "Estate" in a case's title is rarely a good sign) the outboard motor fails to clear the cable, flipping the motor – propeller spinning – into the cabin. We'll spare you the gory, gory details. Let's just say that mom's new ex-boyfriend may have faced a recrimination or two back at the dock.

- Kroll Bond Rating Methodologies (see Finance, below).
- Why SIFMA, BDA Want Shorter Dealer Closeout Timeframes.
- Hawkins Advisory: MSRB Rule G-42.
- MSRB: New Rules Coming this Summer.
- Colleges Find Attractive Option in P3 Funding.
- CDFA // BNY Mellon Development Finance Webcast: 501(c)3 Nonprofit Financing.
- *Village of Montgomery v. Fidelity and Deposit Co. of Maryland* – Appeals court holds that developer that had purchased subdivision property from initial developer's bankruptcy estate was primarily liable to Village for the installation of certain public improvements in the subdivision covered by issuer of subdivision bond and that issuer, as surety, was only secondarily liable.
- And finally, the court in *State v. Vaduva* ruled that the city panhandling ordinance was violated only when an individual requests money for his personal use, not when raising money for charity. That sound you hear is the collective sigh of relief from Salvation Army Santas everywhere. "You! Fat Man! Down on the ground!

- SEC Hits MAs, Execs With $200,000 Fine in First of a Kind Case.
- GFOA Issues Alert on MCDC Initiative Settlement Terms for Issuers.
- MSRB: Implications for Supervisory Procedures of Newly Effective Rules.
- GFOA Issues Alert on Rule G-42.
- SIFMA to SEC: It's Time to Revise Rule 15c2-12 on Muni Disclosure.
- MSRB Updates Content Outline for Municipal Advisor Qualification Exam.
- SEC Said to Study Muni Bank Loan Disclosure That Vanguard Wants.
- Defending Wall Street Fees.
- Going Green: Evolution of Renewables ABS Discussed.
- Trail of Defaults Leads to Dark Corner of Tax-Exempt Bond Market.
- Bill Would Create New $5B Category of PABs for Government Buildings.
- NABL: IRS TEB Announces Form 8038-CP Changes.

- And finally, please bow your heads for a moment of silence to commemorate the demise of "adult-content" conventions in Dallas, Texas. While Three Expo Events, L.L.C. claimed that participants in its three-day adult entertainment expo called "Exxxotica" (inclusion of an additional x or two, clearly an oversight) complied with all applicable City regulations, the City begged to differ. As the court's opinion drily notes, "The City offers a different view of what occurred at the 2015 Exxxotica expo." The ensuing litany of offenses are, sadly, unfit for enumeration in a fine, upstanding publication such as this, but please feel free to visit the opinion.

- **Ed. Note:** Surprise! Just when you thought it was safe to go back in your inbox… We'll actually be taking next week off. We'll be off the grid (OTG) this week, so please remember that the password is **muni**.
- MSRB to Launch Permanent Series 50 Exam September 12, 2016.
- Why Market Groups Want MSRB to Abandon Bank Loan Proposal.
- GFOA: The Perils of "Benefit Bonds" and Social Impact Bonds.
- IRS PLR: Management Contract Will Not Result in Private Business Use.
- New Reporting Rules Subject OID on Tax-Exempt Bonds to Information Reporting.
- *McGee v. Balfour Beatty Construction, LLC* – Court of Appeal holds that school districts are exempt from obtaining competitive bids when entering into "lease-leaseback" agreements to improve school property, even if the districts fund the projects, and regardless of whether the leases are site leases or subleases.
- *In re Validation of Tax Anticipation Note, Series 2014* – Supreme Court of Mississippi holds that, under exceptions to mootness doctrine (as the note had been repaid) the Court would consider appeal challenging issuance of tax anticipation note by county board of supervisors; holds that board had authority to issue note that borrowed against total anticipated ad valorem tax revenues; remands for consideration of objector's evidence regarding validity of signatures on petition to submit matter to public for election. This one's worth a read-through, including the concurrence/dissent.
- And finally, Embracing the Mystery is brought to you this week by *Stanton v. Oceanside Union Free School Dist.,* in which school district was sued after "inflatable rides" it had leased became airborne and injured festival participants. What were these "rides"? How did they become airborne? Were the passengers taken aloft along with the rides? We'll never know, so we invite you to close your eyes and envision bouncy castles falling from the heavens. You're welcome.

- **Ed. Note:** We'll be taking next week off. Yes, we can hear your rejoinder that we take every week off, but this time it's literal, as well as figurative, ok?
- SIFMA Develops Model Documents for Compliance with New MSRB Rule G-42.
- Treasury Paper Outlines Steps to Ensure Success In Identifying, Pursuing P3-Suitable Projects.
- How Groups Want To See Minimum Denomination Exceptions Changed.
- The Hidden Wall Street Fees That Could Be Costing Pensions $20 Billion a Year.
- An Argument For Using Tax-Exempts in P3 Structures.
- Why Groups Are Demanding IRS Withdraw Proposed Political Subdivision Rules.
- NABL and Others Call for Withdrawal of Political Subdivision Regs.
- The Final Allocation and Accounting Regulations – What Do They Mean For "Phantom Investment Proceeds"?
- CDFA Intro to Incentives WebCourse.

- And finally, The Worst Defense is a Worser Offense is brought to you this week by *William Marsh Rice University v. Refaey*, in which a driver idled at an intersection for several light cycles, responded to 16 texts, and then drove on for two more miles before it dawned on him that the driver of the car with those annoying flashing lights that had been directly behind him this entire time perhaps wanted a word. So the driver finally pulls over, walks to the back of his car, "throws his hands up" and yells, "What the f* * * do you think you're doing pulling me over?" "Refaey then saw that Officer Spears had his weapon drawn and pointed at Refaey." Worth a try, no?

- FAF Issues 2015 Annual Report: "Serving the Financial Statement User."
- What's Going on With Muni Credits?
- Why Statutory Liens Matter in a Chapter 9 World.
- GASB Posts New Page for Financial Statement Users.
- U.S. Municipal Credit Report, First Quarter 2016.
- Tax-Exempt Bonds: Is It Possible for a Municipal Corporation Not to be a Political Subdivision?
- *Schuerman v. Eastwood Local School Dist.* – Court of Appeals holds that local voters lacked standing to challenge school district's agreement with School Facilities Commission to finance new school (via the issuance of Certificates of Participation) after voters had previously rejected two proposed bond issuances to finance the project.
- And finally, what's the world coming to when mom & pop can't be left in peace to crush a few aluminum cans on the front porch as part of their self-described "small scale recycling business?" Next thing you know, the Jack-Booted Government Thugs are kicking down the door of your suburban home and carting off your "discarded debris/materials, garbage, rubbish, auto parts, appliances/furniture, all unlicensed and/or inoperable vehicles." The priceless part is that the Petersons then sued the city to get it all back, claiming that those crooks down at the code enforcement office had converted the property for their own personal use. Just another perk of that sweet, sweet code enforcement gig.

- GFOA Alert: Bank Loan Disclosure
- The Hidden Risks of a Growing Way to Pay for Infrastructure.
- How The MSRB Wants To Change Dealer Closeout Procedures.
- MSRB Seeks SEC Approval of Proposal to Update Close-Out Procedures.
- Why Is an Indianapolis Authority Settling a Rebate Dispute with the IRS?
- *Toledo City School Dist. Bd. of Edn. v. State Bd. of Edn.* – Supreme Court of Ohio holds that Legislature was able to authorize State Board of Education to adjust local school funding calculations and to retroactively immunize Board from liability for any legal claim of reimbursement by a school district for a reduction of school-foundation funding without violating state constitution's retroactivity clause, as the clause does not protect political subdivisions that are created by the state to carry out governmental functions, including school districts.
- And finally, You Can Take My Quercus Berberidifolia When You Pry It From My Cold, Dead Fingers is brought to you this week by *GeorgiaCarry.org v. Atlanta Botanical Garden, Inc.*, in which the Atlanta Botanical Garden was sued over its no-firearms policy. School field trips are about to get a lot more interesting, kids! No word yet on when Friends of the Library plans to go nuclear. We'll keep you posted.

- Deloitte Playbook for Implementing T+2 Settlement Cycle in the U.S.
- MSRB Publishes Educational Resources on Municipal Advisor Conduct Rule.
- BDA Submits Comment Letter to the SEC: FINRA Rule 4210 "TBA" Margin Amendments.
- Municipal Bond Premiums: Separating Fact from Fiction.
- Why Consolidations in Municipal Evaluations Landscape Signal 'Tectonic Shift' for Industry.
- Colo. Court Case Puts Spotlight on Special Districts that Issue Munis.
- CDFA Webcast: Financing Water Infrastructure.
- *Landmark Towers Association, Inc. v. UMB Bank, N.A.* – Court of Appeals holds that organizers' option contracts for purchase of undivided 1/20 interest in 100-square-foot parcel within proposed special district were sham contracts, and therefore organizers were not eligible electors for purposes of special district bond and tax election; condo purchasers within the district, who were parties to contracts obligating them to close as soon as purchased units were completed and obligating them to pay pro-rated property taxes from date of closing to end of year, qualified as eligible electors.
- *City of Chesapeake v. Dominion SecurityPlus Self Storage, L.L.C.* – Supreme Court of Virginia holds that subdivision plat that reserved 50-foot right of way in favor of city for purposes of future expansion of highway constituted a waiver of damages to residue of property, including waiver of loss of direct access to highway and loss of visibility, after city condemned right of way.
- And finally, BCB's Practice Tip of the Week is brought to you by *Landmark* (above), which provided us with the recipe for creating a foolproof special district. Step one: find ten buddies. Step two: issue each individual an option contract to purchase a 1/20 interest in a 100-square-foot parcel (the square footage of a roomy jail cell). (Bonus tip: don't bother to collect the $10 down payment for the contracts.) Voila, instant special district. Go forth and issue $35 million in bonds safe in the knowledge that no one will ever dare look askance at this arrangement.

- Enhancing Tax Abatement Transparency.
- NABL: IRS Issues Final Regs on Determining AFRs for Tax-Exempt Bonds.
- Hawkins Advisory: IRS Revenue Procedure 2016-25 Regarding Mortgage Revenue Bonds and Mortgage Credit Certificates.
- MSRB Reminds Municipal Advisors and Dealers of the May 6, 2016 Effective Date of Amendments to Gifts Rule.
- SEC Approves MSRB Rule Changes For Two-Day Settlements.
- When Debt Meets Public Approval: Municipal Bond Elections in San Antonio, Texas.
- MSRB Webinar: What to Expect From Your Municipal Advisor.
- *Concerned Citizens of Southeast Polk School Dist. v. City of Pleasant Hill, Iowa* – Supreme Court of Iowa holds that City, which had consolidated urban renewal areas in order to use tax increment financing (TIF) from original renewal area across a greater area, lacked authority to extend renewal area and TIF arrangement in light of statute limiting a TIF division based upon an economic development determination to 20 years. (Why can't we once, just once, get an "Indifferent Citizens vs. Whatever"?)
- And finally, Staggering Irony of the Week is brought to you this particular week by *Baker v. Wayne Cty.*, in which the brain trust at Wayne City elected to erect a statue of – of all things – a deer. These vermin are a sufficient pestilence to motorists while ambulatory, so how in the name of all that is cloven-hoofed was it deemed wise to carve one in stone? Yep, you know where this is going

– Kelli Baker loses control of her vehicle, hits the damn things and dies. Oh, deer.

- NABL Releases Paper on Reinvestment Agreements.
- Fitch Launches Analytical Sensitivity Tool for State & Local Governments V2.0
- Fitch Updates U.S. Tax-Supported Rating Criteria.
- Department of Labor's "Novel" Reading of the Davis-Bacon Act Fails Again.
- Authorizing Pay for Success Projects: A Legislative Review and Model Pay for Success Legislation.
- 3 Steps Economic Developers Should Take to Prepare for GASB 77 Tax Abatement Disclosures.
- D.C. And IRS In Muni Bond Tax Dispute Tied To Oyster School P3.
- *Becker v. Bank of New York Mellon Trust Company, N.A.* – Revenue bond holders bring action against indenture trustee for negligence and breach of fiduciary and contractual duties to the bondholders by failing to maintain perfected security interests in property securing the bonds; you'll want to take a closer look at this one.
- And finally, Highest and Best Use is brought to us this week by *Pawn 1st, LLC v. City of Phoenix*, in which the city's zoning board went above and beyond the call of duty to allow a property owner to replace a now-defunct strip club (R.I.P.) with a pediatric oncology clinic. Wait, no, with a pawn shop. Sorry, we always get those two mixed up. For extra credit, see John Oliver's brilliant (AND EXTREMELY PROFANITY-LADEN) explication of the Puerto Rico debt crisis. NSFW.

- Webinar: The Ins and Outs of a Negotiated Bond Pricing. PLEASE NOTE THAT THIS EVENT TAKES PLACE ON WEDNESDAY, 4/20. We apologize for the short notice.
- SIFMA Releases White Paper Recommending Improvements to Disclosure in the Municipal Securities Market.
- SIFMA Asks SEC To Update 15c2-12, Create Parallel Rule for MAs.
- Wall Street Lobbyist Wants Advisers to Vet Bond Disclosures.
- Why Bond Trustees Are Often Frustrated, Powerless in Today's Debt Environment.
- GASB Issues Pension Guidance Addressing Issues Raised by Stakeholders During Implementation.
- MSRB Issues Interpretative Guidance for ABLE Programs.
- And finally, this week's Unclear on the Concept – Cost/Benefit Analysis Edition – is brought to you by *City of Fargo v. Rakowski*, in which William Rakowski really, really, really didn't want to fork over a $100 rental inspection fee to the City of Fargo. No particular ideological objection, just didn't want to pay. But perhaps, just perhaps, taking this matter all the way from small claims court to the North Dakota Supreme Court (where he lost) on his own dime wasn't the wisest course of action. Kudos to you, Mr. Jonathan T. Garaas (working out of that mighty edifice knowns as the "DeMores Office Park") for walking your client through the numbers and talking him out of this folly. You're a credit to the profession.

- FINRA Regulatory Notice: Direct Purchases and Bank Loans as Alternatives to Public Financing in the Municipal Securities Market.
- Chapman and Cutler: MSRB Proposes Additional Exceptions for Trading Municipal Bonds Below Stated Minimum Denominations.
- MSRB To Weigh Complaints on Proposal to Determine Markups.
- NABL: MSRB Seeks Comment on Direct Purchase Disclosure.

