Chapter Five:

Foundations and Contingency Fees: The Private Financing Behind Government Climate Litigation

The plaintiffs' attorneys in the climate litigation campaign are trying to make litigation a financially risk-free proposition for local mayors and other officials who want to say they are "doing something" about climate change. As part of this proposition, these lawyers do not ask the governments to provide upfront funding for these lawsuits. But as it turns out, the litigation is also largely risk-free for the lawyers.

As explained in previous chapters, the lawyers have received funding from private foundations to wage much of this litigation as a political tool. Unable to achieve their agendas through the public policy process, the foundations are using the threat of a multitude of high-profile lawsuits to accomplish their political goals through the courts.

"Lawyers have received funding from private foundations to wage much of this litigation as a political tool. Unable to achieve their agendas through the public policy process, the foundations are using the threat of a multitude of high-profile lawsuits to accomplish their political goals through the courts."

Irrespective of the outcome of the lawsuits, the lawyers still receive payment—they're paid simply to generate this litigation. For example, as Chapter One explains, Matt Pawa was not attached to a large firm when he spent seven years representing the plaintiffs in AEP v. Connecticut, but received the funding he needed to wage the case from benefactors to his non-profit, the Global Warming Legal Action Project.[1] EarthRights International and the Niskanen Center, both representing Boulder in its climate case, are non-profits funded by donations.[2] Because their attorneys have not been admitted to practice law in Colorado, they partnered with the Denver-based Hannon Law Firm, which is working under a 20 percent contingency fee arrangement.[3] Sher Edling LLP, which is representing several climate public nuisance litigants, received more than $400,000 in a single grant from the Resources Legacy Fund, even though the law firm is a for-profit enterprise.[4]

Despite this funding, the private lawyers pursuing climate change litigation are also seeking huge contingency fees from the governments if the litigation is somehow successful in generating a settlement or litigation award. Contingency fees were intended to offset the risk for lawyers so that they would invest their own time and resources in cases for people who could not afford to pay them. Even though the plaintiffs' lawyers are not taking these kinds of risks here, they are still seeking a huge payday.

"Contingency fees were intended to offset the risk for lawyers so that they would invest their own time and resources in cases for people who could not afford to pay them. Even though the plaintiffs' lawyers are not taking these kinds of risks here, they are still seeking a huge payday."

This means the lawyers have no motivation to work constructively with manufacturers and communities to fight the causes and impacts of climate change if it doesn't produce money for them. This is part of why tort litigation is ill suited for achieving climate-related public policy goals. What is needed is a balancing of interests and incentivizing innovation—not paying off the trial bar.

"Lawyers have no motivation to work constructively with manufacturers and communities to fight the causes and impacts of climate change if it doesn't produce money for them. This is part of why tort litigation is ill suited for achieving climate-related public policy goals. What is needed is a balancing of interests and incentivizing innovation—not paying off the trial bar."

The Goals of Contingency Fees and Why Climate Litigation Distorts Them

Contingency fee arrangements to finance litigation have become common, mostly in U.S. personal injury litigation, because they allow someone with limited resources to hire a lawyer at no upfront cost. The lawyer finances the lawsuit and gets paid only if the lawsuit results in a recovery for the plaintiff. The lawyer's fees—a percentage of the monies received—are paid out of the recovery. If the lawyer loses the case, he or she receives nothing. In the personal injury context, it is common for plaintiffs' lawyers to seek a third of any judgment or settlement, plus costs.

Given lawyers' risk of losing their personal investment in a case, a common argument is that contingency fee arrangements safeguard against lawyers filing highly speculative or bad cases. Further, if a case is overly speculative or abusive, the courts may not only rule for the defendant but may also make the plaintiff and plaintiff's lawyers pay the defendant's fees in defending the case.[5] While unusual, a court can throw out a contingency fee agreement if it deems it unconscionable.[6] Contingency fees are not used in many other countries and are legal in only a few places, including the United States and Canada.[7]

> "The rationale for contingency fees is not operative in climate change litigation. The lawyers are not risking their own resources—or anyone else's resources—to develop and bring all of this litigation. Also, the foundations providing them with the grants to recruit governments to file the cases are not necessarily banking on the success of the litigation. Rather, to them, the mere generation of the lawsuits is a victory in itself."

