**REVISED 12/2020**

# OFFICE OF THE ATTORNEY GENERAL

*At a Glance*

**WILLIAM TONG,** *Attorney General*
**MARGARET Q. CHAPPLE,** ***Deputy Attorney General***
***Established* – 1897**
***Statutory authority:*** **Conn. Gen. Stat. §§3-124 to 3-131**
***Central Office*: 165 Capitol Avenue, Hartford, CT 06106**
***Average number of full-time employees*: 302**
***Recurring General Fund operating expenses*: $ 30,827,038.45**

***Revenues Generated*:** $ **395,096,678**

## Mission

***The critical missions of this office are to represent and vigorously advocate for the interests of the state and its citizens by performing, with diligence and integrity, the duties and directives assigned to the Attorney General by law, to ensure that state government acts within the letter and spirit of the law, to protect public resources for present and future generations, to safeguard the rights of all consumers, including our most vulnerable citizens, and to preserve and enhance the quality of life of all citizens of the State of Connecticut.***

## Statutory Responsibility

The Attorney General is the chief civil legal officer of the state. The Office of the Attorney General (OAG) serves as legal counsel to all state agencies. The Connecticut Constitution, statutes and common law authorize the Attorney General to represent the people of the State of

Connecticut to protect the public interest.

## REVENUE ACHIEVED BY THE OFFICE OF THE ATTORNEY GENERAL

During the 2019-2020 fiscal year, $**395,096,678** was generated by the Attorney General's Office, as described below:

### A. Revenue Generated for the General Fund

| | |
|---|---|
| Tobacco Settlement Fund Collections | $ 118,761,009 |
| Global Civil Settlements / Antitrust | 19,706,650 |
| Antitrust Fees and Costs Assessed | 558,783 |
| Consumer Protection Civil Penalties | 4,785,589 |
| Department of Social Services / Civil | 4,166,973 |
| Child Support Collections | 16,959,565 |
| Miscellaneous Collections | 2,019,089 |
| **Total Revenue Generated for General Fund** | **$ 166,957,658** |

### B. Revenue Generated for Special Funds

| | |
|---|---|
| CT Environmental Benefit Project | $ 400,000 |
| Supplemental Environmental Projects | 165,000 |
| **Total Revenue Generated for Special Funds** | **$ 565,000** |

### C. Revenue Generated for Individuals and Businesses

| | |
|---|---|
| Child Support Collected/Enforced for Families | $ 211,937,447 |
| Home Improvement Contractors: | |
| Consumer Restitution from Criminal Prosecution | 33,331 |
| Court Ordered Restitution to DCP Guaranty Fund | 22,000 |
| **Total Revenue Generated Individuals and Businesses** | **$ 211,992,778** |

**D. Other Revenue Generated for the State**

| | |
|---|---|
| Miscellaneous Collections | **$ 3,251,113** |

**D. Revenue Protected for Consumers and Businesses**

| | |
|---|---|
| Charitable Funds Recovered or Preserved | $ 3,663,686 |
| Charitable Trusts Protected | 8,666,443 |
| **Total Revenue Protected** | **$ 12,330,129** |
| **TOTAL REVENUE ACHIEVED** | **$ 395,096,678** |

## PUBLIC SERVICE PROVIDED BY THE OFFICE OF THE ATTORNEY GENERAL

The Office of the Attorney General is divided into 14 departments, each of which represents agencies that provide particular categories of service to state residents. The Attorney General also participates in the legislative process, represents the State in various lawsuits and claims, maintains an active communication with citizens, promotes the protection of personal data and information, and investigates violations of privacy and breaches of personal information. The overall work completed by this office in fiscal year 2019-20 is summarized as follows:

| | |
|---|---|
| Trial Court Cases | |
| Instituted | 11,439 |
| Completed | 10,371 |
| Pending | 16,875 |
| Appeals | |
| Instituted | 343 |
| Completed | 300 |
| Pending | 265 |
| Administrative proceedings | |
| Instituted | 1,162 |
| Completed | 2,382 |
| Pending | 2,977 |
| Antitrust/Fraud Investigations | |

| | |
|---|---|
| Instituted | 86 |
| Completed | 61 |
| Pending | 148 |

| | |
|---|---|
| Consumer Investigations | |
| Instituted | 220 |
| Completed | 121 |
| Pending | 129 |

| | |
|---|---|
| Privacy Investigations | |
| Instituted | 754 |
| Completed | 756 |
| Pending | 108 |

| | |
|---|---|
| Miscellaneous Investigations | |
| Instituted | 25 |
| Completed | 20 |
| Pending | 33 |

| | |
|---|---|
| Legal Documents Examined | 7,412 |
| Public Inquiries Completed | 4,966 |
| Formal Opinions Issued | 7 |
| Informal Opinions Issued | 42 |

## AFFIRMATIVE ACTION

The Office of the Attorney General is firmly committed to equal employment opportunity. Exactly 60.41% of the full-time attorney workforce consists of women and minorities. Women and minorities comprise 70.18% of entry-level attorneys and 56.43% of middle- and high-level attorneys.

## LEGISLATION

The 2020 legislative session was effectively ended in mid-March when the General Assembly closed the Capitol complex due to COVID-19 public health and safety concerns. As a result,

only one bill was signed into law during the regular session; all other bills were left unaddressed.

Prior to the closure, however, the Office submitted three bills designed to support the Office's work. *An Act Concerning Data Privacy Breaches* was successfully voted out of the General Law committee. The two other bills, *An Act Concerning the Duties of the Office of the Attorney General* (regarding civil rights authority) and *An Act Concerning the Nondisclosure of Residential Address of Attorney General Employees*, both received public hearings. Neither of these two bills were voted on by their respective committees prior to the closure. The Attorney General also submitted testimony on 10 different bills on a wide variety of topics. These bills were before the Judiciary, General Law, Public Health, Government Administration & Elections and Energy & Technology committees.