- NABL Submits Recommendations for 2016-2017 Priority Guidance Plan.
- Squire Patton Boggs: Crossover Refunding – Does It Really Have to Come to This?
- Political Subdivision Politics.
- IRS: Understanding the Tax Exempt Bonds Examination Process.
- *District of Columbia v. Department of Labor* – Court of Appeals holds that lease and development agreements between the District of Columbia and private developers regarding privately funded mixed-use P3 development on property leased from District were not "contracts for construction," nor "public work," and thus Davis–Bacon Act's prevailing wage requirements did not apply to project.
- And finally, this week's episode of Staggering Waste of Judicial Resources is brought to you by *Lira v. Greater Houston German Shepherd Dog Rescue, Inc.*, in which the Lira siblings spend $2,500 on a german shepherd they name (in the first sign of trouble) Monte Carlo. The Liras proceed to sink $10k on Monte's "training" – money well spent, as Monte subsequently releases himself on his own recognizance and flees the jurisdiction. The Liras launch a frantic search, only to be informed by the dog rescue zealots that Monte has been deemed abandoned. The dispute wends its way to the honest-to-god Supreme Court of Texas, which unleashes the hound. Speculation abounds as to how a 4-4 Supreme Court will rule.

- **Ed. Note:** Microsoft Outlook continues to make a complete hash of the newsletter's formatting. Although the publication is clearly devoid of substance, it should at least look presentable. Please, please scroll to the bottom of the newsletter and avail yourself of the "View it in your browser" option. That is all.
- NABL: MSRB, FINRA Notice on "Loan" and "Security"
- Fed Rule Treating More Munis as HQLA Seen As Too Restrictive.
- MSRB Asks About Requiring MAs to Disclose Bank Loan Info From Issuers.
- Lawyers Call For Challenges to SEC Administrative Proceedings.
- GASB Issues Enhanced Guidance on Irrevocable Split-Interest Agreements.
- Hot Topics from the Tax and Securities Law Institute's Annual Meeting: Squire Patton Boggs
- *BOKF, N.A. v. BCP Land Company, LLC* – District Court holds that bondholders had sufficiently pled their allegations that developers had improperly sold Community Improvement District property to entities with which they were affiliated for the purpose of recouping the Development Period Reserve Fund and to avoid the Special Assessment payments; court deferred to Black's Law Dictionary for definitions of "affiliate" and "control," neither of which was defined in the Trust Indenture.
- And finally, the above-referenced case contains the immortal phrase, "Charles Engram was retained as a consultant to 'create energy and excitement' about Branson Commerce Park." Best of luck with that, Chuck.

- IRS Releases Model Closing Agreements for Tax-Exempt Bonds: Squire Patton Boggs
- GASB Publishes New Implementation Guidance to Assist Stakeholders With Recent Pronouncements.
- MSRB Seeks Comment on Potential Rulemaking to Improve Transparency of Direct Purchases and Bank Loans.
- House Introduces Public Employee Pension Transparency Act Bill.
- A New Twist on 'Pay for Success' Programs.

- Moody's Joins Effort to Standardize Green Bond Market: Ballard Spahr
- *Jones v. Municipal Employees' Annuity and Ben. Fund of Chicago* – Supreme Court of Illinois holds that amendments to City Pension Code that reduced value of annual annuity increases, eliminated them entirely for certain years, postponed time at which they began, and completely eliminated compounding component violated State Constitution's pension protection clause.
- And finally, this week brings us: the Northeast Mental Health-Mental Retardation Commission, which should seriously consider updating its name; a police officer who reached into his squad car to answer the radio and managed to head butt the door frame so hard that he broke his spine (We gave this man a gun?); and a business establishment that rolled up a glorious blend of hypocrisy, irony, and audacity by refusing to apply for a local business license, arguing that the local code was preempted by the Controlled Substances Act – the very law it intended to flagrantly violate by operating a marijuana dispensary (Insert "What were they smoking?" joke here.)

- The Bond Lawyer – Winter 2016
- NABL: SEC Charges Municipal Advisor for Failing to Disclose Conflict.SEC: Don't Argue About Materiality After MCDC Submission.
- SEC Sues Muni Adviser for Undisclosed Fees Under New Rules.
- Bond Lawyers Blast Proposed Political Subdivision Rules.
- MSRB Webinar on Amended Gifts Rule for Municipal Advisors.
- Buyers Sing Blues After Memphis Bond Default Goes Unrecognized.
- And finally, think you're having a bad day? For a little perspective, please open your hymnals to *Estate of Collis ex rel. Collis v. Hazel Green Rescue Squad, Inc.*, which brings us the heartwarming tale of Clarence Collis and a genuinely awful day. Sure, things got off to a rocky start when Clarence suffered a medical emergency and summoned an ambulance, but the day ended up in the figurative ditch when the ambulance promptly overturned, launching the late Mr. Collis into a very real ditch where he unceremoniously expired. Job well done, Hazel Green Rescue Squad, job well done.

- IRS Model Closing Agreements for VCAP and Examinations.
- White Paper Examines Municipal Bond Dealer Markups.
- California Water District Fined by S.E.C. Over 'Enron Accounting.'
- Assessing the Less Contemplated Risks of Bank Placement Agreements.
- IRS Releases Proposed Regulations Defining a "Political Subdivision" For Purposes of Determining Eligibility to Issue Tax-Exempt Bonds: Butler Snow
- Treasury Corrects Proposed Regulations on What is a Political Subdivision: Squire Patton Boggs
- IRS Makes Political Subdivision Rules Prospectively Effective.
- *New Orleans City v. Ambac Assur. Corp.* – Court of Appeals holds that bond insurance policy was limited to the guaranteed payment of principal and interest to the bondholders in the event of non-payment by the city and did not require that insurer maintain its credit rating in order to maintain the credit rating of the insured bonds.
- *AXA Advisors, LLC v. Lee* – District Court holds that family was entitled to seek arbitration against AXA (a broker-dealer member of FINRA) under FINRA Rule 12200, despite the fact that they were customers of an associated person of AXA and not direct AXA customers.
- And finally, pity the poor plaintiff in *Kendoll vs. Rosenblum* for his exceedingly unfortunate surname. One can only hope that he's more anatomically correct than was Barbie's boyfriend.

Here's a tip: any time you're reading an opinion and the court drops this very deadpan statement w/r/t a police officer – "His tenure with the department was not entirely without incident" – we highly recommend that you read on.

- MSRB Releases New Annual Fact Book of Municipal Securities Data.
- CDFA & USDA Launch Community Facilities Infrastructure Toolkit.
- MSRB Revises Effective Date for Amendments to Transaction Reporting.
- MSRB Seeks Approval to Facilitate Shortening the Settlement Cycle.
- BDA Submits Letter to MSRB on Rule G-12, Modernizing Close-Out Procedures.
- Experts to Convene to Discuss Federal Scoring Solutions.
- State-By-State Trends In U.S. Public Finance, 2015.
- IRS Disputes Tax-Exempt Status of Solid Waste Bonds in S.C.
- *Fraternal Order of Police v. Montgomery County* – Court of Appeals holds that use of county funds to campaign for passage of ballot question in county referendum for modifying requirement of collective bargaining with fraternal order of police officers was appropriate use of government speech.
- *Goldman, Sachs & Co. v. City of Reno* – In ARS action brought by City against Underwriter, District Court holds that – because the allegedly fraudulent statements were made from New York – New York law should apply, in particular New York's six-year limitations period (vs. Nevada's three-year period).
- And finally, this week's guest commentator is John Oliver on Special Tax Districts. [Strong Language! NSFW! You've Been Warned!]

- IRS Proposed Political Subdivision Rules Would Be Big Change for Munis.
- MSRB 2016 Compliance Advisory.
- George K. Baum FINRA Case Shows Excessive Fee, Bond Ballot Concerns.
- NABL Submits Additional Issue Price Comments.
- FINRA Approves Enhanced Price Disclosure to Retail Investors in Fixed-Income Securities.
- *Wheelabrator Bridgeport, L.P. v. City of Bridgeport* – Supreme Court of Connecticut holds that trial court's improper rejection – as a matter of law – of the cash flow approach to property valuation (a waste-to-energy (WTE) facility) required a new trial at which the court could exercise its discretion to determine the credibility of expert testimony regarding the appropriate valuation method and expert's calculations.
- *Lenox Barbeque and Catering, Inc. v. Metropolitan Transit Authority of Harris County* – Court of Appeals holds that landowner's conveyance of part of a tract of land used for a restaurant to transit authority, pursuant to a settlement of the authority's condemnation petition, operated as a release of any claim under the state constitution for lost profits based on the loss of the parcel taken by the transit authority, even though there was no express release.
- *In re Lewis & Clark Public School Dist. #161 of Ward* – Supreme Court of North Dakota holds that catch-all provision of statute governing annexation of property permitting consideration of "all other relevant factors" was not unconstitutionally vague and did not amount to unconstitutional delegation of legislative authority to Board of Public School Education.
- And finally, we highly recommend that one tread very, very lightly when initiating conflict with any entity with the word "barbeque" in its name due to the enormous karmic implications. Conversely, knock yourself out with regard to any entity with the word "colon" in its name. Worst case karmic

consequence there is just a colonoscopy. Which isn't the worst idea, particularly if you eat a lot of barbeque.

- Municipal Advisors to be Subject to New Pay-to-Play Regulations.
- MSRB Amends its Rule Regarding Calculations for Bonds that Do Not Pay Interest Semi-Annually.
- MSRB Publishes Draft Guidance to Support Fair Pricing of Municipal Securities and Dealer Compensation Calculations.
- NABL Submits Additional Issue Price Comments.
- New Bond Rules Target Large Broker Fees.
- Initial Support for MSRB Pricing Guidance Proposal.
- IRS Proposed Political Subdivision Rules Would Be Big Change for Munis.
- NABL: IRS Issues Proposed Political Subdivision Regulations.
- MSRB Launches Outreach Effort for Issuers on the Municipal Securities Market.
- And finally, we are reminded this week by *Miller v. Thibeaux* that something has indeed gone terribly awry with one's approach to parenthood when the court feels it necessary to refer to you as the "putative father." (We would also have accepted "alleged father.") The putative father in question would have undoubtedly been wounded to the core by this construction had he: a) had a core; and b) had the first clue as to the meaning of "putative."

- GASB Issues Guidance on Blending Certain Component Units Into Financial Statements.
- Muni Groups Mull Using Auditors, EMMA To Boost Disclosure Compliance.
- IRS Revises Publications for Tax-Exempt Bonds.
- Meet the Canadian Who Developed a Ranking System for All 3,141 U.S. Counties.
- NABL: President Releases FY 2017 Budget Proposals.
- GASB Board Meeting Highlights.
- Energy Investment Partnerships Webinar Series.
- Deloitte 2016 Utility Tax Training Seminars.
- *Repko v. County of Georgetown* – Court of Appeals holds that county ordinances, which allowed developer to post financial guarantees in lieu of completing required infrastructure improvements before selling undeveloped subdivision lots, imposed special duty on county to purchaser of two undeveloped lots to manage financial guaranty provided by developer, and therefore, county was not immune under public duty rule from owner's negligence action against county, filed after county allowed several reductions in the guarantee, developer filed bankruptcy, and infrastructure was left unfinished.
- And finally, All In A Day's Work is brought to you this week by *McCaffrey v. City of Wilmington*, in which an intoxicated police officer ran a red light, crashed into another vehicle, and then made "inappropriate" sexual advances toward the driver of that vehicle. We find it rather puzzling that the court felt it necessary to point out that the sexual advances were inappropriate. In what conceivable municipality could any element of this scenario be deemed "appropriate?" Please let us know if you've identified one, as we'd certainly be interested in taking the tour.

- MCDC Credited with Boosting Muni Disclosure.
- MSRB Holds Quarterly Board Meeting.

- GASB Board Meeting Highlights.
- GASB Proposes to Establish a Single Approach for Reporting Leases of State and Local Governments.
- Fitch Releases Exposure Draft on Adding Enhanced Recovery to U.S. Local Gov't Criteria.
- Fitch Teleconference: Adding Enhanced Recovery to U.S. Local Gov't Criteria.
- MSRB to Seek Public Comments On Prevailing Market Price, Bank Loans.
- *Jack County Appraisal District v. Jack County Hospital District* – Court of Appeals holds that hospital district, a political subdivision of state, was "owner" of leased CT scanner, for purposes of statute exempting from taxation tangible personal property owned by political subdivision.
- *Regional Utility Service Systems v. City of Mount Union* – Supreme Court of Iowa holds, as matter of first impression, that general funds in a municipal bank account constitute "other public property" exempt from execution/garnishment so long as the funds are necessary and proper for carrying out the general purpose for which the municipality is organized.
- And finally, BCB's Department of Thankless Jobs is brought to you this week by *Kretschmann Farm, LLC v. Township of New Sewickley*, a massive NIMBY objection to the siting of a natural gas compression station next to an organic farm. The Board of Supervisors was serenaded by an endless stream of measured, well-reasoned arguments from a completely objective local citizenry. A prime example of which is the testimony of a Mr. Bob Schmetzer, who insisted that the Supes were being "bamboozled" by the gas industry, which had suppressed the fact that gas emissions cause brain lesions. His unimpeachable source for this claim? "Schmetzer asserted that the risk can be confirmed by reports on the internet." Still awaiting reports concerning the long-term neurological effects of repeatedly bashing one's own head against the surface of a large, curved podium while being subjected to the Schmetzers of the world. We'll keep you posted.

- IRS Webinar: What's New for 2016?
- GFOA Executive Board Approves New Best Practices and Advisories.
- California AG's Opinion Targets School Bond Practices.
- MSRB to Seek Public Comments On Prevailing Market Price, Bank Loans.
- Moody's RFC: Green Bonds Assessment – Proposed Approach and Methodology.
- Derivatives Mean U.S. Cities Get No Free Pass From Crisis Legacy.
- NABL: GASB Seeks Input on Revenue from Exchange Transactions.
- And finally, while it's all well and good that the court in *City of El Paso v. Collins* held the city accountable for a dangerous drain in one of its public pools, we were horrified to note that the court glossed right over the fact that fellow swimmers did not quickly spot a trapped child due to the fact that the water was "extremely cloudy." That's not the threshold public health and safety concern? Oh wait, isn't there some legal concept holding that it's your own damn fault if you elect to jump into a public pool teeming with children? What was that? Assumption of the Pi**?

- MSRB to Discuss Bank Loans, Markup Disclosure at Meeting.
- Dealer, Advisor Groups Ask for Revisions to MSRB Pay-to-Play Rule.
- BDA Submits Letter to SEC on MSRB Pay-to-Play Rule.
- An Overview of Standard & Poor's Updated Methodology for Rating U.S. Public Finance Waterworks, Sanitary Sewer, and Drainage Utility Systems.