The rationale for contingency fees is not operative in climate change litigation. The lawyers are not risking their own resources—or anyone else's resources—to develop and bring all of this litigation. Also, the foundations providing them with the grants to recruit governments to file the cases are not necessarily banking on the success of the litigation. Rather, to them, the mere generation of the lawsuits is a victory in itself. They are hoping to leverage the filings, reputational damage and threats of high-profile litigation to achieve a political goal. Thus, in these cases, the threat of losing is not a sufficient safeguard against highly speculative or abusive litigation.

The Huge Dollars and Opportunity for Abuse in Government Contingency Fee Litigations

The potential for cashing in on government contingency fee cases, including over climate change, can clearly mean life-changing money for the lawyers and their allies. As indicated in earlier chapters, their strategy—developed at the La Jolla conference in 2012—was to replicate tobacco litigation. In 1998, the Master Settlement Agreement reached between the attorneys general for 46 states, five U.S. territories, the District of Columbia and the five largest U.S. cigarette companies resulted in $13 billion paid to plaintiffs' attorneys through contingency fee arrangements.[8,9]

History has shown that these payouts had little relation to the number of hours actually spent working on these cases. For example, in Michigan, attorneys were awarded $450 million in contingency fees, equaling an hourly rate of $22,500.[10] Attorneys representing New York received $625 million in fees, which came out to $13,000 per hour.[11]

There also was widespread concern over which law firms the state retained and who was in line for this life-changing payday, from friends to campaign donors.[12] In Pennsylvania, two private firms handpicked by the attorney general to represent the state split $50 million.[13] In Texas, the attorney general was later sentenced to four years in federal prison for attempting to funnel millions of dollars' worth of these legal fees to a friend.[14]

What the tobacco litigation showed was that contingency fee arrangements were no longer merely a valuable tool for individuals with limited funds to access legal representation. They became part of a get-rich-quick strategy for private lawyers to recruit their friends in government as plaintiffs, make the litigation free for them, take advantage of the governments' authority and leverage the ability to generate multiple huge and speculative lawsuits against companies into forcing settlements.

> "What the tobacco litigation showed was that contingency fee arrangements were no longer merely a valuable tool for individuals with limited funds to access legal representation. They became part of a get-rich-quick strategy for private lawyers to recruit their friends in government as plaintiffs, make the litigation free for them, take advantage of the governments' authority and leverage the ability to generate multiple huge and speculative lawsuits against companies into forcing settlements."

Steve Berman, a leading lawyer in the climate cases, represented more than a dozen states on a contingency fee basis in the tobacco litigation.[15] In Illinois alone, he was awarded $121 million by the national Tobacco Fee Arbitration Panel.[16] Steve Berman said his goal in the climate change cases was to mimic this legal strategy: "get ten or 15 cities to all sue and put the same pressure on the oil companies that we did with tobacco companies and create some kind of massive settlement."[17]

Government Contingency Fee Agreements to Private Lawyers in Climate Change Cases

In the climate change cases, only some governments have publicly disclosed their contingency fee agreements with the plaintiffs' firms. It's become clear that, as with tobacco litigation, the opportunity for the lawyers to translate this litigation into personal wealth far outpaces any risk or reasonable fee that would normally be associated with traditional contingency fee litigation.

Here are some examples:

- **San Francisco, CA:** San Francisco entered into a contingency fee agreement with Hagens Berman, signed by Steve Berman himself.[18] Under this agreement, Hagens Berman would have been entitled to 23.5 percent of any recovery.[19] When Sher Edling was hired for the appeal, its agreement with San Francisco promised 25 percent of the first $100 million awarded, 15 percent of the next $50 million and 7.5 percent of anything earned above $150 million.[20]
- **King County, WA:** In May 2018, Hagens Berman secured a 17 percent contingency fee to represent King County in its climate liability suit, which estimates that "[b]uilding infrastructure to protect King County and its residents, will, upon information and belief, cost hundreds of millions of dollars."[21,22]
- **Boulder, CO:** The lawyers for the Boulder County litigation have a 20 percent contingency fee.[23] A study commissioned by Boulder County and published alongside its lawsuit estimated that the "total cost of adaptation for mitigating only some of the potential effects of climate change across the geographic area of Boulder county through 2050 is conservatively placed at $96 million to $157 million for the median and high impact scenarios for the areas looked into with the City of Boulder incurring $16 million to $36 million of these adaptation costs."[24]

Many of the other governments have refused to disclose their fee arrangements or the process used to select counsel or determine an appropriate fee, which raises serious transparency concerns because these firms are ostensibly representing the public. For example, New York City hired Hagens Berman to wage its climate litigation, but that fee arrangement remains undisclosed.[25] The same issue exists with Seattle.[26]