In July 2020, the General Assembly reconvened in a special session to take up four bills related to the public health emergency. The topics included police accountability, absentee voting, telemedicine and insulin pricing. None of the bills directly impact the operations of the Office. A September 2020 special session may be called by the Governor to take up bills left unaddressed in the regular session.

## SOLICITOR GENERAL

The Solicitor General is responsible for all appellate matters on behalf of the Office and for the preparation of all formal opinions. The Office issued one formal opinion in FY 2019-20, to a legislative leader regarding Freedom of Information Act requirements applicable to official participation in a non-profit corporation created by state statute. The Office typically handles approximately 300 active appeals at any given time. In FY 2019-20, in addition to the 109 amicus curiae appeals, the Office defended 34 different state agencies in 184 new appeals. Approximately 60% of these new appeals were before the state appellate courts, and 40% were brought before the federal appellate courts. Approximately a quarter of all new party appeals involved the Department of Children and Families and 20% of the new appeals involved the Department of Correction.

The Office obtained decisions, settled or otherwise received final dispositions in 183 appeals where the state was a party, representing 32 different state agencies, with 60% of decided cases from the state appellate courts and 40% of decided appeals from the federal courts. Moreover, 87 appeals where the state participated as amicus curiae were also decided by the federal appellate courts.

At the end of FY 2019-20, there were 180 party appeals pending and 50 amicus appeals pending with 65% pending before the state appellate courts and 35% pending before the federal appellate courts. Inmate claims against the Department of Correction account for 28% of pending appeals, plus 13% concerning the Department of Children and Families and an additional 13% brought by the Department of Energy and Environment. These numbers are approximately 5% to 7% lower than prior years, most likely due to the global pandemic in the last quarter of the fiscal year.

This year an unusual number of cases before the U.S. Supreme Court raised legal issues that directly impacted the state, including cases where the state was a party. As a party, the State fought to preserve the Deferred Action for Childhood Arrivals (DACA) policy in *Department of Homeland Security v. Regents of University of California* and the Affordable Care Act in *Little Sisters of the Poor v. Pennsylvania.* The State unsuccessfully sought certiorari in *Tong v. Tweed New Haven Airport* and successfully obtained denials of petitions for certiorari in six matters, including *Actavis Holdco U.S. v. Connecticut*, regarding a discovery dispute in the national generic prescription drug litigation led by Connecticut, *Feehan v. Marcone*, an elections challenge, and *Total Wine & Spirits v. Seagull*, a challenge to state liquor laws.

Approximately 40% of the state's FY19-20 amicus matters were before the U.S. Supreme Court, and the Office participated as amicus curiae in virtually every major Supreme Court decision decided in this past term. The 24 U.S. Supreme Court cases where Connecticut either led or joined multistate amicus briefs included the Court's decisions regarding the environment, immigration, civil rights, women's rights, LGTBQ+ rights, constitutional rights, government, consumer protections and health care access. The state participated in the major environmental decisions of *County of Maui v. Hawaii Wildlife Fund* (18-260), successfully protecting groundwater from pollutants, *ARCO v. Christian* (17-1498) expanding cleanup of Superfund sites and *U.S. Forest Service v. Cowpasture River Preservation Ass'n* (18-1584), seeking to protect the Appalachian Trial. The State successfully pushed to uphold the bar on robocalls *in Barr v. American Ass'n of Political Consultants Inc.* (19-631) and worked to preserve the Consumer Financial Protection Bureau in *Seila Law LLC v. CFPB* (19-7). With respect to immigration, Connecticut successfully fought for due process protections for immigrants in *Nasrallah v. Barr* (18-1432) and *Department of Homeland Security v. Thuraissigiam* (19-161). The Office served as co-lead and drafted the successful amicus brief in *Lomax v. Ortiz-Marquez* (18-8369), to limit abusive inmate litigation tactics. In *June Medical Services, LLC v. Russo* (18-1323), the state joined other amicus in successfully urging the Court to uphold a woman's right to choose. In *New York State Rifle & Pistol Ass'n v. City of New York* (18-280), although the case was eventually dismissed as moot, Connecticut fought to uphold sensible gun legislation. In *Bostock v. Clayton County, GA* (17-1618), the Court adopted the multistate amici's argument that Title VII prohibited discrimination based on sexual orientation or identity. In *Liu v. SEC* (18-1501), the Court agreed with the state in upholding the SEC's ability to seek disgorgement as an equitable remedy. The state also effectively persuaded the Court to permit a state to discipline a "faithless elector" in *Chiafalo v. Washington* (19-465) and to permit state criminal subpoenas

and congressional subpoenas, rejecting an absolute immunity defense in *Trump v. Vance* (19-635) and *Trump v. Mazars* USA LLP (19-715).

At the U.S. Court of Appeals level, the State considered 69 multistate amicus briefs and joined in 58 matters, filed across every circuit except the Federal Circuit. The State joined several amicus briefs in support of a woman's right to choose, including in *EMW Women's Surgical Center v. Meier* (6th Circuit), *Whole Woman's Health Alliance v. Hill* (7th Circuit), *Jackson Women's Health Organization v. Dobbs* (5th Circuit) and *Reproductive Health Services v. Parson* (8th Circuit). There were also a spate of appeals where the global pandemic crisis was used to try to eliminate that right, as in *Planned Parenthood v. Abbott* (5th Circuit), *Adams & Boyle v. Slatery* (6th Circuit), *In re Ruttledge* (8th Circuit) and *Marshal v. Robinson* (11th Circuit). The State also joined numerous challenges to attempts to undermine the reliance upon scientists or limit federal environmental protection, in *Physicians for Social Responsibility v. Wheeler* (D.C. Circuit), *Union of Concerned Scientists v. Wheeler* (1st Circuit) and *Labor Council for Latin American Advancement v. EPA* (2d Circuit). The State has supported climate change lawsuits, including *Rhode Island v. Shell* (1st Circuit). The State joined multistate amicus briefs in support of LGBTQ+ rights in *Grimm v. Gloucester County School Board* (4th Circuit) and *303 Creative LLC v. Elenis* (10th Circuit). The State supported the constitutionality of the Indian Child Welfare Act in *Brackeen v. Bernhardt* (5th Circuit) and the ability of states to bring actions for unfair trade practices against student loan service companies in *Pennsylvania v. Navient Corp*. (3rd Circuit). The State has joined amicus briefs in support of public carry and ammunition background check laws in *Rhode v. Becerra* (9th Circuit) and *Young v. Hawai'i* (9th Circuit).