- Cities' Pension Liabilities Are About to Look a Lot Worse.
- *Nichols v. City of RehoBoth Beach* – District court holds that city resident lacked standing to challenge city charter provisions governing voting procedures for special elections to authorize the borrowing of money (i.e. $53 million of general obligation bonds), as resident had the right to vote in the special election and thus lacked the concrete personal injury necessary to bring suit.
- *Metropolitan St. Louis Sewer District v. City of Bellefontaine Neighbors* – Supreme Court of Missouri holds, as a matter of first impression, that a public entity (sewer district) was not entitled to sue another public entity (city) for inverse condemnation.
- And finally, BCB's Department of Misplaced Priorities this week brings you *Estate of Glasoe v. Williams County, N.D.*, in which the Glasoe children lost the family homestead via tax sale. The kids brought suit, alleging that they were shocked, shocked, by the foreclosure and sale. Uh, despite the fact that Leanne Glasoe – who resided at the property – had been personally served by a deputy sheriff while she was working at her hair salon. "The deputy testified that when he gave the envelope to LeAnne Glasoe he told her 'it was very important that she pay attention to the contents because it was a Foreclosure Notice.' LeAnne Glasoe testified, 'I didn't even open it, I went right back to work.'" While we commend your commitment to the beautification of the ladies of the greater Williston area, Leanne, maybe shoulda taken the time to open the envelope. Bet you wish you could Curl Up & Dye.

- New MSRB Notice Summarizes Provisions of Municipal Advisor Conduct Rule.
- MSRB Notice Details MA Conduct Requirements; Webinar Planned.
- NABL: SEC Announces 2016 Examination Priorities.
- BDA's January 2016 Member Fly-in Focused on FINRA 4210 Margin Amendments.
- BDA Submits Comment Letter to SEC in Response to FINRA ATS Trade Reporting Amendments.
- Paying for Protection: The Return of Bond Insurers.
- S&P Report Says 2016 Could Be New Era in Bond Refinancing in the Project Finance Sector.
- One of the Biggest Bond Market Players Has No Employees.
- Fitch Updates Criteria for Rating Public-Sector Counterparty Obligations in PPP Transactions.
- *Haggart v. Woodley* – In "rails-to-trails" class action takings claim, Court of Appeals reverses Court of Federal Claims' approval of settlement agreement between U.S. and landowners, disapproving class counsel's methodology (extrapolation) for calculating fair market value for properties and holding that fee-shifting statute (URA) foreclosed application of common fund doctrine to action.
- And finally, Location, Location, Location! is brought to you this week by *Sid-Mar's Restaurant & Lounge, Inc. v. State ex rel. Governor*, in which the state argued that (now submerged) restaurant property had never been eligible for private ownership, as it had formerly been (literally) the bottom of Lake Ponchartrain. Seems like someone may have been a tad unclear on the concept of lake*front* property.

- Kramer Levin: Sorting Through the Options as Green Bonds Gain Popularity.
- The Tougher U.S. Pension Rules in Puerto Rico's Rescue Plan.
- CDFI Fund Opens Application Period for FY 2016 CDFI Bond Guarantee Program.
- NABL: ABA Section of Taxation Submits Issue Price Comments.
- MSRB Proposes Rule Changes on Interdealer Transaction Failures.
- *Gillette Co. v. Franchise Tax Bd.* – Supreme Court of California holds that Multistate Tax Compact is not binding under state constitutional contract clauses, and thus the state Legislature may

properly preclude a multistate taxpayer from relying on the Compact's election provision.

- *Employers Mut. Cas. Co. v. Helicon Associates, Inc.* – In action to recover losses incurred in unauthorized bond issuance, Court of Appeals holds that issuer's insurer was not liable for indemnity coverage, as unauthorized issuance triggered the "fraud or dishonesty" exclusion of the Linebacker policy.
- And finally, the Supreme Court of Washington held this week, as a matter of first impression, that the right to bear arms protects only instruments that were designed as weapons traditionally or commonly used by law abiding citizens for self-defense, thus nixing dude's attempt at Federal protection for his paring knife. Unclear if your editor's deployment of the fetal position and a pool of his own urine as his traditional self-defense protocol is affected by this decision.

- GFOA Financial Policies Examples.
- Where Have All the Muni-Bond Dealers Gone?
- S&P General Obligation Medians for Counties: Update as of Oct. 9, 2015.
- S&P General Obligation Medians for Municipalities: Update as of Oct. 9, 2015.
- Why Florida May Be the Next Big Source of PACE Bonds.
- Outlook: What's Ahead for Tax Regulation, Enforcement in 2016.
- McGuire Woods: President Signs Extender Package for PTC and ITC – Renewable Energy Tax Credits.
- *Kaplan v. Saint Peter's Healthcare System* – Court of Appeals holds that ERISA provision granting exemptions for churches and qualifying church agencies was unambiguous in requiring that a church, rather than a qualifying church agency, establish a church exempt plan.
- *In re City of Stockton, California* – In challenge brought by unsecured creditor, United States Bankruptcy Appellate Panel of the Ninth Circuit issues comprehensive ruling affirming the City of Stockton's Chapter 9 Confirmation Order.
- And finally, as a matter of first impression, the Supreme Court of Florida held this week that the act of tattooing is artistic expression protected by the First Amendment. Although not widely known, James Madison did indeed have "Fed Life" tattooed across his torso.

- Doubly Bound: The Cost of Issuing Municipal Bonds.
- Financing Infrastructure Through Resilience Bonds.
- SIFMA Issues 2016 Municipal Issuance Survey.
- Dealers Want MSRB, FINRA to Adopt Same, Less Costly Markup Proposals.
- Moody's Seminar: Financial Analysis of Local Governments
- MSRB to Implement Core Conduct Rule for Municipal Advisors.
- GASB Issues Guidance for External Investment Pools and Pool Participants Ahead of SEC Rule Change.
- GASB Issues Proposed Guidance on Fiduciary Activities, Asset Retirement Obligations, and Pensions.
- *Fish v. Township of Lower Merion* – Supreme Court of Pennsylvania holds that Township's application of business privilege tax to businesses whose sole income consisted of rent payments on leased real property was not barred by provision of Local Tax Enabling Act precluding "any tax" on leases or lease transactions; disapproving *Cheltenham Twp. v. Cheltenham Cinema, Inc.* and *F.J. Busse Co. v. City of Pittsburgh*.
- *Ordinance 2354-12 of Tp. of West Orange, Essex County v. Township of West Orange* – Supreme

Court of New Jersey holds that Township's redevelopment bond ordinance was not subject to referendum, where Township passed ordinance through exercise of redevelopment powers conferred on municipalities by Local Redevelopment and Housing Law.
- And finally, although perhaps not the ideal probationer, the community service participant in *Giordanella v. City of New York* who attacked his supervisor with a rake is definitely your secret weapon in the event of the dreaded Zucchini Apocalypse. Shouldn't be hard to find, as he undoubtedly occupies a very, very fixed address.

- **Ed. Note:** We'll be taking next week off, but will return (without any particular vengeance) on 12/29 to close out the year. May visions of sugarplums dance in your heads. (Aforementioned seasonal pleasantry not applicable in the event that "Sugarplum" is the *nom de pole* of a *danseur* working in your municipality.)
- Green Bond Best Practice Guide Released for Public Sector.
- A Guide to Evaluating Pay for Success Programs and Social Impact Bonds.
- Butler Snow: MSRB's Execution Guidance Under Rule G-18 – Forward With Flexibility.
- BDA Submits Comment Letter to FINRA and MSRB on Proposed Retail Markup Disclosure and Pricing Reference Rules.
- BDA Proposes Additional Issue Price Safe Harbors.
- GASB Issues New Pension Guidance Designed to Assist Certain Governments.
- *Catalina Foothills Unified School Dist. No. 16 v. La Paloma Property Owners Ass'n, Inc.* – Court of Appeals holds that school district did not violate statute requiring voter approval for purchase of school sites by condemning private road owned by homeowners association to provide vehicular access into early childhood learning center, as district received approval in bond election in which voters approved proposal to authorize district to acquire property and expend funds for new preschool facility, and district had independent statutory power to acquire property by condemnation at time of bond election.
- *Duke Energy Ohio, Inc. v. Cincinnati* – Court of Appeals holds that city was responsible for costs incurred by utility to relocate its utilities to accommodate city-owned streetcar project, invalidating local ordinance to the contrary.
- *Storino, Ramello and Durkin v. Rackow* – After village abandons effort to impose special assessment on property owners, appeals court holds that the law firm representing the property owners was entitled to attorneys' fees under contingent fee agreements based, not on the total amount recovered, but on a percentage of the savings from the proposed special assessment.
- And finally, BCB's Department of Irrebuttable Presumptions this week brings you *In re Equalization Appeal of Kansas Star Casino, L.L.C.*, in which the court concluded that a property's highest and best use was hosting a casino, and not that whole agricultural thing. Should go without saying, no?

- MSRB: New Compliance Advisory Available.
- Dealer Groups Want SEC to Disapprove MA Conduct Rule.
- Moberly, Missouri Class-Action Highlights Underwriters' Duties in Muni Offerings.
- NABL: Transportation Bill Allows Tax-Exempt Bonds for WIFIA.
- San Diegans for Open Government v. City of San Diego – Court of Appeal holds that city redevelopment agency's successor agency – a joint powers authority formed by the city, the redevelopment agency, and the city housing authority – had the authority to enter into a lease-back

financing plan adopted to fund public infrastructure improvements.
- And finally, we received proof this week that the plaintiff in *Not Afraid v. State* – Mr. Cyril Not Afraid, Jr. – is perhaps taking his name a bit too literally. We'd advise remaining afraid of the following: climbing into cars driven by the highly intoxicated; driving 73 mph down a winding mountain road with a posted speed limit of 25 mph; letting that whole seat belt thing slip one's mind; concrete guardrails; windshields; the structural integrity of one's spinal column. In hindsight, probably should have been afraid of those.

- NABL Recommends Revisions to Management Contract Safe Harbors.
- Mintz Levin: Helpful News from IRS on Student Loan Bonds.
- MSRB's Kelly Highlights Concerns For Retail Muni Investors.
- NABL: Registration For TSLI Is Open.
- *Stifel, Nicholaus & Co., Inc. v. Godfrey & Kahn* – In dispute over bond issuance, Court of Appeals holds that tribal court lacked jurisdiction over bondholders and brokerage firm; counsel to tribal economic development corporation, who also was bond counsel to bond transaction, could rely on forum selection clauses in bond documents.
- *Coves of Highland Community Development Dist. v. SCB Diversified Mun. Portfolio* – District Court denies Community Development District's request for declaratory judgment that $7.6 million of Bonds issued by the District had prescribed, citing factual question as to whether Trustee had acted as District's agent, such that the debt was acknowledged via Trustee's making of certain payments from the Debt Services Reserve Account.
- *Young's Market Company v. Superior Court* – Trial court's order granting school district's petition for a right of entry against the owner of an adjoining building, to assess the possibility of acquiring the property by eminent domain by boring holes in the ground and taking samples of soil and building materials, was within the scope of the Eminent Domain Law entry statutes and did not amount to a taking under the federal and state constitutions.
- And finally, I'd Like to Buy a Vowel is brought to us this week by *Coves of Highland Community Development Dist. v. SCB Diversified Mun. Portfolio*, in which a subdivision project was abandoned after the Army Corps of Engineers popped up mid-project with the news that the property had previously been used as a practice bombing, rocket, and artillery range, so, uh, maybe keep an eye out for unexploded munitions. And therein lies the origin story of the country's first municipal ordnance enforcement unit. May they rest in pieces.

- NABL Ethics Teleconference.
- MSRB Provides Implementation Guidance on Best-Execution Rule.
- MSRB Releases Long-Awaited Best Ex Guidance.
- GFOA 20th Annual Governmental GAAP Update (Encore Presentation)
- GASB: On The Horizon.
- Municipalities Pushing Out Payments Spur Balloon Debt Resurgence.
- Hawkins Advisory: Final Allocation & Accounting Regulations under Section 141 of the Internal Revenue Code.
- *Otay Mesa Property, L.P. v. United States* – Following landowners' successful takings claim against federal government for easement along the Mexican border, the Court of Federal Claims awards $1.1 million in attorneys' fees and $276k in costs under the Uniform Relocation Assistance and Real Property Acquisition Policies Act in very comprehensive, detailed, and informative ruling.

- And finally, Unclear On The Concept is brought to you this week by *City of Albany v. Pait*, in which a firefighter ran ye olde cost/benefit analysis, concluded that robbing the premises was definitely worth the risk, netted $200 in the heist, and promptly lost his job. The irresistible, pocketable, easily fenceable, untraceable object in question? Diamonds? Cash? Nope, a canoe. An honest-t--god canoe. We now invite you to close your eyes, imagine your favorite heist film, and insert canoes. Makes for a slightly different flick, no?

- MSRB Publishes Compliance Advisory for Municipal Advisors.
- MSRB Issues First-of-a-Kind Compliance Advisory for MAs.
- MSRB Proposes Amendments for Move to T+2 Settlement Cycle.
- Hawkins Advisory (GASB 68)
- Ballard Spahr: Where We Stand on Issue Price for Tax-Exempt Bonds.
- NABL: IRS Issues Guidance on Student Loan Bonds.
- Intro Property Assessed Clean Energy (PACE) Finance WebCourse.
- *Glynn County v. Coleman* – Court of Appeals holds that statute governing tax refund actions against counties and municipalities permitted class action certification of taxpayers.
- *Texas Transportation Commission v. City of Jersey Village* – Court of Appeals holds that costs incurred by City in obtaining replacement easements in which to place its utility lines that were relocated to accommodate Department of Transportation's highway construction project did not constitute compensable utility relocation costs under the utilities relocation statute.
- And finally, we experienced an epiphany this week upon encountering *City of Sparta v. Page*, a landmark ruling on the rights of homeowners to raise chickens in their backyards. Therefore, we hereby notify you that this publication will no longer cover public finance (which, let's face it, wasn't going so well anyway) and will instead be devoted solely to the field (no pun intended) of poultry-related jurisprudence. We apologize for any inconvenience.

- MSRB Files Exception to MA Conduct Rule's Principal Transaction Ban.
- MSRB to Implement Gifts Rule for Municipal Advisors.
- Bill Introduced to Require Hedge Funds to Disclose Holdings More Frequently.
- House Committee Approves Legislation to Classify Muni Bonds as High-Quality Liquid Assets.
- How Safe are Municipal Bonds from a Fed Interest Rate Hike?
- Foley: New IRS Regulations For Mixed Use Projects Financed With Tax-Exempt Bonds Have Practical Importance.
- McCarter & English: At Long Last – Allocation and Accounting Rules.
- *Joseph B. Doerr Trust v. Central Florida Expressway Authority* – Supreme Court of Florida holds that, when condemning authority causes excessive litigation, the trial court shall utilize section 73.092(2) – which requires a trial court to consider qualitative and quantitative factors in determining the amount of a fee award – and is not limited to the benefits achieved formula in section 73.092(1).
- And finally, our deeply held assumptions regarding the subterranean municipal milieu were shaken to the core this week when the court, in *Metropolitan Water Dist.*, dropped this bombshell on us, "[the pipelines] have peacefully coexisted underground for more than sixty years." Is peaceful coexistence not the natural state of underground pipelines? Are there roving gangs of lead down there beating up on the PVC? Snooty copper patronizing the cast iron? U.N. Pipekeepers?

