

Strategic Affirmative Litigation Offers Mayor Mamdani a Powerful Tool To Advance His Bold Policy Agenda

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New York City Mayor Zohran Mamdani has emphasized that protecting consumers and combating unfair business practices will be core policy pillars of his administration's affordability and economic justice agenda. Strategic affirmative litigation offers a powerful tool for advancing the Mayor's ambitious policy agenda.

This article first reviews how local governments across the country have used affirmative litigation to hold powerful corporate interests accountable to local communities. Applying these lessons, we then explain how New York laws empower the city to deploy this historically underutilized tool to benefit all New Yorkers.

Affirmative Litigation Has Been a Powerful Consumer Protection Tool for Local Governments

In recent years, local government agencies across the United States have pursued impactful affirmative litigation. The examples



Zohran Mamdani at the Resist Fascism Rally in Bryant Park on Oct 27th 2024.

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below may serve as models for the mayor's administration.

In California, the City Attorneys for both Los Angeles and San Francisco have successfully litigated consumer protection actions against major corporations. In 2022, the City and County of San Francisco, partnering with outside counsel, prevailed at trial on its

public nuisance claim against Walgreens, which alleged the pharmacy chain “knowingly engaged in unreasonable conduct that was a substantial factor in contributing to the opioid epidemic in San Francisco.” *City & Cnty. of San Fran. v. Purdue Pharma L.P.*, 620 F. Supp. 3d 936, 938 (N.D. Cal. 2022).

In 2016, the City of Los Angeles obtained a \$150 million judgment against Wells Fargo in a consumer fraud case filed a year earlier by the City Attorney’s Office. In that case, Los Angeles alleged that Wells Fargo had “victimized customers by using pernicious and often illegal sales tactics” in violation of California’s Unfair Competition Law, Cal. Bus. & Prof. Code §§17200 *et seq.* That statute grants local public agencies broad enforcement power, on behalf of the People of California, to seek statutory penalties and other relief for unlawful, unfair, and fraudulent practices.

California state and local agencies also have teamed up on major consumer protection litigation. In 2019, the County of Los Angeles, in partnership with the California Attorney General, filed a lawsuit against the electronic cigarette maker, JUUL Labs, Inc., alleging that JUUL unlawfully targeted young people through advertising without warning about the product’s risks, failed to verify the age of California consumers, and violated the privacy rights of minors. See Compl., *California v. JUUL Labs, et al.*, Case No. RG19043543 (Nov. 18, 2019), Dkt. No. 1. In 2023, the parties resolved the litigation as part of a \$462 million settlement involving six states. Under this settlement, the County of Los Angeles received \$46 million to fund

nicotine addiction treatment and prevention, and JUUL was enjoined from targeting youth in its advertising.

In another recent example of state and local partnership, the Los Angeles City Attorney and California Attorney General litigated a federal action to protect the privacy of children online, alleging that video game developer Tilting Point Media LLC violated the California Consumer Privacy Act and the federal Children’s Online Privacy Protection Act. See Compl., *California v. Tilting Point Media LLC*, Case No. 2:24-cv-05140 (C.D. Cal. June 18, 2024), Dkt. No. 1. In June 2024, the case settled with an agreement barring Tilting Point from selling or sharing data for consumers under 13 without parental consent, implementing a compliance program, and paying a \$500,000 penalty.

In Maryland, the City of Baltimore has partnered with outside counsel since 2018 to pursue claims against manufacturers, wholesalers, and prescribers of prescription opioids. Baltimore asserted statutory deceptive practices claims under the Maryland Consumer Protection Act against manufacturers, and common-law public nuisance and negligence claims against manufacturers, wholesalers, and pharmacy chains. By September 2025, Baltimore had secured \$579 million in settlements and judgments. Notably, Baltimore opted out of the global settlement against the same parties—even when Maryland did not—and subsequently secured far more restitution money through its independent action. *Mayor of Baltimore v. Purdue Pharma L.P.*, Case No. 24C18000515 (Md. Cir. Ct., Baltimore City).