The Office has extensively supported immigration rights, as a party in the appellate challenges to the border wall funding, the public charge requirement and the SNAP waiver requirements. The State also has joined 14 multistate amicus briefs before federal Courts of Appeal in FY19-20. The Attorney General personally argued and prevailed in the application of the State's pardon authority for purposes in immigration through amicus oral arguments and filings in *In re Wayzaro Y. Walton* before the U.S. Court of Appeals for the Second Circuit and in *Thompson v. Barr* before the U.S. Court of Appeals for the First Circuit. The Office has led in multistate amicus immigration appeals, such as *Brito v. Barr* (1st Circuit), regarding the burden of proof in bond hearings and *Kearns v. Cuomo* (2d Circuit), in support of state Green Light laws. Other process protection cases for immigration cases include *Padilla Raudales v. Decker* (2d Circuit) (right to a bond hearing), *Velasco Lopez v. Decker* (2d Circuit) (burden of proof for detaining immigrants), *Reid v. Donelan* (1st Circuit) (challenge to indefinite detention without a bond), *Make the Road New York v. Wolf* (D.C. Circuit) (challenge to expedited removal procedures) and *Ryan v. ICE* (1st Circuit) (prohibition of detaining immigrants in courthouses). Challenges to the federal government's immigration policies include *African Communities Together v. Trump* (1st Circuit) (elimination of Liberian deferred departure policy), *Saget v. Trump* (2d Circuit) (elimination of Haitian deferred departure policy), *Al Otro Lado, Inc. v. Wolf* (9th Circuit) (challenge to "turn back" policy), *Doe v. Trump* (9th Circuit) (challenge to health insurance

requirement for legal immigration), *EBSC v. Barr* (9th Circuit) (transit country asylum application requirement), *Flores v. Barr* (9th Circuit) (challenge to detention of children and families) and *HIAS v. Trump* (4th Circuit) (refugee resettlement restrictions).

In FY2019-2020, the State had 15 cases decided or dismissed by Connecticut Supreme Court, with highlights including *In re Taijha H.B.*, where the Court required a modified *Anders* process for specific juvenile appeals, the election cases of *Feehan v. Marcone* and *Independent Party of Connecticut v. Merrill*, and *Haughwout v. Tordenti* affirming the right to expel a student for threatening behavior and speech. The Connecticut Appellate Court issued 95 opinions for appeals where the state was a party, including significant decisions in habeas juvenile, employment and health matters, as well as numerous administrative appeals. Before the U.S. Court of Appeals for the Second Circuit, the state received 55 decisions as a party, in election, education, employment, civil rights and statutory matters.

## MULTISTATE ENFORCEMENT ACTIVITY

During FY 2019-20, the Office joined or led over 120 multistate enforcement actions on behalf of the State of Connecticut, state officials and state agencies. This action included court cases filed in district courts across the nation where the state, an agency or official is a party or *amicus*, multistate investigations leveraging teams of Assistant Attorneys General from several offices, and multistate comments on pending federal regulatory matters and pending legislation before Congress. Many issues arose because of, or were related to, the coronavirus 2019 (COVID-19) pandemic. However, as in years past, our multistate work encompassed a wide variety of issues and practice areas, including, but not limited to, consumer protection, antitrust, environmental protection, finance, immigration, constitutional rights, health, energy, privacy, and civil rights.

Some of the highlights include participation on the leadership teams of several multistate privacy and consumer protection actions. In FY 2019-20, the Office co-led a coalition of 48 states, the District of Columbia and the Commonwealth of Puerto Rico in securing a $600 million settlement from Equifax, representing the largest data breach settlement in history. A multistate investigation found that Equifax's failure to maintain a reasonable security system enabled hackers to penetrate its systems in 2017, exposing massive amounts of consumer data. Additional relief agreed to by Equifax includes ten years of credit monitoring services for affected consumers and strengthening its security practices. The State of Connecticut will receive $4.785 million from the settlement.

The State of Connecticut also launched an investigation into certain health claims made by JUUL Labs, Inc. in FY 2019-20. JUUL electronic nicotine delivery systems (ENDS) have never been approved by the U.S. Food and Drug Administration (FDA) as a smoking cessation device. However, in 2018, JUUL formed an "Enterprise Markets Team" which, according to news

reports, was tasked with forming new agreements with health plans, health providers, employers and the public sector. JUUL also provides promotional pricing offers to certain consumer groups. Connecticut's Civil Investigative Demand seeks to probe to what extent JUUL has marketed itself as an effective smoking cessation device despite a lack of FDA approval, how and why JUUL selects its targeted marketing groups, and any measures the company has taken to limit its targeted marketing to current smokers over the age of 21. This Office coordinated and co-leads an ongoing, multistate investigation of JUUL.

In FY 2019-20, this Office also co-led the multistate negotiations which resulted in a settlement with American Honda Motor Co., Inc. and Honda of America Mfg., Inc. for over $85 million, regarding allegations that Honda concealed safety issues related to defects in the frontal airbag systems installed in certain Honda and Acura vehicles sold in the United States. The systems were designed and manufactured by Takata Corporation, a long-time Honda supplier. The frontal airbags posed a significant risk of rupture, which could cause metal fragments to fly into the passenger compartments of many Honda and Acura vehicles. Honda estimates that the faulty airbags in question were used in approximately 223,578 vehicles in Connecticut. The State of Connecticut will receive $2,362,819.71 under the settlement.