- Treasury, IRS Seem Open to Changes to Proposed Issue Price Rules.
- Orrick: Another Round of Favorable SEC Settlements, But Only for Underwriters that Self-Reported.
- Municipal Bond Regulator Pushes SEC for Direction on Bank Loans.
- Foley & Lardner: Recent MCDC Settlements Provide Guidance Concerning Scope of Materiality in Continuing Disclosure Obligations.
- MSRB Mandates Regulated Entity Participation in Business Continuity Testing.
- IRS Official Tells Issuers to Monitor Compliance.
- Mixed Use Projects, Public/Private Partnerships and Anticipatory Remedial Actions: Applying the New IRS Regulations.
- *Borders v. City of Atlanta* – Supreme Court of Georgia holds that members of city defined benefit pension plans did not acquire vested contractual rights to plans unaltered by increase in annual contributions, and therefore city ordinance increasing members' annual contributions did not breach members' employment contracts or violate impairment clause of state constitution.
- And finally, Great Moments in Air Quotes is brought to you this week by *Brown v. City of Hartford*, which included the following, "Although the court found the plaintiff to be credible as to how 'he saw things,' the plaintiff's view of the facts did not conform to 'the reality of the facts.'" Is there a patron saint of the sincerely delusional? If not, there certainly should be.

- Treasury, IRS Issue Rules that Will Help Facilitate P3s.
- Notice of Support Availability: Training and Technical Assistance Services for Pay for Success Initiatives.
- MSRB Extends Deadline for Markup Rule Comments.
- MSRB Best-Ex Guidance Could Come in Nov.; Board Presses SEC on Bank Loans.
- Fitch Tax-Supported Criteria Revision.
- Treasury Issues Final Private Activity Bond Allocation and Accounting Regs.
- IRS Announces Inflation Adjustments for 2016.
- NFMA Advanced Seminar on Higher Education.
- *Young v. Red Clay Consolidated School District* – Court of Chancery holds that complaint filed by school district residents, who opposed increase in school-related property taxes but did not vote in special election in which increase was passed, sufficiently pled that school district's interventions affected result of election in resident's action seeking to void result, based on district's alleged actions in discouraging and raising impediments to voting by elderly and disabled residents.
- And finally, this week's Allegorical Day in the Life of a Law Firm Associate is brought to us by *Zollar v. City of Chicago Dept. of Administrative Hearings*, which includes the following, "the 100–pound male bullmastiff, Eli, attacked Jib, a female Portuguese water dog weighing 39 pounds, in an alley." Although in the allegory, Eli's real world punishment – posting a sign alerting passersby of the presence of a dangerous animal, muzzling the dog while off her property, implanting a microchip under the dog's skin, and sterilization – lands squarely on Jib.

- Intro Property Assessed Clean Energy (PACE) Finance WebCourse.
- NAMA: Some MSRB Gift Rule Changes Are Unclear or Could Lead to Abuse.
- Chicagoans' Cost to Exit Swap Agreements Approaches $300 Million.

- GASB Proposes Changes to Pension Standards for Certain Governments.
- Appellate Court Upholds TIF District Levy and Collection of Taxes.
- *Arras v. Regional School Dist. Number 14* – Supreme Court of Connecticut holds that towns' failure to strictly comply with statutory notice provisions by publishing an official warning of referendum, on question of whether to approve resolution by board of education authorizing issuance of bonds and notes to finance certain school construction, in legal notice section of newspaper of general circulation, did not require invalidation of the referendum, absent proof that the failure caused the referendum results to be seriously in doubt; overruling *Pollard v. Norwalk*.
- *Florida Bankers Ass'n v. Florida Development Finance Corp.* – Supreme Court of Florida holds that bankers association lacked standing to appear in appeal of trial court's validation of bonds issued by government corporation for qualifying improvements in county, in development finance company's action seeking to determine validity of series of bonds proposed to be issued under Property Assessed Clean Energy (PACE) Act. See prior coverage *here*.
- And finally, in *Mender v. Chauncey*, a standard-issue unlawful termination case brought by a mayor against her town, we encountered this rather startling sentence, "Her husband Stace Mender and her two daughters, Merissa Nicholson and Cassie Gardner, were co-plaintiffs asserting loss of consortium claims." Either that family has a rather, uh, unique relationship or "loss of consortium" means something a bit different than we had been led to believe.

- FHWA Drafts Model Contract Guide on Availability Payment P3s.
- SEC Official Corrects Municipal Advisor Misconceptions.
- SEC Weighs Providing Legal Guidance on Role of MAs in Bank Loans.
- MSRB Publishes Updated Documents Related to May 2016 Changes to RTRS.
- S&P: Bank Loans Pose Potential Credit Risks, But For Now Issuers' Liquidity Positions Help Support Most Ratings.
- GFOA Hosts Meeting to Discuss Implementing School Budgeting Best Practices.
- Ratings Agencies Diverge on Post-Default Approaches.
- Florida High Court Makes It Harder to Challenge Bond Validations.
- Swift Descent to Junk Shows Buried Risk as Municipal Loans Surge.
- MSRB Rule G-15 Webinar.
- NABL Municipal Bankruptcy Teleconference.
- And finally, BCB's Department of Comically Pyrrhic Victories this week brings you *Acciona Windpower North America, LLC v. City of West Branch*, in which turbine manufacturer was granted specific performance of its TIF contract with city. Hooray! However, prior to ordering specific performance, the court had ruled that the city's only contractual obligation was to "consider" whether or not it wanted to appropriate funds for a tax rebate. So that's what the city was ordered to do – sit there and "consider." And so it did. Hooray!

- **Ed. Note:** Please note that our weekly newsletter is simply a collection of links to the articles posted on our website that week, and not a stand-alone publication. Consequently, we do not have the ability to forward past "issues." However, the underlying website – bondcasebriefs.com – contains all our archived postings (6k+), where you can scroll through the items posted to a particular category to catch up on articles you may have missed and/or use the search function to conduct more focused research.
- GASB Proposes Implementation Guidance Designed to Clarify Recent Pronouncements.

- 22 MCDC Settlements With Firms to be Followed by Another Round.
- Butler Snow: Fed's Proposed Treatment of Municipal Securities as High-Quality Liquid Assets.
- Junk or AAA? Rating Split Plagues Chicago as It Borrows Billions.
- Webcast: Understanding Proposed IRS Rules on Issue Price and the Industry Impact.
- *Reynolds v. Leon County Energy Improvement Dist.* – Supreme Court of Florida holds that objector who failed to appear at trial level lacked standing to appeal validation of proposed bond issue, as full party status was granted only to those who appeared and pleaded in the circuit court proceeding and thus only such parties were permitted to avail themselves of the statutory right of appeal; receding from *Meyers v. City of St. Cloud, Rowe v. St. Johns County, Lozier v. Collier County,* and *Bruns v. County Water–Sewer Dist.*
- *Thomas v. Clean Energy Coastal Corridor* – Supreme Court of Florida validates bond issuance, but also holds that references to judicial foreclosure as a remedy for collecting unpaid non-ad valorem assessments contained in financing agreement securing bonds for qualifying improvements to real property under Property Assessed Clean Energy (PACE) Act, required remand to circuit court to amend the financing agreement to remove those references, as judicial foreclosure was not a remedy for such collection authorized by Florida law.
- And finally, BCB's Department of Perhaps Understandable NIMBYism this week brings you *Neighbors for Preservation of Big and Little Creek Community v. Board of County Com'rs of Payette County*, in which the neighbors kicked up the predictable fuss at the prospect of a minor alteration to their community. But then again, we suppose that the prospect of glow-in-the-dark pets could have that effect. "Turn right at the big cooling tower. We're the first house on the left."

- **PROGRAM NOTE:** As of this week, we are implementing password-protection for the bondcasebriefs.com website. The initial password is: **muni**. The links contained in the weekly newsletter have the password embedded, so a reader who clicks on a link will be taken directly to the corresponding item hosted on the website without being required to enter a password. The password will be required only in the event that the website is accessed directly. We apologize for any technical glitches that may arise during the implementation process.
- MSRB Requests Comment on Requiring Disclosure of Mark-Ups.
- MSRB: Dealers Would Have to Disclose Markups on Principal Transactions.
- S&P Credit FAQ: Proposed Criteria Changes Will Bring Greater Transparency to U.S. Municipal Water and Sewer Systems.
- Incentive To Pay: How Recent Bankruptcies Inform Analysis Of Distressed Local Government Credits.
- BDA Submits Issue Price Comment Letter to IRS.
- IRS Chief Counsel Blasted for Favorable Ruling on Total Return Swaps.
- NABL Submits Issue Price Comments.
- SIFMA Submits Comments to the IRS on Re-proposed Issue Price Rules.
- And finally, Unclear on the Concept is brought to you this week by *Sherman v. Town of Randolph*, in which the the court's opinion included the following, "Four of those candidates are relevant here: Sherman, who was ranked highest on the eligibility list, and the three candidates who ultimately bypassed him, *whom we shall call* Walter Burton, Blair Lewis, and Martin Duval." Did the court simply decide to get gratuitously creative with its fictitious naming ("No John Doe for us!") or was it indeed unclear on the concept? Please direct your inquiries to the opinion's author, whom we shall call Justice Fernande R.V. Duffly.

- NFMA Introduction to Municipal Bond Credit Analysis.
- SEC Urged to Disapprove Rule on MA Core Conduct.
- Neighborly Raises $5.5M from Joe Lonsdale's Formation 8, Ashton Kutcher to Transform the Municipal Debt Market.
- How Standard & Poor's Treats Public-Private Partnerships in U.S. State and Local Government Debt Analysis.
- SIFMA: Alternative Issue Price Method 'Not Workable' As Proposed.
- IRS Rules that No Abusive Arbitrage Device Was Used in Connection With Bond Issue: Tax Analysts
- NABL: TEB Announces VCAP Changes.
- *City of Seattle v. Department of Revenue* – Supreme Court of Oregon holds that cities' interest in electrical transmission capacity, purchased from electrical cooperative and used to transmit electricity over region's federally administered power grid, could be taxed by Department of Revenue as a property interest "held" by the cities.
- And finally, Yet Another Reminder of Why People Hate Lawyers is brought to us this week by *Parker v. Town of Erwin*, in which the court began its opinion thusly, "The evidence in the record tends to show that a Christmas parade was held in Erwin, North Carolina, on 5 December 2011." *"Tends to show?"* Were there cars driving down Main Street? Did one of those cars contain a fat man in a red suit? If yes, I tend to think that we can definitively conclude that a bleepin' Christmas parade was held. Please open your hymnals to page 25 and join us in singing, "We Tend to Wish You a Merry Christmas."

- NFMA Releases Final Best Practices for State GO Bond Disclosure After Public Comment.
- SEC Asks: Should Muni Bond Pricing Change in Wake of Edward Jones?
- MSRB: Best-Ex Rule Will Not Be Implemented Before Release of Guidance.
- BDA Submits Letter to SEC on MSRB Proposed Rule G-42 Regarding the Core Duties of Municipal Advisors.
- Hedge Funds Fill Gap in the U.S. Municipal Bond Market.
- Bond Ruling Emboldens Abusive Scheme, Former IRS Official Says: Tax Analysts
- *Emmet & Co., Inc. v. Catholic Health East* – Appeals court holds that issuer's coupling of tender offer with redemption of municipal bonds, as well as issuer's synthetic sale of bonds to financial advisor through total return swap, violated indenture.
- And finally, "Now Where Did I Leave My Keys?" is brought to us this week by *Caramanno v. City of New York*, in which a paving contractor sued the city after it relocated, and subsequently destroyed, an item of contractor's personal property. The item, you ask? A steam roller. An honest-to-god steam roller. Answers to the absolutely dumfounding questions regarding how one might possibly misplace, relocate, or destroy such an item are far, far beyond the purview of this publication. Our deepest apologies.

- A New Plan for American Cities To Free Themselves of Wall Street's Control.
- GASB to Re-Examine State and Local Financial Reporting Model.
- Fitch Updates U.S. Water and Sewer Revenue Bond Rating Criteria.
- Justice's Antitrust Division Conducting Inquiry Into Muni Bond Pricing.

- MSRB Links Effective Date for Best-Execution Rule to Publication of Guidance.
- BDA Submits Letter to SEC on TRACE 'No Remuneration' Indicator.
- CDFA Into Revolving Loan Fund WebCourse.
- And finally, that maniacal cackling you hear emanating from Kansas City is brought to you by *Kansas City Power & Light Co. v. Strong*, in which Daniel and Evelyn Strong, unhappy with the court appraiser's decision to award them $96,465 in compensation for a condemned power line easement decided to take a flyer on an appeal. The jury saw things perhaps a wee bit differently, forking over $1,922,559 and forever validating ye olde contingency fee arrangement.

- **Ed. Note:** Last week's issue of the newsletter did not go out as scheduled due to a technical glitch on our end. Consequently, this week's Frankenissue also includes last week's content. We apologize for any inconvenience. A quick post-holiday issue will go out next Tuesday.
- NABL Releases Paper on Disclosure Policies and Procedures.
- GASB Publishes New Authoritative Implementation Guide.
- NABL Issues Updated Municipal Bankruptcy Primer.
- What Happened to Edward Jones and Does it Impact Issue Price?
- NABL Provides Issuers Disclosure Guidance in Wake of SEC Cases.
- MSRB Eases Voluntary Bank Loan Disclosure for Issuers on EMMA.
- How Can Communities Finance Microgrids for Public Safety?
- *In re Lauderdale County* – Supreme Court of Mississippi holds that county board of supervisors did not waive initial deadline for objectors to file petition objecting to issuance of general obligation bonds by posting petition to a public forum on the internet for two weeks to ensure signatories wanted their names on the petition, and allowing signatories to remove signatures if they so desired.
- And finally, we are reminded again this week of the perennially tragic issue of library-on-library violence by *People ex rel. Geneva Public Library Dist. v. Batavia Public Library Dist.*, an annexation dispute in which all concerned neglected to use their inside voices. Sadly, both libraries were destroyed via the mutual deployment of the Dewey Decimation System. R.I.P.

- New Rule to Lift Veil on Tax Breaks.
- MSRB Changes MA Conduct Proposal, But Not Principal Transaction Bar.
- MSRB Enables Issuers to Display Bank Loan Disclosures on Customized EMMA Issuer Homepages.
- Municipal Bond Underwriter Didn't Feel Like Underwriting.
- Edward Jones to Pay $20 Million to Settle SEC Municipal Bond Charges.
- SEC Members Demand Muni Markup Disclosure After Edwards Jones Case.
- UBS Fined $750,000 for Misstating Tax-Exempt Bond Interest.
- And finally, Oddly Specific Facts is brought to us this week by *Cordova v. City of Los Angeles*, in which the judge, describing a fatal car crash, wrote, "Out of control and spinning counterclockwise, the car struck one of several large magnolia trees planted in the median." Presumably, his honor's intent was to honor the memory of the deceased, whose final thought was undoubtedly, "Hey, we're spinning counterclockwise! Is that a magnolia tree?"