Washington, D.C., chose a different path. After hearing a presentation from Matt Pawa on climate litigation, the city publicly advertised its desire to hire outside counsel on a contingency fee basis to lead its inquiry, and as reported in Chapter Four, sent that solicitation to Hagens Berman, among others.[27,28] The solicitation also outlined that it would permit the hired firm to seek outside funding to finance its work for the District, demonstrating a clear understanding of how this litigation receives financing above and beyond contingency fees.[29]

Private Payment of Government-Hired Lawyers: Bloomberg and Attorneys General

Climate litigation has also given birth to a new, highly controversial funding arrangement, whereby foundations pay attorney general offices directly to hire lawyers for the purpose of bringing climate lawsuits. These attorneys wield the government's authority, but private interests hire and pay them.[30]

"Climate litigation has also given birth to a new, highly controversial funding arrangement, whereby foundations pay attorney general offices directly to hire lawyers for the purpose of bringing climate lawsuits. These attorneys wield the government's authority, but private interests hire and pay them. This arrangement is the brainchild of the State Energy and Environmental Impact Center, a project former New York City Mayor Michael Bloomberg began in 2017 at New York University School of Law."

This arrangement is the brainchild of the State Energy and Environmental Impact Center (SEEIC), a project former New York City Mayor Michael Bloomberg began in 2017 at New York University School of Law.[31] The SEEIC provides "legal assistance to interested attorneys general on specific administrative, judicial or legislative matters involving clean energy, climate change and environmental interests of regional and national significance."[32] One of the ways in which the SEEIC provides this legal assistance is by placing fellows within attorneys' general offices and paying their salaries.

Court filings in the New York Attorney General's lawsuit against ExxonMobil over its climate disclosures show that the SEEIC funded attorneys in that office who worked on the ExxonMobil lawsuit.[33] In 2018, the SEEIC had 14 fellows working in attorneys general offices in Illinois, Maryland, Massachusetts,

New Mexico, New York, Oregon, Washington and the District of Colombia.[34] Through the program, Oregon Attorney General Ellen Rosenblum was able to hire Steve Novick, a former Portland City Commissioner who promoted fossil fuel divestment.[35,36] Novick was paid more than $146,000 a year through the SEEIC, which is $60,000 more than Attorney General Rosenblum makes.[37]

In New Mexico, SEEIC staffers apologized to the attorney general's staff for needing to publicize the arrangement in order to recruit applications. "There will be limited distribution of the announcement and we will not reach out to any press in your state," SEEIC Executive Director David Hayes told New Mexico Attorney General Hector Balderas' staff, an odd advertising tactic for a state-based job.[38]

"The top prosecutorial office in the state needs to be above reproach, and Balderas has to recognize this arrangement is not," wrote the Albuquerque Journal in an editorial after the arrangement was brought to light.[39] "While it added two attorneys to his staff, it did so at the expense of his office's independence and impartiality—even if it's in appearance only."

Several states have sought to limit the use of these arrangements. The Virginia State Assembly voted to nullify the use of an SEEIC special assistant attorney general, blocking the hiring of an SEEIC fellow and avoiding any similar hiring in the future by adding an amendment into the 2019 biennial budget, which required employees of the attorney general to be state or federal government employees and to be paid with public funds.[40] The Wisconsin attorney general's office determined that such an arrangement would be illegal under Wisconsin law, as did the Oregon legislature's chief lawyer.[41,42]

The Growing Outrage Over Government Contingency Fee Litigation

These arrangements have raised significant concerns over conflicts of interest and the appropriate role of politics and money in law enforcement. The contingency fee arrangements, in particular, have been widely criticized because the private lawyers' profit motive can conflict with the goals of their clients, whose duty is to represent the interests of the public and who may agree to sign onto the litigation in hopes of solving a problem.

Contingency fees make it nearly impossible that a municipality will reach a non-monetary agreement with a defendant even if it is the best way to solve that dispute. Andrew Grossman, a fellow at the Cato Institute, explains the concern with allowing for-profit motives to invade the government's civil law enforcement regime. He calls the practice of hiring "outside attorneys to target a particular private party for law enforcement . . . policing for profit."[43]

"These arrangements have raised significant concerns over conflicts of interest and the appropriate role of politics and money in law enforcement. The contingency fee arrangements, in particular, have been widely criticized because the private lawyers' profit motive can conflict with the goals of their clients, whose duty is to represent the interests of the public and who may agree to sign onto the litigation in hopes of solving a problem. Contingency fees make it nearly impossible that a municipality will reach a non-monetary agreement with a defendant even if it is the best way to solve that dispute."