The State of Connecticut continues to lead an ongoing, expanding multistate antitrust investigation aimed at restoring competition to the generic drug market. In FY 2019-20, the Office led a multistate coalition of 51 states and territories in filing a third complaint, *State of Connecticut, et al. v. Sandoz, Inc., et al.*, in the U.S. District Court for the District of Connecticut. The complaint names 26 corporate defendants, 10 individual defendants, and focuses on 80 topical generic drugs used to treat a variety of skin conditions, pain, and allergies. These generic drugs account for billions of dollars of sales in the United States. The second complaint, *State of Connecticut, et al. v. Teva Pharmaceuticals, et al.*, alleges a broad, industry-wide conspiracy to artificially inflate and manipulate prices, reduce competition and unreasonably restrain trade for more than 100 different generic drugs, 20 drug manufacturers and 15 individual senior executive defendants. That case is also pending. Additionally, the State of Connecticut joined bipartisan, multistate antitrust investigations of tech giants Facebook and Google.

Additionally, the State of Connecticut remained steadfast in its environmental protection work, joining multistate partners in litigation and proceedings before several regulatory agencies, including the U.S. Environmental Protection Agency (EPA), Department of Energy, and Department of the Interior, Fish and Wildlife Service. The broad range of issues that were addressed during FY 2019-20 included interstate ozone transport, energy efficiency standards for light bulbs and appliances, control of toxic substances, limiting oil and gas leasing to minimize greenhouse gas emissions, and reinforcing the standards of the National Environmental Protection Act. The Office also joined multistate energy matters pending before the Federal Energy Regulatory Commission and in the district courts.

The Office was equally active in the civil rights enforcement realm, litigating in a variety of district court actions in FY-2019-20, including, but not limited to, filing *amicus* briefs in: *Flores, et al. v. Barr, et al*. (demanding human rights protections for immigrant children in civil detention in the United States); *New York v. ICE* and *Washington v. DHS, et al.* (opposing the U.S. Immigration and Customs Enforcement (ICE) practice of making civil arrests at state courthouses); *U.S. v. State of New Jersey, et al.* (urging the Court to uphold a New Jersey directive sharing the same purpose as Connecticut's TRUST Act); *District of Columbia, et al. v. U.S. Dep't of Agriculture, et al.* (challenging the *Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults Without Dependents*); *Kearns v. Cuomo* and *Merola v. Cuomo* (supporting New York's Green Light Law, which allows undocumented people to get driver's licenses); *Oracle v. U.S. Dep't of Labor* (urging the Court to preserve OFCCP's administrative processes for resolving discrimination by federal contractors); *Virginia v. Ferriero* (supporting the three plaintiff states (Virginia, Illinois and Nevada) seeking to add the Equal Rights Amendment to the U.S. Constitution); and *Gomez, et al. v. Trump* (challenging ICE's modifications to the Student and Exchange Visitor Program (SEVP), which would have barred international students on F-1 and M-1 visas from staying in the United States if they were taking their classes online, even during the COVID-19 pandemic). The State of Connecticut also joined several multistate immigration and civil rights actions before federal regulatory agencies, including the United States Department of Education, Department of Housing and Urban Development, Department of Agriculture, and Department of Homeland Security.

## DEPARTMENTS

## ANTITRUST AND GOVERNMENT PROGRAM FRAUD DEPARTMENT

The Antitrust and Government Program Fraud Department has two distinct and critical missions: (a) ensure that companies and individuals that do business in Connecticut compete fairly and vigorously; and (b) protect Connecticut's health and human service programs from fraudulent and abusive conduct. In that vein, the department has the primary responsibility to enforce two important state laws: the Connecticut Antitrust Act and the Connecticut state False Claims Act.

The Department's Antitrust Section has responsibility for administering and enforcing the Connecticut Antitrust Act, and has authority to enforce major provisions of the federal antitrust laws as well. It also relies on other state laws, including the Connecticut Unfair Trade Practices Act, to support the Attorney General's overall responsibility to maintain open and competitive markets in Connecticut. Utilizing these statutes, the section investigates and prosecutes civil antitrust and other competition-related actions on behalf of Connecticut's consumers, businesses and governmental entities. In addition, the section provides advice and counsel to the Attorney

General on proposed legislation and various issues regarding competition policy.

The primary focus of the Department's Health Care Fraud Section is to detect, investigate and prosecute civil healthcare provider fraud that results in financial loss to the State of Connecticut's health and human services' programs, including the Medicaid Program and the State Employee and Retiree Health Plan. The section develops cases independently and in conjunction with other state and federal law enforcement and regulatory agencies. The Connecticut state False Claims Act, which makes the submission of a false claim to certain Connecticut health and human service agencies illegal, is the department's chief tool to fight health care fraud.

The department also investigates "whistleblower" complaints made to the Auditors of Public Accounts or the Attorney General regarding corruption, unethical practices, violation of state laws or regulations, mismanagement, gross waste of funds, abuse of authority and danger to the public safety occurring in any state agency or large state contractor.

## Antitrust Enforcement

The Antitrust Section's mandate is focused on identifying and deterring anticompetitive conduct and obtaining restitution and injunctive relief for injured "consumers", including state agencies and government programs, small businesses and individual consumers. During the past year the Section focused significant resources to ensuring competition in Connecticut's healthcare markets, with a primary emphasis on generic pharmaceuticals. The benefits to consumers from competitive and efficient healthcare markets usually take the form of transparent and competitive pricing, sufficient consumer choice, access to providers, and high quality care.

In July 2014, the Office of the Attorney General initiated an investigation into the reasons behind suspicious price increases of certain generic pharmaceuticals. In the fall of 2016, after accumulating significant evidence of potential violations, the Office of the Connecticut Attorney General organized a bi-partisan working group of state Attorneys General to assist with the office's investigation, which had broadened considerably since the inception of the investigation. In December 2016 Connecticut and nineteen other states, represented by their Attorneys General, filed a federal antitrust lawsuit in Connecticut against six generic pharmaceutical manufacturers alleging the companies engaged in a well-coordinated and long-running conspiracy to fix prices and allocate markets for two generic pharmaceuticals: doxycycline hyclate delayed release and glyburide. The lawsuit was subsequently transferred to federal court in the Eastern District of Pennsylvania. In October 2017, the Attorney General's working group asked the federal court for permission to file a new complaint in the states' pending lawsuit that increased the number of generic drug manufacturer defendants from six to 18 in the case and the number of drugs at issue in the litigation from two to 15. The court granted the Attorney General's request on June 5, 2018.