- NFMA White Paper on the Disclosure of Potential Conflicts of Interest in Municipal Finance

Transactions.
- The Bond Lawyer – Summer 2015
- Stroock: Protecting Pensions And Contract Rights For Public Sector Employees.
- California Guards Muni Buyers From Bankruptcy With Dibs on Taxes.
- IRS Webcast: Voluntary Closing Agreement Program Updates for Tax Exempt Bonds.
- GFOA 20th Annual Governmental GAAP Update.
- And finally, *Valley Forge Sewer Authority v. Hipwell* takes us back to the bitter winter of 1777 when our fledgling republic hung in the balance, only to be saved when General Washington's flagging resolve was bolstered when he took a look around and realized, "Hey, this would be a great place for a sewer authority."

- U.S. Municipal Credit Report, Second Quarter 2015.
- Coalition Creates Guide For Green Muni Bonds.
- MSRB to Revise Proposed Rule on Disclosing Bond Price Markups.
- Dealers, Issuers: Fed Proposal Too Strict on Munis, Would Hurt Market.
- In Post-Detroit Bankruptcy Era, California Protects Investors Before Pensioners.
- How One Mississippi County Played Wall Street's Fiddle.
- Memo Provides Interim Guidance on Audits of Direct-Pay Bonds.
- *AHS Hospital Corp. v. Town of Morristown* – Tax Court holds that hospital operated and used its property for profit-making purpose by entangling its activities with affiliated and non-affiliated for-profit entities, such that hospital did not qualify for property tax exemption for nonprofit organizations; calls modern non-profit hospitals "legal fictions."
- And finally, When Science Attacks is brought to you this week by *Fugle v. Sublette County School Dist. No. 9*, in which a high school teacher's practical demonstration of centripetal force spins right along until one kid's scrawny little arms give out, he lets go of the rope/cart contraption, and slams into the gym wall, fracturing his faith in science teachers in multiple locations. What's wrong with the traditional kitten in a blender or baby in the dryer?

- MSRB Announces Regulatory Topics to be Discussed at Upcoming Board Meeting.
- BDA Submits Comment Letter to Labor Department on Fiduciary Duty Proposal.
- S&P U.S. State and Local Government Credit Conditions Forecast: Financial Management Stands Out In an Age of Economic Limitations.
- Pennsylvania May Sue Firms Over Ex-Harrisburg Mayor's Bond Deals.
- Fitch: Statutory Liens Do Not Boost U.S. Municipal Debt Ratings.
- Senate Panel Passes Tax Extenders Bill with Bond, P.R. Provisions.
- IRS Memo: Procedures for Conducting Examinations of Direct Pay Bonds.
- NABL: Disaster Tax Relief Bills Introduced in House and Senate.
- And finally, asking 75 year old Mr. LeFebre to take the stand and recount the history of the rural road (dedication dispute) on which he's resided his entire life? What could possibly go wrong? This. This is what could go wrong. "When he was a child, LeFebre's parents would take him and his siblings to the dam to ice skate in the winter." Your Honor, permission to treat the witness as nostalgic.

- Ratings Value Questioned as More Municipal Borrowers Go Without.
- MSRB Considers Creating Municipal Market Data Product for Academic Researchers.
- New California Law Would Secure Local GO Holders in Bankruptcies.
- IRS Rules Student Loan Bonds Still Tax-Exempt in PLR.
- CDFA Intro to Public-Private Partnership (P3) Finance Course.
- CDFA Intro to Tax Increment Finance Course.
- Borough of Keyport v. International Union of Operating Engineers – Supreme Court of New Jersey holds that negotiation would have significantly interfered with management determination of governmental policy, and therefore municipalities' imposition on certain units of public employees mandatory, but temporary, layoffs, in the form of a reduced number of work days over a specified period of time was non-negotiable, such that municipalities did not violate Employer-Employee Relations Act by imposing layoffs without negotiating with representatives from unions for public employees.
- And finally, that noise you just heard is the collective sigh of relief going up from our nation's overworked/underpaid schoolteachers as they learn that they can't be fired for a third offense of using profanity in front of their students. "[Bleep] Yeah!"
- And even more finally, Happy Motoring in the Grand Canyon State is brought to you this week by *Fleming v. State Dept. of Public Safety*, in which a police officer placed an intoxicated driver in the rear seat of his patrol car, which was immediately obliterated by yet another drunk driver, killing the poor woman in the back seat. Maybe the open bar at the midnight Mad Max screenings wasn't such a great idea after all.

- Ed. Note: We occasionally receive requests to resend past issues of the newsletter. Unfortunately, the newsletter does not exist as a discrete document, and is merely a program that pulls together the HTMLs for each item posted to our website during the previous week. We can resend the latest issue. Otherwise, please access past content by going directly to bondcasebriefs.com where you can select a topic (e.g. Tax) and scroll down through the entries, which are posted in chronologic order. The website also contains a search function that will allow you to access older content. We'd apologize for any inconvenience, but you know us better than that.
- Frequently Asked Questions on FINRA's Eligibility Proceedings for Firms Participating in the MCDC
- Initiative.New Player Seeks to Revive VRDO Market.
- Putting the Public Back in Public Finance.
- CDFA Fundamentals of Economic Development Finance Course.
- *GAI Consultants, Inc. v. Homestead Borough* – Appeals court holds that TIF Agreement is an ongoing contract, and therefore claims for reimbursement of property tax assessment appeal refunds are not subject to the four-year statute of limitations for contract actions.
- *Indian River County v. Rogoff* – District Court holds that counties lacked standing to request a preliminary injunction vacating the U.S. DOT's authorization of PABs to construct a rail line traversing the counties; issuance of the PABs would not redress the counties' alleged environmental injuries, as the developer was prepared to proceed using alternate sources of financing.
- And finally, we do our best to cover each and every inverse condemnation case that comes our way. That being said, should you wish to ensure that your case makes the cut, please be sure that the opinion begins, "In 2011, the City of St. Petersburg demolished Christine Lacy's house after it was damaged in a shoot-out between St. Petersburg police and Lacy's husband. Yeah, we're gonna go ahead and publish that.

- Recommended Best Practices in Disclosure for Direct Purchase Bonds, Bank Loans, and Other Bank-Borrower Agreements.
- MSRB Extends 529 Plan Disclosure Date as Groups Push for More Clarification.
- GASB Issues Proposed Guidance on External Investment Pools and Component Units.
- GASB Simplifies GAAP Hierarchy for State and Local Governments.
- GASB Publishes New Standards for Reporting Health Insurance and Other Retiree Benefits.
- IRS Request for Comments: Voluntary Closing Agreement Program for Tax-Exempt Bonds.
- NABL Teleconference: "New Proposed Issue Price Regulations: A First Look"
- *Savage v. State* – Supreme Court of Georgia upholds validity of intergovernmental agreement between county and development authority, under which authority agreed to issue bonds for construction of professional baseball stadium and county agreed to pay principal and interest on the bonds.
- *Town of Fortville v. Certain Fortville Annexation Territory Landowners* – Court of Appeals holds that a municipality need not demonstrate immediate plans to build on annexed land in order to show that it needs, and can use, the land for its development in the reasonably near future.
- And finally, You Can Take My Stapler When You Pry It From My Cold Dead Fingers is brought to you this week by *Jones v. Boone*, in which a city attorney went to war with his Town Council – ultimately taking the case to the Georgia Supreme Court – to prevent the premature termination of his career. He was, presumably, concerned that a mere 35 years at his previous position might indicate to future employers that he posed a flight risk.

- NABL Issue Price Teleconference.
- MCDC: What Comes Next For Muni Underwriters?
- SEC Makes Point with MCDC Settlements.
- The Phone Call That Could Help Governments' Credit Ratings.
- Proposed Bonds to Encourage Public Private Partnerships and Improve Infrastructure: Butler Snow.
- Treasury and IRS Re-Propose Issue Price Rules.
- NABL Presses Treasury to Ease Public Approval Requirement for PABs.
- *Town of Groton v. Commissioner of Revenue Services* – Supreme Court of Connecticut holds that refuse removal fees that municipality charged to commercial, industrial, and income producing end users on a revenue-neutral basis did not constitute a sale for "consideration" subject to state sales tax.
- And finally, we cannot conceive of a better way to open an opinion than, "[Police officer] heard some loud music and determined that it was coming from a motorcycle parked at 251 E. 72nd. A large man, Jessie Scott, was dancing in the yard and working on his truck." Honestly, what's not to love? Thank you, Jessie, you were not tased in vain.

- 36 Underwriters to Pay $9.3M to Settle Under SEC MCDC Program.
- Voluntary Reporting of Bank Loans – Best Practice or Sword of Damocles?
- New Resource Available for Municipal Advisors Developing Supervisory and Compliance Systems.
- GFOA Seeks MA Conduct Rule Changes to Reduce Issuer Costs, Burdens.
- The Dirty Business of Paying for Ratings.

- Behind Chicago's Rift With Moody's: Rater's Tough New Stance.
- New Issue Price Regs Proposed.
- NABL Submits Comments to IRS on TEFRA Regulations.
- *Dacus v. Parker* – Supreme Court of Texas holds that failure of ballot proposition – for a proposed city charter amendment – to mention drainage charges to be imposed on most real property owners across the city rendered drainage systems and streets funding measure invalid.
- And finally, Don't Quit Your Day Job is brought to you this week by Justice David E. Nahmias of the Georgia Supreme Court, whose opinion in a sexually oriented business ordinance case begins with this zinger, "The [strip club] asserts that when its employees dance nude and serve alcohol, they are *clothed* with constitutional free speech protection, which the City of Doraville's Code of Ordinances attempts to *strip* away. Ouch. And yes, we are fully aware of the rank hypocrisy inherent in this criticism, which is why this entry could just as well have been entitled, "Mr. Pot, meet Mr. Kettle."

- Regulators Close In On Bond-Markup Rules.
- MSRB Provides Access to the Full Universe of Disclosures for a Municipal Security.
- GASB Proposes Enhanced Guidance on Irrevocable Split-Interest Agreements.
- Moody's Seminar: Financial Analysis of Local Governments.
- CDFA Webcast: Financing the World Trade Center.
- Investing in Detroit: Automobiles, Bankruptcy, and the Future of Municipal Bonds.
- And finally, we learned this week that there exists a common-law right of sepulcher. Did you know about this? We didn't. Turns out it's just as creepy as it sounds. In addition, a California court inadvertently captured the essence of your editor, which it described as "disoriented, occasionally incoherent, unable to focus on the conversation, and unable to understand what was going on." We'll stipulate to that.

- GFOA Survey Reveals Cost of SEC's Municipalities Continuing Disclosure Cooperation Initiative (MCDC).
- Hawkins Advisory (Disclosure by Municipal Issuers).
- GFOA's Watkins: MCDC Cost Issuers; SEC Initiative 'An Abuse of Power'.
- GASB Improves Reporting for Health Insurance and Other Retiree Benefits.
- Deals Gone Bad Push Muni Borrowers to Dump Interest-Rate Hedges.
- GFOA: GASB Makes Significant Adjustments to Its Technical Agenda.
- *Davis v. Fresno Unified School District* – Taxpayer successfully challenges noncompetitive bid contract, including lease-leaseback arrangement, between school district and contractor for construction of middle school; must-read for those involved in this type of transaction.
- *U.S. v. Heinz* – Court of Appeals holds that bid-rigging defendants' conduct "affected a financial institution" within the meaning of 18 U.S.C. § 3293(2), thereby extending the statute of limitations to ten years under § 3293(2).
- And finally, No Good Deed Goes Unpunished is brought to you this week by *Councill v. Damascus Volunteer Fire Dept., Inc.*, in which Ms. Wanda Councill attends a volunteer fire department's fund-raising bingo game, wins $500, then sues when the trips/falls outside the bingo parlor. Adding injury to injury, the court then rules that the firefighters aren't entitled to charitable immunity. The fact that Wanda drove 32 miles to get there indicates that she a) has a serious bingo addiction and/or b) recognized the peril inherent in calling in the volunteers to pull Fluffy

out of her fire-engulfed home after pulling this stunt.

- BDA Submits Comment Letter on Proposed Rule G-42 to Establish Core Standards of Conduct for MAs.
- MSRB Makes Moody's Public Finance Ratings Available on EMMA Today.
- SEC Approves Additional Post-Trade Data Collection.
- GASB: What You Need to Know about Local Government Investment Pools.
- GASB On the Horizon: Business-Type Activity Governments.
- Move America Bonds – Close Enough for Government Work.
- Bond Attorneys' Workshop – Registration Now Open.
- *Louisiana Local Government Facilities and Community Development Authority v. All Taxpayers* – Supreme Court of Louisiana reverses court of appeal's ruling that Community Development Authority's bond validation motion was defective due to CDA's failure to introduce into the record the resolution authorizing the issuance of the bonds; Bond Validation Act silent with regard to what evidence a governmental entity must introduce to meet its burden of proof in connection with a motion for judgment to validate bonds and Court declined to insert provisions into statute where the legislature had chosen not to do so.
- *J.P. Morgan Securities LLC v. Quinnipiac University* – District Court enjoins university from initiating FINRA arbitration on its claims against J.P. Morgan arising out of ARS-related losses, holding that FINRA arbitration rules were superseded by the forum selection clause in the parties' Broker Dealer Agreement.
- And finally, woman's after-the-fact argument that she was in dentist office basement by permission undercut just slightly by the fact that she: a) broke basement window; b) entered the basement via said window; c) informed a passerby, while halfway through the window, that she was just looking for her keys; d) refused to reply to police officers who showed up to help her find her keys; and e) blew a 0.27 (3x the legal limit!). No word yet on the keys, but police dog goes on the record in support of city's "bite and hold" (as opposed to "bark and hold") policy.

- Ed. Note: The BCB team was firmly committed to barely going through the motions of assembling this week's Memorial Day edition, so it came as quite the surprise to discover that we'd actually compiled a substantive product. We sincerely apologize for any inconvenience.
- To Disclose or not to Disclose – That is the Bank Loan Question: Butler Snow
- Fed Rule Would Let Banks Hold Some Munis as Crisis Buffer.
- Fed Proposes Limited Muni HQLA Rule.
- A Debt-Ratings Rift Rattles Chicago.
- Chicago Doesn't Hire Moody's to Rate Its Latest Debt Refinancing.
- Fitch Exposure Draft: Rating Public Sector Counterparty Obligations in PPP Transactions.
- Supreme Court Ruling on Maryland's Double Income Tax Could Impact Other States and Localities.
- Bond Buyer Webinar: Municipal Bond Valuation Evolution.
- *In re Pension Reform Litigation* – Supreme Court of Illinois holds that law purporting to amend the Illinois Pension Code by significantly lowering retirement annuity benefits for anyone first contributing to State-funded pension systems after January 1, 2011 violated the Pension Protection Clause.
- And finally, although the Supreme Court of Iowa ultimately gutted them like the proverbial, uh,

mammal, kudos to the failed co-op organizers in *Dolphin Residential Cooperative, Inc. v. Iowa City Bd. of Review* for representing Iowa's beleaguered indigenous dolphin population. Please send your cash donations directly to our attention and we'll be sure to pass them on.

