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Big Law, Big Ask: Ex-Client Seeks \$10M From Lewis Brisbois Over Alleged Malpractice

"Every lawyer has an obligation to keep their client informed and an obligation to make sure they understand the case, and they didn't honor that," said David Miller, the attorney suing Lewis Brisbois.

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Legal Malpractice



Charles Toutant

What You Need to Know

- Lewis Brisbois Bisgaard & Smith is fighting a malpractice suit over its handling of litigation against a company that helps cities cope with vacant properties.
- The suit claims the firm failed to notify its client of a motion for partial summary judgment until after it was granted.
- Borger Saunders is seeking \$10 million in damages from Lewis Brisbois, claiming its malpractice caused business prospects to sour on the company.

A Big Law firm facing malpractice claims is among the parties hit with lawsuits stemming from a New Jersey city's novel plan to regulate vacant and abandoned properties.

Bridgeton contracted with a private-sector contractor in 2017 to help it deal with enforcing the municipal code on empty homes.

But property owners filed two suits against the city that claimed it improperly delegated its authority to a private party. One of the suits also named the contractor, Borgers, Saunders, Taylor and Associates, as a defendant.

On Nov. 10, a Superior Court judge approved a \$162,500 settlement of a class action suit against Bridgeton by property owners impacted by the Borgers Saunders contract. And another suit by a property owner against Bridgeton and Borgers Saunders ended in a settlement, although terms were not immediately available.

And now, Lewis Brisbois Bisgaard & Smith, ranked 66th in the Am Law 100, is facing claims that it committed legal malpractice when it represented Borgers Saunders in that suit.

'They Didn't Honor That'

After a Bridgeton property owner, Thomas Martin, sued Borgers Saunders, the company's insurance carrier hired Lewis Brisbois to mount a defense. Martin's suit said Bridgeton improperly designated Borgers Saunders' principals as "public officer[s]," with authority to collect fines and issue summonses.

Lewis Brisbois allegedly conceded that point, even though it was contrary to its client's position, according to David Miller, a solo in Clark, New Jersey, who represents Borgers Saunders in the malpractice suit. Lewis Brisbois also allegedly never told its client about the motion for partial summary judgment by Martin until after it was decided, Miller said.

And Lewis Brisbois allegedly failed to read documents that set out the relationship between Bridgeton and Borgers Saunders, Miller said. As a result, Lewis Brisbois allegedly failed to understand that the central allegation of the case was false, Miller said.

“Every lawyer has an obligation to keep their client informed and an obligation to make sure they understand the case, and they didn’t honor that,” Miller said.

Borgers Saunders is seeking \$10 million in damages from Lewis Brisbois because the judge in the Martin case said its business model was illegal, Miller said. Borgers Sanders had contracts with three other municipalities in addition to Bridgeton and was in talks with 17 others, but the judge’s ruling caused it to back out, Miller said.

The insurance carrier replaced Lewis Brisbois with Offit Kurman as counsel for Borgers Saunders, and depositions are underway, Miller said.

Lewis Brisbois Denies Wrongdoing

The disputes with Bridgeton stem from legislation allowing municipalities to seek to collect from banks when properties they foreclose on are not properly maintained, Miller said. Municipalities often don’t have enough staff to interact with banks on such matters, so Bridgeton hired Borgers Saunders to handle that task, he said.

The suits object to Borgers Saunders taking a 30% share of penalties and registration fees collected from owners of vacant properties, Miller said. Under the law, so-called public officers cannot have a personal interest in the fees they collect on behalf of a municipality, Miller said. But the agreements between Borgers Saunders and the municipalities make clear that the company’s principals are not public officers, Miller said.

Borgers Saunders’ collaboration with Bridgeton was successful. Revenue the company collected for the city topped \$1 million, about 30 abandoned homes were demolished at the expense of banks and absentee property owners, crime declined, and property values rose, Miller said.

Meredith Kaplan Stoma of Lewis Brisbois, who is representing her firm in the malpractice case, denies that her firm caused any damages to Borgers Saunders.

“The business model of this company was to be compensated for a percentage of every citation they issued, which the firm contends is a clear violation of the New Jersey Public Ethics Law,” Stoma said. “Simply put, the more tickets issued by Borgers, the higher their compensation. The case brought by Mr. Martin against Bridgeton and Borgers was going to succeed, and Borgers would not have won that case under any circumstance. They now say they have lost their entire business, and seek millions in damages from acts of Lewis Brisbois defending just one of the many cases brought. The firm is vigorously defending the matter, and intends to move for summary judgment once discovery is complete.”

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