In May 2019 the Attorney General led an expanded 44-state coalition that marked a significant broadening of the investigation by filing a lawsuit against Teva Pharmaceuticals and 19 of the nation's largest generic drug manufacturers, alleging a vast conspiracy to artificially inflate and manipulate prices, reduce competition and unreasonably restrain trade for more than 100 different generic drugs. The lawsuit, which was filed in U.S. District Court for the District of Connecticut and subsequently transferred to federal court in the Eastern District of Pennsylvania, also names 15 individual senior executive defendants at the heart of the conspiracy who were responsible for sales, marketing, pricing and operations. The drugs at issue account for billions of dollars of sales in the United States, and the alleged schemes increased prices affecting the health insurance market, taxpayer-funded healthcare programs like Medicare and Medicaid, and individuals who must pay artificially inflated prices for their generic prescription drugs. A trial is expected to commence sometime in the fall of 2021.

On June 10, 2020 the Attorney General led the filing of the third lawsuit in the working group's ongoing investigation into price fixing in the U.S. generic drug market. The civil lawsuit, brought on behalf of 51 states and U.S. territories, alleges 26 corporate defendants and 10 individual defendants fixed the prices on 80 topical generic drugs that account for billions of dollars of sales in the United States. The topical drugs at the center of the complaint include creams, gels, lotions, ointments, shampoos, and solutions used to treat a variety of skin conditions, pain, and allergies. The latest complaint was filed in the U.S. District Court for the District of Connecticut and seeks damages, civil penalties, and actions by the court to restore competition to the generic drug market. The antitrust investigation is still ongoing with respect to a number of additional generic pharmaceutical manufacturers.

Merger enforcement continues to be a high priority in the Attorney General's antitrust enforcement efforts and this year was no exception. In 2018 the Attorney General joined with other state Attorneys General to investigate the potential competitive effects of the proposed merger of the telecom carriers T-Mobile and Sprint. On June 11, 2019 the Attorney General joined a lawsuit to halt the proposed merger. The complaint was filed in federal court in the Southern District of New York and alleged that the merger of two of the four largest national mobile network operators would deprive consumers of the benefits of competition and drive up prices for cellphone services. After a two-week trial in December 2019 the court ruled against the states and determined that the merger would not substantially lessen competition in the cellular telephone service market. Subsequent to the court's decision, T-Mobile entered into a settlement with the state that includes terms to protect low income subscribers, extend access to underserved communities, protect current T-Mobile and Sprint employees, and preserve jobs in Connecticut.

Ensuring open and vigorous competition in Connecticut's health care markets is a chief law

enforcement objective of the Attorney General. The benefits to consumers from competitive and efficient healthcare markets usually take the form of lower prices, sufficient consumer choice and access to providers, and high-quality care. During this fiscal year the Antitrust Section reviewed a number of proposed acquisitions by Connecticut hospitals and/or physician practice groups. These investigations are non-public unless the Attorney General ultimately challenges the acquisition in court. Although none of the reviews conducted this year resulted in a court challenge, one proposed acquisition did raise potential competitive concerns. After an investigation by the office, the parties ultimately decided to terminate the merger.

Over the last few years concerns have been raised by policymakers, the business community, consumer advocates and academia about the size and potential market power of large U.S. based technology companies - - "Big Tech" - - and their respective ability to raise prices, diminish quality and stifle innovation and competition in established and bourgeoning markets. To address those issues the Attorney General is working with other Attorneys General to investigate the business practices of two of these companies, Google and Facebook. These complex antitrust investigations are ongoing.

**Government Program Fraud Enforcement**

The Government Program Fraud Section achieved significant success this year by settling a string of investigations and obtaining several large monetary recoveries for the Medicaid Program. In addition, the Section continued to participate in numerous multi-state healthcare fraud settlements with pharmaceutical companies and other healthcare providers related to violations of the false claims act that affected the Medicaid Program. In all, the Attorney General entered into eight (8) multi-state settlements with healthcare companies yielding a total recovery (federal and state) of approximately $19.8 million for the Medicaid program.

In addition to the multi-state healthcare fraud settlements, the section filed one state False Claims Act lawsuit and entered into several Connecticut-specific false claims act settlements this past fiscal year that provided restitution to the Medicaid Program and the Connecticut State Health Plan. These actions include the following:

- On July 17, 2019 the Attorney General filed a false claims act lawsuit against a Connecticut provider of occupational and physical therapy services, alleging the defendant engaged in a scheme to submit false claims to Connecticut's Medicaid Program and the Connecticut State Health Plan for millions of dollars of reimbursements that they were not entitled to receive. The lawsuit was filed in Superior Court in Hartford and is still ongoing.

- On December 13, 2019 the Attorney General announced a Superior Court decision requiring Dr. Aram Agadjanian to pay more than $1.7 million for engaging in a long-term, pervasive scheme to defraud the Medicaid Program. The court's decision followed a seven-day trial held in Hartford and found that from May 2014 to May 2015, Dr. Agadjanian knowingly presented numerous false claims for payment for dental work that was never provided to state Medicaid patients. The court ordered that he pay treble damages, along with a civil penalty of $1.5 million. This was the office's first-ever trial under the Connecticut False Claims Act.

- On February 4, 2020, the Attorney General entered into a $200,000 settlement with an East Hartford company and its owner for allegedly engaging in a systematic and persistent pattern of submitting false claims to the Medicaid Program. The settlement stems from a lawsuit the Office of the Attorney General filed in April 2018 alleging that the company and its owner violated the state False Claims Act. In addition to paying restitution, both the company and its owner will be suspended from participating in the Medicaid Program for a period of five years.