- NASACT Releases Plain-English Educational Resources for GASB's New Pension Standards.
- US Municipal Credit Report, First Quarter 2015.
- Feds Push to Make All Public Financial Data Open.
- Moody's Public Finance Ratings Coming to MSRB's EMMA Website on June 1, 2015.
- Cities, Towns See Historic Savings on Bond Refinancings.
- BAML Economist Tells Muni Analysts: Don't Fear the Fed.
- Puerto Rico Crisis Seen Muddying MBIA's Bond-Insurance Comeback.
- IRS Qualified School Construction Bonds Webinar.
- *UMB Bank, National Association v. Leafs Hockey Club, Inc.* – District Court grants Trustee's motion to prove up damages following grant of summary judgment against bond beneficiary for its breach of Guaranty Agreement entered into between the parties; documentation submitted by Trustee to establish outstanding principal and interest deemed admissible pursuant to the business records exception to the hearsay rule.
- And finally, we highly recommend that you run right out and inform your municipality that it's been authorized to engage in some rather delightful practical jokes now that the Supreme Court of Arizona has ruled that police officers aren't on the hook for *mistaken next-of-kin notifications*. Fun for the entire family!

- S&P 2014 Annual U.S. Public Finance Default Study and Rating Transitions.
- MSRB Report Shows Delayed Disclosures, MCDC Impact.
- Muni Default History Poses a Ratings Riddle.
- S&P Issuer Credit Ratings for Community Development Finance Institutions (CDFIs).
- Municipal Issuer Brief: Update On Bank Municipal Investment Rules.
- ABA Section Submits Letter to IRS on Definition of Political Subdivision.
- NABL GASB 68 Teleconference.
- Special Assessment Financing: CDFA // BNY Mellon Development Finance Webcast.
- *Morris v. City of Cape Coral* – Supreme Court of Florida holds, in a matter of first impression, that city's two-tier methodology for assessing developed and undeveloped property was a reasonable method of apportioning costs associated with providing fire-protection services and was not arbitrary.
- *Moro v. State* – Supreme Court of Oregon holds that legislation reducing cost-of-living adjustment cap and bank and imposing fixed rates on benefits received impaired the contractual obligations of public employers in violation of the Contract Clause, but public employers could revoke offer of cost-of-living adjustment to Public Employee Retirement System benefit for future work without violating the state Contract Clause.
- And finally, we were initially baffled this week by the Supreme Court of Maine's reference to the construction of a "lobster pound" before concluding that it must by similar to a dog pound, but for homeless crustaceans. We're not sure if lobsters make good pets, but do recommend giving them a long, hot bath.

- Fixing Public Sector Finances: The Accounting and Reporting Lever.
- Bill Introduced to Require Bank Regulators to Treat Munis as HQLA.
- Bill Would Create New Type of Bond for Infrastructure.
- Chicago Mayor Pledges End to Scoop-and-Toss Restructurings.
- Risk Transfer Success Leads to Ratings Upgrades for Florida Citizens.
- Save the Date – GASB 68 Teleconference.
- *Nebuda v. Dodge County School District 0062* – Supreme Court of Nebraska holds that lease-purchase agreement that school district entered into with bank in order to fund school improvements after voters rejected a bond proposal did not violate statute governing such lease-purchase agreements, which barred a school district from "directly or indirectly" issuing bonds to fund a lease-purchase plan for a capital construction project exceeding $25,000 without voter approval.
- And finally, Great Moments in Animal Husbandry is brought to you this week by *Texas Student Housing Authority v. Brazos County Appraisal District*, in which we're hit with this bombshell in the middle of an otherwise benign tax opinion, "…the 4-H Roundup had 'definite and intimate relationships' with Texas A&M University." Yikes.

- The Bond Lawyer – Spring 2015
- Federal Securities Laws of Municipal Bonds Deskbook, Sixth Edition.
- Katten: Municipal Advisors and "Bank Purchase" Bonds: What's All the Commotion About?
- MSRB Releases Content Outline for First Municipal Advisor Professional Qualification Exam.
- Opportunities and Risks in Municipal Underwritings and Derivatives: WilmerHale
- PA Treasury Successfully Completes Commonwealth's First-Ever Competitive Bidding Process for Bond Counsel.
- SIFMA Forum: Alternative Financing in the Muni Market.
- *AHF-Bay Fund, LLC v. City of Largo* – Appeals court invalidates all state PILOT agreements that require a party to make payments that are the equivalent of ad valorem taxes that would otherwise be due but for a statutory tax exemption; certifies to the Florida Supreme Court as a question of great public importance.
- *Louisiana Local Government Facilities and Community Development Authority v. All Taxpayers* – Supreme Court of Louisiana holds that Community Development Authority's motion to validate certain municipal bonds pursuant the Bond Validation Act was not rendered defective by the Authority's failure to introduce the resolution authorizing the bonds into the record.
- *Radian Asset Assurance Inc. v. Madison County, Miss.* – District Court sides with bond insurer, holding that provision of Contribution Agreement entered into between County and (failed) Improvement District giving District two years to reimburse County for any bond payments made by County did not constitute a two-year cap on County's obligation to make bond payments; insurer's ultimate obligations to bondholders awaits adjudication.
- And finally, Fish/Barrel is brought to you this week by *City of Magee v. Jones*, in which the Supreme Court of Mississippi waded delicately into a case in which raw sewage entered a residence via a shower drain and flooded the home. Could there perhaps exist a common vulgarity applicable to this scenario? Golly, can't for the life of me figure out what that could possibly be.

- Fed Is Expected to Shift on Muni Bonds.
- MSRB Files MA Core Conduct Rule With SEC For Approval.
- Conduct Rule 'Unclear' on Underwriters Giving Advisory Services.
- Dealers Raise Some Concerns About New Trade Data Requirements.
- He Made $3.8 Million in Fees in an Odd Little Corner of the Muni Bond Market.
- Muni-Bond Insurance Actually Pays Off, Report Says.
- NABL Seeks Guidance Projects on Reissuance, Issue Price.
- *Golden State Water Company v. Casitas Municipal Water District* – Court of Appeal holds that bonds issued pursuant to the Mello-Roos Act can be used to finance eminent domain actions, in this case the acquisition of a private water utility by a newly-formed community facilities district.
- *Clarke County Reservoir Com'n v. Abbott* – Supreme Court of Iowa holds, as a matter of first impression, that joint public-private county reservoir commission, organized under joint governmental activity statute and including private members lacking the power of eminent domain, could not itself exercise the power of eminent domain or serve as an acquiring agency seeking a declaratory judgment of public use.
- And finally, Great Moments in Deductive Reasoning is brought to you this week by *Wentworth v. Coldwater*, in which cop conducts traffic stop of driver and releases him with a stern warning for a lane violation. Driver immediately proceeds to kill some folks (oops!), but court lets cop off the hook due to the fact that there was absolutely nothing to indicate that the driver may have been a wee bit intoxicated. I mean, besides "an odor of alcohol emanating from the vehicle, admission that others in vehicle had been drinking, high rate of speed, erratic driving, that it was 2:37 a.m. on a Saturday night, intoxicated driver's numerous past driving offenses, including alcohol-related offense, and intoxicated driver's admission that he was traveling from a local bar." Other than that…

- CDFI Fund Opens Application Period for FY 2015 CDFI Bond Guarantee Program.
- NASACT-NAST LGIP Workgroup Responds to GASB's Questions on Fees and Gates.
- SIFMA Unveils Model Document for Sophisticated Investors.
- The Muni Advisor Business: A Story of Explosive Growth and Change.
- Small Banks Finally Get Real Shot at Municipal Finance.
- BDA Submits Comment Letter: FINRA Proposal to Expand TRACE Dissemination to Additional Securitized Products.
- *Eminence Investors, L.L.L.P. v. Bank of New York Mellon* – Court of Appeals holds that putative class action against indenture trustee brought by holder of bonds issued by public financing authority fell within scope of Class Action Fairness Act's (CAFA) securities exception, and thus was not removable to federal court, where all of bondholder's claims were based on alleged duties that arose from bonds and indenture, and bondholder was clearly asserting its rights as holder of bonds rather than as purchaser of bonds.
- *Montgomery County v. Fraternal Order of Police* – Court of Special Appeals upholds County's right to spend County funds to campaign in favor of ballot referendum to eliminate effects bargaining for County police officers.
- And finally, mother attending son's little-league game sues town after she trips on what she herself admitted was a "divot" that was "only under two inches but I don't really remember." "Mom, your sleazy personal injury lawyer is embarrassing me!"

- SIFMA Develops Model Sophisticated Municipal Market Professional Affirmation for Institutional Customers.
- Bond Insurance Penetration Climbs to 5.8% in Q1.
- A Tale of Two Cities: How Municipal M&A Saves Taxpayers, Prevents Budget Shortfalls.
- Green-Bond Guidelines Show 'Incremental Progress'
- 2015 Municipal Finance Conference – Call for Papers.
- *Protect Our Benefits v. City and County of San Francisco* – Court of Appeal holds that City charter amendment conditioning the payment of supplemental COLA on the retirement fund being "fully funded" based on the market value of the assets for the previous year could not be constitutionally applied to employees who retired after effective date of initiative establishing the supplemental COLA.
- *110 Wyman, LLC v. City of Minneapolis* – Court of Appeal holds that statutorily-imposed "reasonably related" special services standard, rather than common law special-benefit standard, applied to landowners' challenge to charges imposed on property owners in special service district in city's downtown.
- And finally, Officer Down! is brought to us this week by *Vaughn v. City of Carbondale*, in which Officer Jeffrey Vaughn made the somewhat-less-than-ultimate sacrifice when he reached into his squad car for the radio and bumped his head on the door frame. Laugh all you want, but your editor has involuntarily encountered more than his share of police car door frames and can personally attest that they'll leave a mark.

- **Program Note:** It has come to our attention that the typographical errors issue has unexpectedly returned with the proverbial vengeance. This problem does not appear when we internally view and test the newsletter on various platforms. The issue arises only when the publication is sent out and then opened in Microsoft Outlook, an increasingly outdated application. Should you see any of these glitches in your version of the newsletter, please simply scroll to the bottom of the page and click the "View it in your browser" link, which will fix the problem. Once again, our sincerest apologies.
- McDermott: SEC No-Action Letter Permits Non-ERISA Retirement Plans to Issue Participant Fee Disclosures Without Violating Securities Laws.
- SIFMA Submits Comments to SEC on Placement Agent Activities of Municipal Advisors.
- SIFMA: SEC 15c2-12 Estimates Full of Gross Inaccuracies.
- Pennsylvania Issues Mandatory RFQ for State Bond Counsel.
- A Pension for Trouble.
- *Pat Harrison Waterway Dist. v. County of Lamar* – Supreme Court of Mississippi holds that waterway district's duties to operate and maintain its water parks and other improvements under its federal contracts were not outstanding contractual obligations that county was responsible for paying when county withdrew from the district.
- And finally, the homeowners in *Brost v. City of Santa Barbara* thoroughly obliterate the otherwise fine line between persistence and idiocy when they convince the court to let them rebuild their homes – incinerated in a wildfire – on top of an active landslide. Yeah, those look like locusts to me too. I'm sure they'll fly on by.

- SIFMA to SEC: No Exemptions for Non-Dealer MAs.
- MSRB Seeks Approval to Enhance Post-Trade Data Available on EMMA.
- Key Regulator Shows No Sign on Budging on Muni Bank Rule.
- Why Some Public Pensions Could Soon Look Much Worse.
- Moody's: Modest Credit Impact for GASB Pension Changes, but Contribution Weaknesses Now Highlighted.
- SLGS Sales Halt May Pose Challenges for Small Issues.
- Chicago's Gamble on Disclosure.
- *Cottrell v. Atlanta Development Authority* – Supreme Court of Georgia holds that City development authority was not required to actually construct, nor to own, new stadium project in order for it to issue revenue bonds to fund the project or for tax proceeds paid to the authority to be considered as part of the "revenue" to pay for the bonds.
- *Greene County Development Authority v. State* – Supreme Court of Georgia holds that record supported finding that county development authority's proposal to issue revenue bonds to finance construction of charter school was not sound, feasible, and reasonable and, thus, validation of bonds was not warranted.
- And finally, appearances to the contrary, *Caicedo v. Caicedo* is not a divorce case, but rather the bizarre tale of Officer Caicedo running over a young boy *also named Caicedo.* What the hell are the odds of that? Then we have the the Maine property owner who waged war against approval of his neighbor's Mother of All Benign Uses – a Frisbee golf course. This guy suffering from some kind of early-onset allergy to hippies?

- Cities Paying Millions to Get Out of Bad Bank Deals.
- NASACT Responds to GASB's PVs on Leases.
- NASACT Responds to GASB's PVs on Financial Reporting for Fiduciary Responsibilities.
- Dealer Donations to Mayor's Fund in LA Legal, But Raise Eyebrows.
- Supremacy's Claws: How Two Judges are Changing the Pension Debate.
- *City of Topeka v. Imming* – Court of Appeals holds that, because the state law creating STAR bonds – the method chosen by the City to finance its purchase of property to establish a redevelopment district – permitted a referendum election only in cases where a protest petition is filed, citizen was not entitled to a writ of mandamus compelling an election or repeal of the ordinance, as citizen's petition was not a protest petition.
- And finally, appeals court, in a shocking turn of events, declines to order the demolition of newly-constructed 40,000 square-foot grocery store and two additional retail commercial buildings. Next time around, fellas, perhaps request injunctive relief pending appeal? Just a thought. And, although it was surely an innocent mistake, BCB is now soliciting amicus briefs for *Spellcheck v. Foxxxy Ladyz Adult World, Inc.*

- GASB Issues Final Statement on Fair Value Measurement and Application.
- Recommended Best Practices in Disclosure for Direct Purchase Bonds, Bank Loans, and Other Bank-Borrower Agreements.
- SEC Gives Dealers 2 Week Window on MCDC Settlements.
- Lawyers Question Rating Disclosure Requirements.
- MSRB: Financial Disclosures Way Up, Bank Loans Not so Much.
- MSRB Seen Requiring ATS Pre-Trade Price Disclosures.

- SLGS Window to Close.
- Webinar on MSRB Rule G-45 on 529 Plan Data Collection.
- MSRB Supervision Webinar.
- And finally, Great Moments in Pedagogy is brought to you this week by *Nassar v. Jackson*, in which all you need to know about the interpersonal dynamics of the school board can be summarized by this quote from the opinion, "The hostility devolved into a profanity-laced exchange." School board of Hughes, Arkansas. Keepin' it classy.