In Illinois, the City of Chicago partnered with outside counsel in 2021 to launch a lawsuit against DoorDash, the online meal delivery company, for deceptive practices. According to the complaint, DoorDash violated Chicago's local laws by listing restaurants on its platform without their consent and deceiving consumers with misleading restaurant listings, fees, menu prices, and allocation of driver tips. DoorDash also allegedly billed a \$1.50 service charge it called "Chicago Fee" to consumers, when this fee was neither mandated nor paid to Chicago. In November 2025, Chicago announced an \$18 million settlement, which included restitution payments to restaurants listed on DoorDash without their consent and to eligible Chicago consumers. *City of Chicago v. DoorDash, Inc.*, Case No. 1:21-cv-05162 (N.D. Ill.).

These significant outcomes underscore the potential for the mayor's administration to leverage outside counsel's expertise and resources and to work collaboratively with state and local peers to develop and successfully pursue the wide range of statutory and common-law claims available to protect consumers, local businesses, and working families.

With the New Mayor's Leadership, the city Can Strengthen Its Use of Affirmative Litigation

We now turn back to New York City and the mayor's agenda. While the city's experience using affirmative litigation to achieve major consumer protection goals has been more limited, there are historical examples of state and local collaborations and outside counsel partnerships.

In 2021, for example, the New York Attorney General and New York City Corporation Counsel, in partnership with outside counsel, litigated a qui tam suit jointly against a hedge fund manager who failed to pay tens of millions of dollars in taxes to the city and the state on management and performance fees. *State of New York v. Sandell*, Index No. 101494/2018 (Sup. Ct., N.Y. Cnty.). This case settled for \$105 million in back taxes and damages. According to the settlement agreement, the state and the city asserted civil fraud claims for violations of the New York False Claims Act, N.Y. State Finance Law §§187 et seq. This settlement, along with the fact that New York City promulgated its own False Claims Act, Local Law No. 53 (2005), demonstrates the breadth of the city's authority to pursue fraud claims against deceptive business practices that target city government and programs.

New York state and local laws also provide a fruitful framework for the new mayoral administration to wield the tool of affirmative litigation in innovative and powerful new ways. This includes both acting independently with the support of outside counsel and, in the right case, acting in collaboration with state and local peers in New York and across the country.

The city, for example, may bring cases against businesses for engaging in deceptive practices prohibited by New York City Administrative Code §§20–700 et seq. In *Mintz v. Am. Tax Relief, LLC*, 16 Misc. 3d 517, 837 N.Y.S.2d 841 (Sup. Ct., N.Y. Cnty. 2007), New York City Department of Consumer Affairs (now the Department of Consumer and Worker Protection) sued

American Tax Relief LLC for its deceptive trade practices in violation of that local statute.

Additionally, New York municipalities may bring actions to abate public nuisances and to obtain injunctive relief. See, e.g., *City of Rochester v. Premises Located at 10–12 S. Washington St.*, 180 Misc.2d 17, 687 N.Y.S.2d 523 (Sup. Ct., Monroe Cnty. 1998). Indeed, the City has had success pursuing public nuisance claims, in combination with claims under the city’s consumer protection laws, to stop marketing of “illegal, dangerous accommodations” to “unsuspecting tourists” by a short-term rental company. See, e.g., *City of New York v. Smart Apartments LLC*, 39 Misc.3d 221, 233, 959 N.Y.S.2d 890, 898 (Sup. Ct., N.Y. Cnty. 2013).

Finally, New York State recently strengthened its consumer protection laws, expanding opportunities for the new Mayoral administration to use affirmative litigation to challenge unfair and abusive corporate practices in creative new ways that help working people. On Dec. 22, 2025, Governor Kathy Hochul signed into law a bill proposed by Attorney General James that effectuates the first update to New York’s primary consumer protection law in 45 years.

The Fostering Affordability and Integrity through Reasonable Business Practices Act

(FAIR Act) (2025-26 N.Y. Senate-Assembly Bill S8416, enacted Dec. 19, 2025) broadens enforcement beyond deceptive acts to include “unfair” and “abusive” practices and confirms the private right of action against deceptive practices and deceptive acts. During a press conference with the mayor, the attorney general described the FAIR Act as part of a “multi-level government defense in response to the needs of working families here in the city and across the state.”

In conclusion, as the mayor and his team bring a new perspective and a bold agenda to New York City, they have an opportunity to strengthen the city’s leadership in strategic affirmative litigation by pursuing major cases with the support of outside counsel and in partnership with other agencies. Affirmative litigation can serve as a vital governance tool—in parallel with legislative, administrative, and executive action—to deter corporate misconduct, level the playing field for compliant businesses, and deliver tangible economic justice outcomes for all New Yorkers.

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