- In March 2020 the Attorney General reached a $4.9 million civil false claims act settlement with a Middletown rheumatologist and his wife, a physician, to resolve a joint state/federal investigation involving a long-term fraudulent scheme to submit false claims for various infusion drugs purportedly provided to Medicaid recipients and patients covered under the Connecticut State Health Plan. The settlement returned close to $1.8 million to the Medicaid program and $610,000 to the Connecticut State Health Plan. This was the first false claims settlement to date regarding the Connecticut State Health Plan.

- On March 31, 2020 the Attorney General entered into a $263,488 civil false claims act settlement with a New Britain vision care service provider for allegedly overbilling the Connecticut Medicaid Program for eyeglass refitting services. The settlement resolved a joint federal/state investigation.

- In May 2020 the Attorney General announced a $295,211 settlement with a Connecticut opioid treatment program resolving a joint federal/state investigation of alleged overpayments for drug testing. The Department of Social Services provides clinics with a bundled payment for all services provided, including drug testing. The investigation found that between January 18, 2016 and December 31, 2016, the clinic used an independent laboratory that separately billed the Medicaid Program for urine drug testing. This resulted in double bills for testing through the bundled payments to the clinic and the separate charge by the independent laboratory.

- On May 27, 2020 the Attorney General entered into an $82,500 civil false claims act settlement with a Brookfield, Connecticut dentist regarding overcharges for dental restoration fillings the state alleged she did not provide. The Attorney General's investigation found that the dentist repeatedly overcharged the Connecticut Medicaid Program for multi-surface fillings that she either did not perform or the actual work performed was more limited and less expensive than that identified on the claim.

As a result of the COVID-19 public health crisis, the Attorney General, in partnership with the Connecticut U.S. Attorney's Office, the Chief State's Attorney's Office and the Federal Bureau of Investigation, established a COVID-19 Fraud Task Force to investigate and prosecute a wide range of misconduct related to the pandemic. The Government Program Fraud Section is an integral component of this initiative and has taken affirmative steps to ensure that the Connecticut Medicaid Program is protected from fraudsters and scammers who may try and take advantage of newly implemented policies designed to facilitate screening and treatment for the COVID-19 virus. To that end, the section's investigators are actively reviewing Medicaid paid claims data to identify any aberrant providers and/or target suspicious claim activity.

### Whistleblower Matters

The Whistleblower Section, in cooperation with the Auditors of Public Accounts, continued to investigate a variety of complaints alleging corruption, unethical practices, mismanagement, gross waste of funds and abuse of authority.

## CHILD PROTECTION DEPARTMENT

The Child Protection Department is responsible for representing the Connecticut Department of Children and Families (DCF) in state and federal court proceedings brought in the interest of abused and neglected children. DCF's most prominent mandate is to investigate reports of child abuse or neglect and, based on the outcome of the investigations, to provide the proper protection for children and to assist families in retaining or regaining the care and custody of their children by enhancing the safety of children's family environments and improving parenting skills. DCF's interventions in serious cases of abuse or neglect are always subject to judicial scrutiny. The vast majority of civil child protection cases before the Superior Court of Juvenile Matters are initiated by DCF through neglect petitions, applications for orders of temporary custody, review of permanency plans, petitions for termination of parental rights, adoptions and other civil proceedings. DCF is also responsible for children and youths found guilty of committing acts of delinquency and committed to the custody of the DCF commissioner. Attorneys in the Child Protection Department regularly represent DCF in all twelve (12) juvenile courts statewide, as well as in federal court. In addition, this department defends DCF in all administrative appeals to the Superior Court and represents the State before the Office of the Claims Commissioner. Since March 2020, when the State declared an emergency due to the COVID-19 pandemic, the hearings before the Superior Court for Juvenile Matters were limited to emergency cases where physical presence has been required in two venues while the rest of the courts closed. At the end of the fiscal year, five venues of the court are open, and their activities are gradually expanding through remote hearings via available technological platforms. The Child Protection Department responded to the challenges by making the necessary technological and logistic adjustments.

## COLLECTIONS/CHILD SUPPORT DEPARTMENT

The Collections/Child Support Department is dedicated to the expeditious recovery of monies owing to the State, as well as the establishment of orders for the support of children. The department represents the Department of Administrative Services/Collection Services in matters involving the recovery of debts owed to the state, including reimbursable public assistance benefits, other state aid and care, and costs of incarceration. The department also represents the Office of Child Support Services within the Department of Social Services (DSS-OCSS), to establish child support orders. Additionally, the department provides legal services to enforce child support orders at the request of the Support Enforcement Services division of the Connecticut Judicial Branch (SES). Department staff also provide a full range of litigation services to collect, on a case-by-case basis, monies owed to various state agencies, including the Departments of Social Services, Revenue Services, Correction and Higher Education, as well as the Unemployment Division of the Labor Department, John Dempsey Hospital, the Second Injury Fund, the Connecticut State University System, the Office of the Secretary of the State, the State Elections Enforcement Commission and various other state agencies, boards and commissions.

In fiscal year 2019-2020, department attorneys recovered millions of dollars in cash payments on debts owed to the state. The department's activities on child support orders continue to create exceptionally large and increased caseloads. During the fiscal year, nearly 6,000 cases were opened in all child-support categories. These cases are handled in both the J.D. Superior Court Family Division, the Family Support Magistrate Division, Probate Court, and involve the establishment of paternity and/or financial orders for the support of minor children. Additionally, the Department argued some child support related matters in the state appellate courts.

The State of CT-Title IV-D partnership, comprised of the Attorney General's office, DSS-O C S S , and SES, successfully enforced/collected in excess of $318 million in child support for families, and of that amount, $ 48 million was paid to the state General Fund under the state's assignment of rights.