- MSRB Publishes New Fact Book of Municipal Market Data and Invites User Feedback.
- MSRB Creates Professional Qualification Standards for Municipal Advisors.
- Best-Ex Rule Presents Liquidity, Compliance Challenges.
- Conduit Issuers, Dealers Face Some MA Challenges.
- Orrick Advises Goldman on Unique Bridge Financing to Propel Transbay Transit Center Project Down the Track.
- S&P: Proposed Criteria Changes Will Bring Greater Transparency to U.S. Municipal Water and Sewer Systems.
- Mixed Reviews on Disclosing Tax Incentives.
- IRS Issues Proposed Regs on Determining AFRs for Tax-Exempt Bonds: Tax Analysts
- Orrick: New Clean Renewable Energy Bonds IRS Notice 2015-12 Application Submission and Requirements.
- *Louisiana Local Government Environmental Facilities and Community Development Authority v. All Taxpayers* – After District Court declines to validate PACE bonds on due process grounds, Court of Appeal holds that state taxpayers and property owners do not have a protected property interest in challenging the validity of a bond resolution, but that it could not validate the bonds due to the Development Authority's failure to publish or introduce into evidence the bond resolution, notwithstanding the fact that no objections to the validation had been filed.
- *Hartland Glen Development, LLC v. Township of Hartland* – Court of Appeal rejects Tax Tribunal's blanket assertion that special assessments encumbering property can never result in a decrease in the property's true cash value (TCV); remands for factual inquiry as to whether the outstanding special assessments in this instance can and did decrease the property's TCV.
- And finally, we learned this week, via *Binschus v. State, Dept. of Corrections*, that the term "endorsed hallucinations" doesn't mean what we initially assumed, thus foreclosing a promising source of revenue for this admittedly delusional publication.

- Municipal Legal News – February 2015 – Volume 1, Number 1: Dickinson Wright
- SEC Officials Pushing Harsher Penalties, Streamlined Disclosure.
- Municipal Advisors Concerned About IRMA Exemption.
- March 6 is the Comment Deadline on the GASB'S Proposals on Fiduciary Responsibilities and Lease Accounting.
- Swimming with the Sharks: Goldman Sachs, School Districts, and Capital Appreciation Bonds.
- Draft Accounting Standards Raise Thorny Questions About Accounting for P3 Risks.
- IRS to Allocate Nearly $1.4 Billion in New CREBs Volume Cap: McGuireWoods
- *In re City of Stockton, California* – Bankruptcy Court confirms the City of Stockton's chapter 9 plan of adjustment of debts, holding that pension contracts entered into by the City, including its pension administration contract with CalPERS, may be rejected pursuant to Bankruptcy Code §

365. 11 U.S.C. § 365; bankruptcy practitioners will want to read this interesting, well-written opinion in its entirety.

- *In re Woodham* – Supreme Court of Georgia holds that attorney's conduct in asking developers to pay him 1%($1.3 million!) of the bond amount to dismiss complaints in intervention in bond validation proceedings did not violate rule of professional conduct forbidding an attorney from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; Court seems to be letting him off the hook because he was completely honest about the fact that this was a shakedown.
- *In re City of Detroit* – In this Amended Opinion and Order Regarding the Reasonableness of Fees Under 11 U.S.C. § 943(b)(3), Bankruptcy Court finds that the fees billed to the Detroit by the professionals engaged in the City's bankruptcy and restructuring were reasonable; Court extremely complimentary of the lawyers involved in this case; worth a skim.
- *In re City of Detroit* – Previously-published Detroit bankruptcy opinion now with Westlaw Headnotes, making it much easier to navigate this monster.
- And finally, in its opinion confirming the fees charged by the professionals in the Detroit kerfuffle, the Bankruptcy Court noted that, among others, Jones Day, Debevoise & Plimpton, Lazard, and Pepper Hamilton had filed briefs supporting confirmation. In opposition? A Ms. Angles (sic?) Hunt. The occasional David notwithstanding, the smart money remains on the big guy.

- Obama's Proposed 2016 Budget Seeks to Address Infrastructure Needs: Ballard Spahr
- Judge Says $178 Million Detroit Bankruptcy Fee Tab 'Reasonable'
- Bank Loan Disclosure Fraught With Uncertainty.
- Eight Things we Learned From the Detroit Bankruptcy.
- MSRB Rule G-45 on 529 Plan Data Collection: Upcoming Effective Date and New Manual.
- U.S. District Court Holds that Puerto Rico's Recovery Act is Unconstitutional: Cadwalader
- GFOA: An Elected Official's Guide – Internal Control
- CDFA, Yale Clean Energy Finance Forum Launches New Webinar Series.
- *Schwegel v. Milwaukee County* – Supreme Court of Wisconsin holds that county employees who had not retired did not have vested contract right in reimbursement, and therefore county ordinance that prospectively eliminated Medicare Part B premium reimbursement upon retirement for county employees who did not retire before retirement dates established by county did not impermissibly abrogate a vested contract right.
- And finally, Patience Drake Roggensack. I'm sure that she's a fine Justice, and serves with distinction on the Wisconsin Supreme Court, but she's also Exhibit A in *People v. Lady, Please Just Keep Your Maiden Name*.

- US Municipal Credit Report, Fourth Quarter and Full Year 2014.
- The Bond Lawyer – Winter 2015
- GFOA GAAFR Supplement.
- Lawyers Recommend Disclosure Strategies in Wake of MCDC.
- What Obama's 2016 Budget Means for States and Localities.
- Best Bonds Seen Due Beyond 22 Years as U.S. Expands: Muni Credit.
- GFOA Executive Board Approves 10 Best Practices, Advisories.
- Recent Favorable IRS Guidance for Tax-Exempt Bond Financed Facilities: Ballard Spahr.
- *Board of Trustees of City of Omaha Police and Fire Retirement System v. City of Omaha* – Supreme

Court of Nebraska holds that board of trustees of city retirement system had authority to hire actuarial consultant at city's expense, but lacked authority to hire private legal counsel unless there was a conflict of interest preventing city attorney from serving.
- And finally, for evidence of a little clerk-on-clerk violence going down behind the scenes at the Alabama Supreme Court, see the following: Murdock, J., filed opinion concurring specially; Moore, C.J., filed opinion concurring in the result; Main, J., concurred in the result; Shaw, J., filed dissenting opinion; Bryan, J., filed dissenting opinion. Kumbaya, anyone? Anyone?

- Obama Budget Adds Muni Programs, Contains 28% Cap.
- MSRB To Seek SEC Approval of MA Gifts Restriction, Test Outline.
- New Best Execution Requirement For Municipal Securities Transactions: Morgan Lewis
- Volcker Delay a Plus for Munis.
- Muni Investors Need More Information on Issuers' Other Debts: Regulator.
- S&P U.S. Municipal Water and Sewer Utilities 2015 Sector Outlook: And the Winner Is…
- IRS Issues Favorable But Limited Ruling on Total Return Swaps.
- Moody's Introduction to Public Finance Seminar.
- And finally, "No hard feelings about forcibly placing you in handcuffs, denying critically-needed medical care, and accusing you of drunk driving when in actuality you had suffered a stroke and crashed into the sidewalk while driving home from your stint at the neo-natal intensive care unit, right Dr. Harb? Dr. Harb?"

- **Program Note:** This week's issue includes links to articles published by Tax Analysts, which is a subscription service. It's a deservedly popular service, so please check with your librarian or tax folks to determine if your firm is already a subscriber. We're working on obtaining permission to publish full articles.
- MSRB to Discuss MA Exams, Gift Restrictions, Principal Transaction Disclosure.
- Muni Groups: SEC Disclosure Rule Outdated, Needs Overhauling.
- Dealers to MSRB: Withdraw Principal Trade Disclosure Proposal.
- SIFMA Supports Increased Bond Market Price Transparency for Investors; Urges Greater Access to and Usage of Existing Data on FINRA and MSRB Systems.
- QPIBs Provide a Level Playing Field for Public-Private Partnerships.
- S&P: Why U.S. Availability Projects are Not Rated the Same as the Counterparty.
- GASB Adds External Investment Pools to Its Technical Agenda.
- WSJ: Detroit's Lawyers and Advisers Defend Billing.
- Congress Extends QZABs, New Markets Tax Credits; Continuing Effect of Sequestration: McGuire Woods
- *American Federation of Teachers v. State* – Supreme Court of New Hampshire upholds statutory amendments affecting the calculation of benefits under the New Hampshire Retirement System, finding that the statute's defining of "earnable compensation" did not create a contractual right to a fixed definition of that term.
- And finally, *Argabrite v. Neer* was good enough to provide us this week with the most accurate description of the BCB workplace to date, "atrocious, and utterly intolerable in a civilized society."

- Bond Dealers of America – 2014 Year in Review.
- Att. Gen's Brief Supports Town in Prism-Bonds Case.
- Obama Proposes New Muni Bonds for Public-Private Investments.
- Indy Justice Center Draws Big Guns to U.S. P3 Market.
- Cash-Flow Crunch Wanes as Note Sales Set Record Low: Muni Credit.
- Muni Market Participants Applaud QPIB, Water Proposals.
- Webinar on MSRB Rule G-18 on Best Execution of Transactions in Municipal Securities.
- IRS Tax Exempt Bonds Director's Updates for Fiscal Year 2015.
- MSRB: Municipal Financial Disclosures Rise Sharply in 2014.
- And finally, our earlier supposition that requiring middle-school girls to participate in a mixed martial arts (i.e. cage fighting) tournament as part of their phys-ed requirements would likely end in tears was confirmed this week by *Pierre v. Ramapo Cent. School Dist.* As if that wasn't enough the legal term of art "infant plaintiff" conjured the absolutely priceless image of toddlers placing each other in choke holds. "And in this corner, Lily 'The Pacifier' Edwards!"

- Government Accountability Office Study on Long-Term Liabilities.
- FINRA Lays Out Exam Priorities.
- SIFMA, ICI Urge SEC Not to Approve MSRB Test Proposal.
- Moody's Request for Comment – Tax Increment Debt.
- Bondholder Sues Bankrupt San Bernardino for Favoring Calpers.
- Dynamic Scoring Could Make Tax Reform Easier.
- Continuing Disclosure After MCDC: Complimentary Webinar
- *Ex parte Bronner* – Supreme Court of Alabama holds that the prudent-man rule did not advance a specific duty that could have served as a basis for a court order to the executive branch to take certain action going forward, as would surmount the wall of sovereign immunity from action by public employee and teacher against CEO of the retirement systems, and officers and members of their boards for alleged breach of fiduciary duty for investing in state-based investments that arguably produced lower returns than could have been obtained elsewhere.
- *California v. U.S. Dept. of Labor* – District Court holds that the DOL's refusal to issue 13(c) certifications to California transit agencies following passage of California pension reform legislation was arbitrary and capricious in violation of the APA, as the statute did change the parameters within which collective bargaining could proceed but did not give a transit agency unilateral authority to eliminate collective bargaining in its entirety.
- *In re Ravenna Metropolitan District* – Bankruptcy Court rules in favor of bondholders in their objection to municipal district's bankruptcy filing, finding that district had not met its burden of showing that it was insolvent under the current-state-of-affairs test due, in part, to the fact that the failure to make an interest payment on the bonds was not an event of default that rendered the bonds immediately due and payable.
- And finally, in what we can only hope is a matter of first impression, the Court of Appeal of Alabama holds that an undershirt is not a part of an educator's teaching/coaching uniform. Good to know that's settled.

- Outlook 2015: Another Year of the Muni Advisor?
- MSRB to Begin Accepting Municipal Asset-backed Securities Disclosures on EMMA.
- Do Credit Ratings Matter Anymore?

- Municipal Bond Maturities to Decline 38% After Market Contracts.
- Municipal Defaulters Decline Amid Improving Economy: Muni Credit.
- Expect More Tax Guidance in 2015.
- Bond Tax-Break Threat Recedes With Federal Deficit: Muni Credit.
- States Will Have Greater New Capacity to Issue PABs in 2015.
- *O'Connor v. City of Philadelphia Bd. of Ethics* – Supreme Court of Pennsylvania holds that law firm's forgiveness of mayoral candidate's campaign committee's debt did not constitute a "contribution" to candidate's political campaign.
- And finally, the latest entry in BCB's Department of You Poor, Poor Bastard is brought to us by *St. Joseph Catholic Orphan Society v. Edwards*, in which counsel for real party in interest prepared an appellate brief on behalf of his client for submission to the Supreme Court of Kentucky, which promptly refused to accept it due to the fact that he had missed the filing deadline by a single day. The court went on to chastise the poor, poor bastard in its opinion for whining about mistranscribing the deadline in his calendar and then dragging his mother into the debacle by arguing that he had been distracted by her impending surgery, which the court characterized as a routine, previously-scheduled, procedure. As much as I admire those wingtips, can't say that I'd like to find myself standing in them at the moment.

- MSRB Reminds Dealers of the January 1, 2015 Effective Date of Amendments to MSRB Rule G-3 on Firm Element Continuing Education.
- A New Prosecutorial Frontier – SEC Seeks Bans on Municipal Officials: Burr & Forman.
- Environmental Risks Becoming Part of Bond Assessments.
- Public Finance Predictions for 2015.
- Expect More Tax Guidance in 2015.
- IRS Chief Counsel: BABs Defeasance Causes Reissuance.
- Congress Extends QZABs, New Markets Tax Credits; Continuing Effect of Sequestration: McGuire Woods
- Pension Time Bomb Ticks as Disclosure Rules Toughen: Muni Credit.
- Municipal Bond Interest Paid By a Bond Insurer After an Issuer's Bankruptcy Discharge Can Remain Tax-Exempt: Mintz Levin.
- *Town of Black Mountain v. Lexon Ins. Co.* – Appeals court holds that county was entitled to assign subdivision performance bonds to town in connection with town's annexation of the land covered by the bonds.
- *City of New Orleans v. AMBAC Assurance Corp.* – In suit brought by city against bond underwriters in connection with failed interest rate swap that resulted in refinancing of variable rate muni bonds, appeals court holds that city was prohibited from introducing new alleged misrepresentations at trial that should have been pled in the original complaint.
- And finally, after scoring a totally killer deal from a gypsy on some magic beans, Daniel Meints finds some loose change in his ashtray which he uses to purchase an occult totem (aka a No Trespassing sign) that, shockingly, fails to ward off the evil spirits (aka city code enforcement officers) that had been bedeviling his property. Still waiting on the beans. Be sprouting any day now.

- **Program Note:** We'll be taking next week off to spend some much-dreaded time with our families. We'll be back on the 30th to wrap up the year.
- S&P: U.S. Local Government Rating Review Shows Varied Economic Conditions Being Met With Sound Financial Underpinnings.
- S&P: U.S. State and Local Government Credit Conditions Forecast: For 2015, the Future is Now.
- MSRB Adopts Best-Execution Rule to Enhance Fairness and Efficiency in the Municipal Securities Market.
- SIFMA Submits Comment Letter to MSRB on MSRB Rule G-20 relating to Gifts, Gratuities and Non-cash Compensation.
- S&P Request for Comment: U.S. Public Finance Waterworks, Sanitary Sewer, and Drainage Utility Systems: Methodology and Assumptions.
- NABL Submits Comments to IRS on Purpose Investment Valuation.
- Nabors, Giblin deviously waits till winter to advertise a public finance associate position in sunny, sunny Tampa, Florida.
- And finally, condo association engages in ruinously expensive litigation to (rather uncharitably) prevent sewer district from running a trunk line across its property, only to eventually be stuck with both a sewer line *and* a $1,350 payment for the easement, which presumably more than covered its attorneys fees. Is there such a thing as a Pyrrhic Defeat?