The concern that for-profit motives distort justice is the very reason that private lawyers cannot be hired on contingency fees in criminal cases.[44] They create dangerous incentives that threaten justice. Civil law enforcement should be treated no differently. Given analogous concerns with the criminal justice system, a number of states have highly restricted the use of contingency fees for civil law enforcement actions since the 1990s.[45]

Concerns about local governments hiring for-profit firms under contingency fee arrangements are exacerbated in politically oriented litigation. As discussed above, here political activists developed the litigation as a tool and recruited the governments to be their plaintiffs to advance their public policy agenda. The public policies sought through these lawsuits, though, are not the province of courts, but state and federal lawmakers and regulators.[46]

Here, legislatures and regulators have spent considerable time and resources studying climate change and considering balanced approaches to reducing GHG emissions, but have chosen not to enact the policies sought by the groups bringing this litigation. Ironically, though, if the groups and their lawyers can make millions—or even billions—of dollars achieving their public policy preferences through the courts, it will encourage political activists of all kinds to circumvent Congress and regulatory agencies in enacting their policy preferences, even when those policy preferences are not in the best interests of the American people.

Prominent scholar Robert Reich, who served as Secretary of Labor under President Clinton, termed lawsuits with such an impact "regulation through litigation," concluding that circumventing Congress to enact "faux legislation . . . sacrifices democracy."[47]

Gale Norton, a former U.S. secretary of the interior and a former attorney general of Colorado, has observed the impact that growing financial motives have had on private contingency-fee

lawyers getting involved in the litigation. She contrasted today's profit-seeking lawyers with the environmental lawyers from 15 years ago, who would "at best" recover attorney's fees:

"In the climate change litigation, you have traded environmental plaintiffs' attorneys, who were primarily focused on public policy, for an increasing number interested in financial gain."[48]

What has become clear, as Secretary Norton concluded, is that the opportunity to make huge financial gains, not sound public policy, is now the driving force for the private lawyers in climate litigation.

Conclusion

The governments' use of contingency fees and third-party funding raises serious concerns over how government climate lawsuits begin, are litigated and ultimately resolved. The private attorneys are incentivized to generate personal wealth, and their funders want to pursue a political agenda—even at the expense of justice or fairness.

Courts and legislatures should continue examining the propriety of these arrangements, and, as many states have done, curtail or ban them when they impede justice. State and local law enforcement officers should not put special interests over the public good.

Endnotes

[1] Erin Mundahl, "Meet the Man Behind the Global Warming Lawsuits Racket," Inside Sources, September 25, 2018, https://www.insidesources.com/whos-at-the-bottom-of-the-climate-change-lawsuit-racket-it-looks-like-matt-pawa/

[2] "Chapter 1: Climate Liability Litigation's Long Campaign Marked by Few Successes," Manufacturers' Accountability Project, June 2019, https://mfgaccountabilityproject.org/wp-content/uploads/2019/06/MAP-Beyond-the-Courtroom-Chapter-One.pdf.

[3] Charlie Brennan, "Boulder governments could end up paying in climate change lawsuit," January 14, 2018, Daily Camera, https://www.dailycamera.com/2018/06/14/boulder-governments-could-end-up-paying-in-climate-change-lawsuit/.

[4] "Form 990," Resources Legacy Fund, 2017, https://resourceslegacyfund.org/wp-content/uploads/2018/11/RLF_990_2017.pdf.

[5] "When You Need a Lawyer," American Bar Association, https://www.americanbar.org/groups/public_education/resources/law_issues_for_consumers/lawyerfees_contingent/

[6] Angela Wennihan, "Let's Put the Contingency Back in the Contingency Fee," SMU Law Review, 49.5, 1996, https://scholar.smu.edu/cgi/viewcontent.cgi?article=2523&context=smulr

[7] Angela Wennihan, "Let's Put the Contingency Back in the Contingency Fee."

[8] "Master Settlement Agreement," Public Health Law Center at Mitchell Hamline School of Law, https://www.publichealthlawcenter.org/sites/default/files/resources/MSA-Overview-2019.pdf.