Department attorneys actively argued cases on behalf of children who resided in the State of Connecticut, as well as children residing in other states and cooperating countries, pursuant to the Uniform Interstate Family Support Act. In addition to their work establishing paternity and support orders for children, department attorneys appeared and successfully argued hundreds of cases in Probate Court and Superior Court-Juvenile Court, to protect the State's interest and to preserve the legal rights of children to receive financial support from their parents. The Probate Court matters generally involve non-custodial parents seeking to terminate their own parental rights, or the custodial parent seeking to terminate the rights of the non-custodial parent. These matters are often transferred or appealed to Superior Court.

Outside the child-support area, department attorneys engaged in excess of 750 collection-related litigation matters and managed a large diverse case load, in numerous venues including state superior court, probate court, federal district court, and federal bankruptcy court proceedings in Connecticut and throughout the country. The department concluded several litigation collection matters involving the recovery of debts owed to numerous state agencies, boards and commissions.

The Department's collections efforts resulted in a recovery of $100,000 or more in approximately 13 cases, for a total Department litigation collection recovery in excess of $15 million for the state General Fund. The largest of these matters involved recoveries of $ 6.2 million, $2.2 million, and approximately $700,000 respectively, arising out of successfully enforced state claims on behalf of DAS seeking reimbursement for public assistance from various Special Needs Trust matters in Probate Court.

The Department also recovered approximately $72,000 on behalf of the Department of Correction for cost of incarceration debt statutorily owed by inmates, and recovered nearly $157,000 for unpaid medical care provided by John Dempsey Hospital. The Department also successfully collected in excess of $ 1.7 million in penalties/fines from foreign (unregistered) businesses, working in cooperation with the Secretary of the State's Commercial Recording Division.

Of the numerous bankruptcy claims that were successfully prosecuted in federal bankruptcy courts, the Department collected approximately $ 450,000 this fiscal year.

Additionally, within the Department's bankruptcy case load, staff are litigating complicated questions of law involving matters of first impression. First, the Department successfully defended Chapter 7 bankruptcy trustee "clawback" cases involving tuition payments made by parents of students who subsequently filed bankruptcy on the theory that parents are not legally liable for college tuition and therefore did not receive reasonably equivalent value for the payments. This is an area of first impression in Connecticut that may impact state colleges and universities, and a number of actions have been both threatened and initiated against the state various state universities.

The Department also successfully defended a complicated bankruptcy matter involving a bankruptcy debtor who filed a Motion for Contempt against the State. The Court ruled in favor of the Department's position that a criminal restitution order is a non-dischargeable debt and therefore that there was no basis to hold DAS, the Client Security Fund, or the private collection agency DAS hired in contempt for violating a bankruptcy discharge injunction.

The Department also actively litigated numerous appeals filed in both the Superior Court, as well as the state Appellate Court. This past year, the Department successfully defended an appeal to the appellate court of a Superior Court decision in favor of the Department holding a private law firm/attorney legally liable for failing to comply with a DSS child support lien.

The appellate decision culminated six years of highly contested litigation efforts and will help ensure the payment of much needed financial support for families in need.

Department staff instituted and litigated approximately 11,000 child support and civil collections cases this past year in state and federal courts throughout the state, and successfully recovered approximately of $6.6 million dollars for the state's General Fund. Department staff worked tirelessly in coordination with our Title IV-D child support client agencies and partners to collect in excess of $ 318 million in child support payments, of which the vast majority was collected for needy families.

## CONSUMER PROTECTION DEPARTMENT

The Consumer Protection Department protects Connecticut's consumers by investigating and litigating consumer protection matters under the authority of the Connecticut Unfair Trade Practices Act ("CUTPA") and other state and federal statutes. The Department advises the Attorney General and the Commissioner of the Department of Consumer Protection on consumer protection matters and represents and defends the Department of Consumer Protection in court. The Department also advocates on behalf of Connecticut's energy and utility ratepayers in state and federal fora. In addition, the Department educates consumers on how to avoid becoming victims of unfair and deceptive trade practices and, where possible, mediates disputes. Some highlights from the 2019-2020 fiscal year are described below.

### Protecting Consumers During the Covid-19 Crisis

During the Governor's declared public health emergency related to the COVID-19 pandemic that began in March 2020, the Consumer Protection Department investigated hundreds of complaints and allegations of COVID-19-related frauds. The Department also participated on a state and federal task force that included our federal and criminal law enforcement partners in the State, which allowed the sharing of information in addressing all manner of COVID-related fraud activities. Certain of these investigations remain active and ongoing:

Price Gouging. The Department investigated over 750 complaints of price gouging activity in Connecticut.

- Test Kits. The Department investigated and resolved a referral from the Department of Consumer Protection concerning the marketing and sale of an allegedly unapproved COVID-19 testing kit.

- Refund Policies. The Department investigated numerous complaints concerning refunds of payments made for travel, tours, events, accommodations, cruises, camps, schools, school trips and other services that were cancelled or modified by

the COVID-19 pandemic. The Department helped facilitate the resolution of many, if not most, of these complaints.

- Economic Impact Payments. The Department investigated a variety of issues related to the federal government's issuance of Economic Impact Payments, including payments to nursing home residents that were alleged to have been improperly taken as income by nursing homes and complaints of other frauds directed at recipients of such payments.

## Protecting Residents of Mobile Home Parks

The Consumer Protection Department, working in close collaboration with our client agency the Department of Consumer Protection, took decisive action to address serious health and safety violations at two mobile manufactured home parks. In the first case, the park owner passed away, leaving the park with no one to oversee operations or make necessary repairs. The Department was able to negotiate an agreement with the late owner's heir, which among other things, required the new operator to restore the park's license and make the park safe for its residents, including removing dangerous trees and brush and repairing the park's drinking water system.

In the second case, the Consumer Protection Department worked with the bank holding the mortgage on a different mobile home park to secure the appointment of a receiver to oversee park operations and maintain safe living conditions. Since the receiver was appointed in late January, it has removed dangerous trees, improved signage in the park to enhance response time by emergency personnel and taken meaningful action to remediate failed septic systems.