- S&P's 2014 U.S. Muni Roundup: The Changing Landscape of the Municipal Market.
- SIFMA Issues 2015 Municipal Bond Issuance Survey.
- MSRB Municipal Advisor Review – Winter 2014.
- MassDirect Notes Win Deal of the Year.
- U.S. Municipal Bond Issuance to Flatline in 2015 – SIFMA.
- CDFA Fundamentals of Economic Finance WebCourse.
- And finally, the Township of Lansing gets its feelings hurt when gratuitously described in an opinion as "essentially irregularly-shaped, piecemeal, and noncontiguous remains." Courts can be so cruel. And, while we're going to go out on a limb here and officially oppose gender-based pay discrimination, if you're going to attempt such a thing, perhaps don't officially memorialize it in the minutes of your county's board meeting? Reducing a department-wide pay raise from $1.00 to $0.70 for the sole woman in the department "based on what other women had received" may just come back to bite you.

- SEC Raises Pressure on Borrowers as Leniency Ends: Muni Credit.
- SEC Seeking Comments on Disclosure Rule.
- MSRB to Accept Disclosures about Municipal Asset-Backed Securities.
- Proskauer: Firms Have Roadmap for Expanding Litigation of Customer Disputes After Second Circuit Holds Forum Selection Clauses Trump FINRA's Mandatory Arbitration Rule.
- MSRB and FINRA to Host Webinar on Proposals to Provide Pricing Reference Information to Investors.
- Are Muni Bonds Being Replaced by Direct Loans?
- And finally, the Inaugural Easterbrook Prize for Delightfully Written Opinions goes to Judge Charles E. Moylan, Jr. for his opinion in *Holloway-Johnson v. Beall*, which includes the following: a

heading entitled, “A Furiously Contested Moot Question”; “a tempestuous Punch and Judy exchange of irrelevancies”; “The presence or absence of malice, simple or actual, has not been a dispositive factor in this case. It has nonetheless haunted our analysis of the voluminous caselaw on tort claims. What is ‘actual’ malice? Is there indeed some junior varsity level of malice that is less than actual? If not, what possible function is being served by the annoying adjectival qualifier ‘actual’ in the frequently, but not universally, recurring phrase ‘actual malice’?”; and a footnote reading, “This is ‘a maneuver in which a bicycle, motorcycle, or car has its front wheel or wheels momentarily lifted off the ground.’ ‘Wheelie.’ Dictionary.com Unabridged. Random House, Inc.” which may nor may not have been inserted tongue-in-cheek but, regardless, feels cheeky. Thanks, Judge.

- *Quick Request:* For those of you who receive the newsletter in Outlook, please select the View As Web Page option prior to reading the publication. In keeping with our form-over-substance policy, we put considerable effort into creating a nicely-formatted publication, which Microsoft has utterly defaced. In keeping with our penchant for grandiosity and paranoia, we believe this to be a result of a personal vendetta on the part of Mr. Gates.
- Many U.S. Muni Bond Issuers, Underwriters Report Rule Violations – SEC.
- Issuers Head to the MCDC Wire.
- Dirty Deals: How Wall Street’s Predatory Deals Hurt Taxpayers and What We Can Do About It.
- WSJ: Small Towns Go to Bat for Wall Street Banks.
- GASB Issues Preliminary Views on Lease Accounting for State and Local Governments.
- GASB Issues Preliminary Views on Reporting Governments’ Fiduciary Responsibilities.
- *Lifespan Corp. v. National Union Fire Ins. Co. of Pittsburgh, Pa.* – After hospital and state AG obtain judgment against corporate parent for $29 million stemming from breaches of fiduciary duties and gross negligence in connection with revenue bond refi interest rate swap, parent sues its D&O insurers for indemnification and the District Court rules in favor of parent, finding that the Securities Exclusion of the D&O policy was inapplicable as the swap was not a “security.”
- And finally, things we learned this week include: the going rate for amputating a student’s leg with a school bus is $500k; considerable paperwork results when police officers “consume alcohol after lawful hours while armed in a crowded restaurant prior to engaging in an uncontrolled brawl” and; entering into a questionable interest rate swap in order to suck up to your broker in the hope that he’ll let you join his wine club will inevitably end in tears.

- IRS Publishes Final Regs on Arbitrage Rebate Overpayments.
- NABL Comments in Response to MSRB Regulatory Notice 2014-16.
- Ballard Spahr: SEC Charges City Mayor as a Control Person in Allen Park, Michigan, Enforcement Action.
- Mintz Levin: SEC Introduces “Control Person” Liability as Enforcement Action Weapon in Claim Against Municipal Officer for Misleading Bond Offering Document.
- MSRB, FINRA Propose Principal Trade Disclosure.
- S&P: U.S. Public Finance Rating Improvement Cools in the Third Quarter After the Local Government Criteria Implementation Period.
- NAST-NASACT Workgroup Issues Letter Regarding Changes to SEC Rule 2a-7 and the Impacts on Local Government Investment Pools.
- Newest Version of Two Deskbooks Now Available.

- GASB: On the Horizon.
- NABL Ethics Teleconference.
- And finally, the appeals court in *Morawek v. City of Bonney Lake* ruled this week that a hearing examiner's finding that owner's dog (Scout) killed neighbor's cat (Oriel) without provocation was not supported by substantial evidence, as required to uphold dangerous dog designation. Dogs everywhere are shocked to learn that the mere existence of cats does not constitute provocation *per se*.

- NFMA Draft Recommended Best Practices in Disclosure for State Government General
- Obligation and Appropriation Debt.
- SIFMA US Municipal Credit Report, Third Quarter 2014.
- CDFA Intro to Tax Increment Finance WebCourse.
- Moody's Seminar: Financial Analysis of Local Governments.
- Webcast: GASB Proposes New Tax Abatement Disclosure Rule.
- GFOA 19th Annual Governmental GAAP Update (Rebroadcast).
- And finally, your Editor sighed and resigned himself to a life of celibacy when the opinion in *Union Drainage Dist. No. 1 of Towns of Pana, Assumption, Christian County v. Wilhour* revealed to him that he would never be able to approach a woman in a Chicago bar and identify himself as "one of the leading authorities on drainage in Illinois." Apparently that gig's taken.

- Mea Culpa: The Bond Case Briefs website was down for a few days last week due to a thoroughly preventable problem with our domain registration. Consequently, all emails sent our way during that period were also lost and remain unrecoverable. We sincerely apologize, both for the outage and for our inability to respond to any and all resulting requests for clarification.
- Chan Warns Of Secondary Market Crackdown.
- BDA Sends Letter to SEC on SMMP Exceptions, Requests Bifurcated Affirmation Process.
- Ballard Spahr: Regulators Decline to Exempt TOBs from Risk Retention Rule but Add Helpful Revisions and Clarifications.
- Governments Would Disclose Information on Tax Abatements Under GASB Proposal.
- New Rule Could Require Governments to Report Tax Incentives as Lost Income.
- *Brown v. Denton* – Court voids settlement agreement between city, public pension board, and union arising from closed-door mediation sessions with federal mediator, finding that mediation constituted collective bargaining, which violated state Sunshine Law.
- *Rotz v. Van Kampen Asset Management* – Appeals court dismisses shareholder derivative action brought against investment trusts and their financial adviser in connection with the redemption of auction rate securities, finding that the decision of disinterested trustees not to pursue litigation against the adviser – based on a comprehensive report by a disinterested special litigation committee – was protected by the business judgment rule.
- *Kozel v. Andrews* – Court of Appeals holds that bankruptcy trustee failed to present sufficient evidence that members of bankrupt hospital's board had consciously disregarded the risk that approval of capital project, including $17.3 million in revenue bonds, would result in injury or damage to the hospital, granting summary judgment in favor of board members sued by trustee.
- And finally, get ready to play a game we call Deposition Transcript or Your Editor's Typical

Saturday Night? “I knew I was coming up to the steps, so I paid attention. I just didn’t see the step there…. The next thing, I just sort of-I was going-I just shot out like that, and my head was going towards the car that was parked there, and I thought I was going to hit the car head-on. And then I just splatted on the sidewalk.”

- Sixth Edition of Federal Securities Laws of Municipal Bonds Now Available.
- NABL Summary of Viewpoints on MCDC Now Available.
- BDA Sends Letter to SEC & MSRB: Urges Closer Look at Non-Dealer Placement Activities.
- SEC Proposal to Remove Rating References From MMF Rule Sparks Concerns.
- MSRB Creates Supervision and Compliance Requirements for Municipal Advisors.
- SEC’s Cross Says Shine a Light on Tax-Free Market: Muni Credit.
- IRS Issues Guidance on Facilities Financed With Tax-Exempt Bonds.
- Introducing The Bond Buyer’s National Outlook 2015 Conference.
- Ethical Considerations of the MCDC Program for Bond Lawyers Teleconference.
- And finally, the Supreme Court of Georgia is forced to speak slowly and use small words as it attempts to explain to the good folks of Newton County that *non-existent documents cannot be incorporated by reference*. Unless, of course, you’re zoning Candy Land. Otherwise, not so much.

- Quick Note: We are fully aware that the one category in which BCB exceeds its mandate as a municipal finance publication is our coverage of case law, where we include cases more relevant to city attorneys (e.g. zoning, municipal ordinances) than to those of you representing large issuers and underwriters. If you’ve been scanning through the case briefs and asking yourself, “What the hell does this have to do with me?” please note that all cases relevant to municipal issuance and finance will be featured in the Highlights section.
- MSRB Strengthens Continuing Education Requirements for Municipal Securities Dealers.
- BDA Submits Comment Letter to MSRB on Rule G-37.
- IRS LTR: Income Exempt as Exercise of Essential Government Function.
- MCDC III Podcast is Now Available Online.
- *City of San Bernardino, Cal.* – Bankruptcy Court holds that city acted in “good faith” when, in response to financial crisis, it filed for Chapter 9 relief although city did not engage in meaningful prepetition negotiations with its creditors and did not seriously consider alternatives to filing for Chapter 9 relief.
- *Kohl’s Illinois, Inc. v. Marion Cty. Bd. of Revision* – Supreme Court of Ohio holds that Tax Increment Financing agreement’s no-contest covenant, which precluded developer and property owners from contesting assessed valuations of improvements for real property tax purposes, did not impose jurisdictional limitation on county Board of Revision regarding property owner’s valuation complaint and that, as a result, the beneficiaries of the covenant had the burden to come forward and prove their entitlement to a dismissal of the complaint.
- Couple of big public utilities cases below, if you’re into that kind of thing.
- And finally, this week’s Interesting Conflict, Your Honor is brought to you by *Ray v. Judicial Corrections Services, Inc.*, in which a certain Alabama gent served as a part-time judge for a number of municipalities. Oh, did I mention that his full-time job was muni bond salesman? What could possibly go wrong?

- Intro to Tax Increment Finance WebCourse.
- GFOA's 19th Annual Governmental GAAP Update.
- S&P 2014 U.S. State Debt Review: New Issuance Remains A Lower Priority.
- SEC Concerned About MA Registration and Misuse of IRMA Designation.
- S&P Defends Higher Municipal Credit Ratings.
- Monoline Insurers 'Could Reach 10%' of Muni Market Again – Citi.
- IRS Requests Comments on Tax-Exempt Bond Arbitrage Regs.
- *Bennett v. Jefferson County, Ala.* – District Court holds that county sewer ratepayers' appeal of bankruptcy court's order confirming county's Chapter 9 plan – asserting that the plan unconstitutionally gave the bankruptcy court the power to approve rate hikes and violated their constitutional right to avoid "overly burdensome debt" without due process – was not constitutionally moot, even though the confirmation order had taken effect. Although the scope of relief might have been limited, the Court could fashion some form of meaningful relief by striking the confirmation order's rate-structure provision.
- *In re JP Morgan Auction Rate Securities (ARS) Marketing Litigation* – District Court dismisses standard-issue ARS securities action against JP Morgan, finding that Plaintiff had not pled facts sufficient to show that JP Morgan had the scienter necessary to engage in fraud, either through market manipulation or through misrepresentations and omissions.
- And finally, the lawyers are left to sift through the tea leaves when the District Court issues this highly ambiguous statement in dismissing a case against the SEC because the case, "was filed in the wrong court at the wrong time by the wrong plaintiff." Other than that, Mrs. Lincoln, how was the play?

- Federal Accounting Board Releases P3 Disclosure Requirements for Comment.
- SEC, FINRA and the MSRB to Hold Compliance Outreach Program for Municipal Advisors.
- S&P: The Updated General Obligation Criteria Reflect the U.S. Local Government Sector's Strength and the Importance of Qualitative Analysis.
- Insurers Build Market Share as Detroit Shows Value: Muni Credit.
- Judge Says Cities in Bankruptcy May Reject Pension Contracts.
- IRS TE/GE Advisory Committee Requests Applications.
- NABL MCDC Teleconference.
- *Tulsa Indus. Authority v. City of Tulsa, Oklahoma* – Supreme Court of Oklahoma holds that bondholders who purchased bonds used to finance the underlying transaction were necessary parties to declaratory judgment action by city industrial authority seeking to validate authority's expenditure of public funds, in which taxpayer intervened seeking to enjoin authority from making payment to bondholders, where bondholders could have chosen to prosecute an action separately from the lawsuit, leaving authority subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations.
- And finally, Great Moments In Commuting is brought to you this week by *Alabama Mun. Ins. Corp. v. Allen*, in which a perhaps slightly over-eager officer was chided for hitting 103 mph (in a 45 mph zone) while driving his patrol car to work. We also cover the sad tale of an epic eminent domain case that required seven years of litigation, a 100-day trial, and a 19,000 page transcript but will be remembered solely for the phrase, "an overwhelming smell of urine in the stairwells and hallways." Hopefully, not in the courthouse.

- Ballard Spahr: SEC Enforcement Round-Up, 2014 to Date.
- SCOTUS May Weigh In On Right To Arbitration.
- A New Breed of Muni Bond Is Financing Climate Change Adaptation.
- MSRB Makes Kroll Bond Ratings Available to the Public through its EMMA Website.
- Real Estate Munis Coveted in Riskless Return Chase.
- GASB User Survey on the Effectiveness of Statement 34.
- GFOA Executive Board Approves Four Best Practices.
- *Cromeans v. Morgan Keegan & Co., Inc.* – In ongoing litigation brought by bondholders against underwriter and its counsel after failed issuance, District Court grants Motion for Class Certification for Blue Sky and negligent underwriting claims, but not for negligent and fraudulent misrepresentation claims.
- And finally, that sound you heard was your editor breathing a colossal sigh of relief upon learning that the crime of Solicitation With Animals is merely "the use of a live animal to request or demand money." When the only other use of "solicitation" in a criminal context involves something quite a bit more tawdry than panhandling, might be best to leave the animals out of it, no?

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