[9] "Mitigating Municipality Litigation: Scope and Solutions," U.S. Chamber Institute for Legal Reform, March 2019, https://www.instituteforlegalreform.com/research/mitigating-municipality-litigation-scope-and-solutions.

[10] William McQuillen, "Michigan Tobacco Lawyers Awarded $450 Mln From Accord," Bloomberg, September 7, 2001, Bloomberg.com.

[11] Daniel Wise, "New York Tobacco Fee Hearing Has Lawyers Smoking," New York Law Journal, July 26, 2002, https://web.archive.org/web/20021007230228/http://www.law.com/jsp/article.jsp?id=1024079049413.

[12] John Fund, "Cash In, Contracts Out: The Relationship Between State Attorneys General and the Plaintiffs' Bar," U.S. Chamber Institute for Legal Reform, 2004, http://www.instituteforlegalreform.com/hooks/1/get_ilr_doc.php?fn=Fund%20AG%20report.pdf.

[13] Glen Justice, "In Tobacco Suit, Grumblings Over Lawyer Fees," Philadelphia Inquirer, October 4, 1999.

[14] John Moritz, "Morales Gets 4 Years in Prison," Ft. Worth Star Telegram, November 1, 2003.

[15] "State Tobacco Litigation," Hagens Berman, https://www.hbsslaw.com/cases/state-tobacco-litigation.

[16] Rick Pearson, "Lawyers Demand A Bigger Piece Of Tobacco Cash Pie," Chicago Tribune, November 23, 1999. https://www.chicagotribune.com/news/ct-xpm-1999-11-23-9911230094-story.html.

[17] Geoff Dembicki, "Meet the Lawyer Trying to Make Big Oil Pay for Climate Change," VICE, December 22, 2017, https://www.vice.com/en_us/article/43qw3j/meet-the-lawyer-trying-to-make-big-oil-pay-for-climate-change.

[18] Michael Bastasch, "Trial Lawyers are Behind the Latest Climate Lawsuit Against Big Oil—For a Fee, of Course," The Daily Caller, May 10, 2018, https://dailycaller.com/2018/05/10/lawyers-behind-climate-lawsuit-for-fee/.

[19] John O'Brien, "Oakland Would Pay 23.5% Of Recovery From Its Global Warming Lawsuit To Private Layers," Forbes, February 7, 2018, https://www.forbes.com/sites/legalnewsline/2018/02/07/oakland-would-pay-23-5-of-recovery-from-its-global-warming-lawsuit-to-private-lawyers/#3b-cf056217c6.

[20] "Contract Reveals—Climate Industry Attorneys Face massive Windfall," Climate Litigation Watch, December 12, 2018, https://climatelitigationwatch.org/contract-reveals-climate-industry-attorneys-face-massive-windfall/.

[21] "King County sues oil companies for climate change impacts," King County, May 9, 2018, https://www.kingcounty.gov/elected/executive/constantine/news/release/2018/May/09-climate-lawsuit.aspx.

[22] "King County sues oil companies for climate change impacts."

[23] John O'Brien, "Denver environmental and personal injury lawyer files Boulder's climate change lawsuit against energy companies," Legal Newsline, April 19, 2018, https://legalnewsline.com/stories/511395474-denver-environmental-and-personal-injury-lawyer-files-boulder-s-climate-change-lawsuit-against-energy-companies.

[24] Resilient Analytics, "The Impact of Climate Change: Projected Adaptation Costs for Boulder County, Colorado," Boulder County, April 2018, https://assets.bouldercounty.org/wp-content/uploads/2018/04/resilient-analytics-report-impacts-of-climate-change-boulder-county-colorado.pdf.

[25] John O'Brien, "States Against Climate Change Lawsuits Ask For Dismissal Of NYC's," Forbes, June 4, 2018, https://www.forbes.com/sites/legalnewsline/2018/06/04/states-against-climate-change-lawsuits-ask-for-dismissal-of-nycs/#3584c5cd97b8.

[26] "Activists want city attorney to go after big oil companies, others instead of protesters," KOMO News, September 5, 2018, https://komonews.com/news/local/seattle-activists-want-city-attorney-to-go-after-big-oil-companies-instead-of-protesters.

[27]"Solicitation, Offer, and Award: Outside Counsel for Climate Change Litigation," Office of the Attorney General for the District of Columbia, February 28, 2019, https://oag.dc.gov/sites/default/files/2019-03/OAG-RFP-DCCB-2019-R-0011-Outside-Counsel-for-Climate-Change-Litigation-Issued-2-28-19_1.pdf.

