



Christopher J. Petrini (NICOLE GOODHUE BOYD)

Lawyers of the Year: Christopher J. Petrini

Petrini & Associates

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After more than a decade of litigation, a trial court judge entered final judgment last April in favor of the town of Holden in its dispute over high sewer fees involving the city of Worcester and the Department of Conservation and Recreation.

Including prejudgment interest, the total award for Christopher J. Petrini's client: more than \$25 million – and climbing.

For decades, Worcester has handled the transportation of Holden's wastewater pursuant to a contract between the municipalities. But Holden argued that the payments were based on a separate contract between Worcester and DCR to which it never agreed.

In addition, Holden alleged it was paying for additional services it wasn't receiving, such as the use of Worcester's stormwater system.

While Holden objected to the charges, it paid them on a quarterly basis dating back to 2000.

Although the complaint against DCR and Worcester included several claims, the eight-day trial focused on

[This case] is an example of how a party that has been mistreated or overcharged can get a remedy through the courts. It may be a slow, exhaustive process, but it shows the system can work – and it did work in this case.

Holden's unjust enrichment claim, for which [jurors awarded the town \\$14.6 million](https://masslawyersweekly.com/2022/09/02/in-sewer-dispute-with-worcester-jury-awards-holden-14-6-million/) (<https://masslawyersweekly.com/2022/09/02/in-sewer-dispute-with-worcester-jury-awards-holden-14-6-million/>).

The jury also found that DCR materially breached an agreement with Holden that allowed the agency to charge the town only for "proportionate applicable transport costs" for wastewater transport through the Worcester sewer system. But it awarded no damages because DCR's performance under the contract was excused by "waiver, condition precedent, contract modification or impossibility."

"This was a classic case of unjust enrichment," Petrini says. "Holden was charged roughly five times more than the fair value for the services it received, and we presented expert testimony in support."

Worcester disagrees and an appeal is underway.

For Petrini, who says his comments on the matter are limited given the ongoing nature of the case, the suit is the longest of his career.

"This case brings to mind the saying, 'The journey of a thousand miles begins with a single step,'" the Framingham lawyer says. "We filed suit 11 years ago in this case, and we may be closer to the end, but we're not entirely at the end." >

Q. *How did the relationship between Holden, Worcester and DCR begin?*

A. The relationship goes back to the 1930s. DCR is discharged by statute in terms of how to manage parks, watershed management, and making sure that pollution doesn't impact the watershed in terms of water delivery. Wastewater maintenance varies from community to community, and a lot of time it is governed by the existence of a contract. The contract at issue in our case was from 1999.

It was established at trial that there was no other place Holden, located in the Wachusett Watershed, could send its wastewater, and it wouldn't be allowed to build its own filtration plant, which would have cost about \$1 billion.

Q. *You filed the complaint in this case on May 24, 2013. Why has it taken more than a decade to reach this point in the litigation?*

A. A lot of it was motion practice. There was a motion for judgment on the pleadings filed by Worcester, which it lost. Then we had cross-motions for summary judgment and reconsideration of the summary judgment motion, which took several months. Our trial date was originally scheduled for 2020 and then had to be put off due to COVID.

Q. *What were the primary defenses presented by DCR and Worcester?*

A. The defendants relied upon a statute of limitations defense that Holden waited too long to challenge the contract. But we argued that because invoices were sent every three months pursuant to the installment contract, that re-started the timeline each time. Our statutory claim was dismissed, so unjust enrichment was the main claim at trial.

We also had an unconstitutional tax claim against Worcester that was dismissed, but we've appealed that as well. Our position is that Holden was so overcharged it basically constituted a tax and that only the state Legislature can impose a tax – not local cities and towns.

Q. *What is the relationship between Holden and Worcester today?*

A. There is an ongoing relationship. The contract in question expired in 2020, but there is an ongoing dispute about whether the contract still applies and, if so, how it applies to future services. We sought a declaratory judgment as part of our claimed relief, and that remains an open issue. Our position is that if the jury found that this contract led to unjust and inequitable charges imposed on Holden, and \$14.6 million was received by Worcester under that formula, then that contract has been basically adjudicated to be invalidated.

Q. *Do you have any concerns about the appeal?*

A. Worcester has appealed and filed its principal brief. After the appeal was filed, Worcester moved for direct appellate review before the Supreme Judicial Court, which we opposed, and that motion was denied, so we are in the Appeals Court. We feel that we are in a very strong position legally and that the jury made the right decision.

Q. *Although the case is still ongoing, are there any takeaways?*

A. This case is an example of how the law can have a corrective influence and provide a remedy for parties or individuals who have been subject to inequitable treatment, as long as they can prove their case and establish it legally in front of a jury of their peers.

This verdict showed me the power of the law. For years, Holden tried to address the grossly excessive overcharges, but only when the jury spoke did Holden get some relief. Early on, this case seemed intractable, and it has been a long road, but it is an example of how a party that has been mistreated or overcharged can get a remedy through the courts. It may be a slow, exhaustive process, but it shows the system can work – and it did work in this case.

See also:

- [In sewer dispute with Worcester, jury awards Holden \\$14.6 million](https://masslawyersweekly.com/2022/09/02/in-sewer-dispute-with-worcester-jury-awards-holden-14-6-million/) (<https://masslawyersweekly.com/2022/09/02/in-sewer-dispute-with-worcester-jury-awards-holden-14-6-million/>)
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