[28]Todd Shepherd, "Gas Guzzling DC Threatens Oil Companies," Free Beacon, July 28, 2019, https://freebeacon.com/issues/gas-guzzling-dc-threatens-oil-companies/.

[29]Michael Bastasch, "DC Opens Door To Private Investors Financing Its Climate Change Case Against Exxon, Lawyer Says," Daily Caller, March 18, 2019, https://dailycaller.com/2019/03/18/dc-exxon-climate/.

[30]Christopher Horner, "Law Enforcement for Rent," Competitive Enterprise Institute, August 28, 2019, https://cei.org/AGclimatescheme.

[31]"Bloomberg Helps Launch NYU Center for Environmental Litigation," Philanthropy News Digest, August 21, 2017, https://philanthropynewsdigest.org/news/bloomberg-helps-launch-nyu-center-for-environmental-litigation.

[32]"State Energy & Environmental Impact Center: About the Center," NYU Law, https://www.law.nyu.edu/centers/state-impact/about.

[33]Chris White, "Bloomberg-Funded Fellow Signed NY AG's Climate Lawsuit Against Exxon," Daily Caller, October 24, 2018, https://dailycaller.com/2018/10/24/bloomberg-ny-ag-climate-lawsuit-exxon/.

[34]Editorial Board, "State AGs for Rent," Wall Street Journal, November 6, 2018, https://www.wsj.com/articles/state-ags-for-rent-1541549567.

[35]Nick Budnick," New Novick job has political overtones," Pamplin Media, June 22, 2018, https://pamplinmedia.com/pt/9-news/399166-294211-new-novick-job-has-political-overtones-pwoff.

[36]Oregonian Editorial Board, "Hold the applause for fossil fuels divestment: Editorial Agenda 2015," Oregon Live, September 26, 2015, https://www.oregonlive.com/opinion/2015/09/hold_the_applause_for_fossil_f.html.

[37]"Oregon government salaries (2017): Ellen F. Rosenblum," Oregon Live, https://gov.oregonlive.com/salaries/person/53497/rosenblum-ellen/.

[38]Michael Sandoval, "New Mexico Ad Targets AG Race: 'Law Enforcement Should Not Be For Sale,'" Western Wire, October 30, 2018, https://westernwire.net/new-mexico-ad-targets-ag-race-law-enforcement-should-not-be-for-sale/.

[39]Albuquerque Journal Editorial Board, "Editorial: NM AG's staff must serve public, not special interests," Albuquerque Journal, July 19, 2019, https://www.abqjournal.com/1342276/nm-ags-staff-must-serve-public-not-special-interests.html.

[40]Valerie Richardson, "Virginia blocks Mike Bloomberg's climate lawyers," Associated Press, April 18, 2019, https://apnews.com/38938e39f23c6b8f3a900b221797143e.

[41]Jeff Patch, "How Bloomberg Embeds Green Warriors in Blue-State Governments," RealClear Investigations, October 10, 2018, https://www.realclearinvestigations.com/articles/2018/10/09/bloomberg_funds_green_work_of_democrat_state_attorneys_offices.html.

[42]John Solomon, "Michael Bloomberg, Exxon and the ethical pollution of buying justice," The Hill, October 25, 2018, https://thehill.com/hilltv/what-americas-thinking/413236-michael-bloomberg-exxon-and-the-ethical-pollution-of-buying.

[43]Michael Bastasch, "DC Opens Door To Private Investors Financing Its Climate Change Case Against Exxon, Lawyer Says."

[44]Lester Brickman, Contingency Fees Without Contingencies: Hamlet Without the Prince of Denmark, 37 UCLA L. Rev. 29 (1989)

[45]"Private Attorney General Sunshine/Attorney General Sunshine," American Tort Reform Association, http://www.atra.org/issue/sunshine-attorney-general-sunshine/.

[46]"Mitigating Municipality Litigation: Scope and Solutions," U.S. Chamber Institute for Legal Reform.

[47]Robert B. Reich, "Don't Democrats Believe in Democracy?" Wall Street Journal, January 12, 2000.

[48]John O'Brien, "From Policy To Payday: Former Interior Secretary Says Environmental Lawyers Have Shifted Focus," Forbes, July 16, 2018, https://www.forbes.com/sites/legalnewsline/2018/07/16/from-policy-to-payday-former-interior-secretary-says-environmental-lawyers-have-shifted-focus/.