## Protecting Low Income Utility Customers

Docket No. 18-06-02 – *Review of Feasibility, Costs and Benefits of Placing Certain Customers on Standard Service Pursuant to Conn. Gen. Stat. § 16-245O(m).*
This PURA proceeding considered returning all utility customers coded hardship from retail suppliers to standard service. Eighty percent of such customers paid supply rates that exceeded standard service, and these overpayments totaled $7 million. These overpayments also stressed federal, state and utility assistance programs for low income customers. The Attorney General argued in favor of placing hardship customers to standard service as it will benefit hardship customers, all ratepayers and low income assistance programs. PURA agreed and, effective July 1, 2020, transferred all hardship customers to standard service.

## Protecting Utility Customers During the COVID-19 Emergency

Docket No. 20-03-15, *Emergency Petition of William Tong, Attorney General for the State of Connecticut for a Proceeding to Establish a State of Emergency Utility Shut Off Moratorium*.

On March 12, 2020, the Attorney General petitioned PURA to place an immediate moratorium on all utility service disconnections during the COVID-19 pandemic, including electric, natural gas and water service. With Connecticut residents quarantining at home, families required safe and reliable utility service to maintain public health and provide access to broadband to access work and school from home. PURA granted the petition the same day. The Attorney General then secured similar commitments from the major municipal utilities in the state to protect their ratepayers during the emergency.

## CONSUMER ASSISTANCE UNIT

The Consumer Assistance Unit ("CAU") utilizes a staff consisting of two attorneys, one investigator, and three secretaries and is supervised by Special Associate Attorney General Sandra Arenas. The staff works tirelessly to assist constituents with numerous consumer related complaints and inquiries. They are responsible with processing incoming complaints, mediating, investigating and referring those investigations to the proper department or partner agency for possible enforcement. During the past fiscal year, CAU received and responded to thousands of written and telephone consumer inquiries. More than $1,000,000.00 was refunded or credited to Connecticut Consumers due to CAU's mediation efforts. CAU receives ongoing assistance from a group of senior volunteers who work on complex mediation cases. The senior volunteers provide an invaluable service and have been recognized for their efforts nationally.

In the last quarter, CAU saw a significant uptick in consumer related complaints due to COVID-19. CAU received over two thousand COVID-related complaints in multiple areas including price gouging, travel cancellations, event interruptions, failure to receive unemployment benefits or other government services, and reports of potential scams. Besides e-complaints, CAU also fielded numerous telephone calls and emails reporting COVID-related issues. CAU personnel were instrumental in identifying a large-scale tour group complaint which ultimately resulted in over one million dollars being returned to travelers.

CAU, working in conjunction with the Comms Team, is responsible for the Office of the Attorney General's public outreach efforts. During the past year, the AG and staff hosted and attended numerous public events on various topics in each Congressional District. CAU also assisted with gathering information for press releases, consumer advisories, and other media events. During the COVID pandemic, most outside events needed to transition into to virtual platforms. This added an extra layer of coordination and organization.

## EMPLOYMENT RIGHTS DEPARTMENT

The Employment Rights Department devotes a substantial amount of its resources to defending state agencies, including the University of Connecticut, the UCONN Health, the

Connecticut State Colleges and Universities, and state officials in employment related litigation and administrative complaints. Its staff continues to work to effectively defend employment claims against the state and state officials – thereby limiting or avoiding the state's exposure to financial liability and other costs associated with litigation -- while ensuring protection of employees' legitimate legal rights.

The department also regularly provides legal advice and counsel, both orally and in writing, to state agencies on a variety of employment matters. The department's role continues to increase in this regard as the issues facing state agencies become more complex. The department staff also participates in training agency staff in employment laws including the Connecticut Fair Employment Practices Act, the Civil Rights Act of 1964, and the Americans with Disabilities Act.

Department staff is currently defending the State in approximately 49 employment cases in the state and federal courts, including 1 Second Circuit Court appeal and 4 Connecticut Appellate Court. In addition to these cases, the department is defending approximately 144 complaints before the Connecticut Commission on Human Rights and Opportunities ("CHRO"), Office of Public Hearings, the Equal Employment Opportunity Commission ("EEOC") and Freedom of Information Commission ("FOIC"). The department is also defending 11 claims in the Office of the Claims Commissioner. In addition, we have 36 cases that are awaiting a Case Assessment Review by CHRO to determine if the cases will proceed.

During the past year, the department successfully defended state agencies in numerous cases in the state and federal courts. Significantly, the department was able to obtain judgment in favor of the state and its officials on 4 summary judgment motions that were filed in the federal and state courts, eliminating the need for trials in those cases.

These victories are important as they eliminate not only the need to expend resources at trial, but also eliminate the uncertainty and exposure the state has to large jury awards. The department also obtained partial summary judgment in an additional 3 cases reducing the state’s exposure in those cases. The department also filed approximately 4 additional summary judgment motions during fiscal year 2019-2020, motions which are pending rulings by the court. The department also has an additional 3 summary judgment motions previously filed, which are pending, awaiting rulings from the court.

During fiscal year 2019-2020, the department represented the state in 6 trials. The department also tried 2 matters at the Office of Public Hearings. In addition, department successfully defended 4 federal district court decisions in appeals before the federal Second Circuit Court of Appeals.

The department was also successful in avoiding the state's exposure to financial liability by entering into favorable settlement agreements, and by filing motions in several cases, which resulted in dismissals by the Courts and CHRO.

## ENVIRONMENT DEPARTMENT

The Environment Department represents the state Department of Energy and Environmental Protection and the Department of Agriculture in court and administrative proceedings. The department continues to have important success in abating pollution and in enforcing environmental laws. This year the department initiated and participated in a number of cases that sought to protect the environment and the citizens of the State of Connecticut. The department also continued to coordinate with other states on national efforts to keep Connecticut's air clean and help protect its citizens from the impacts of air pollution transported to our state and from climate change.

In the continuing effort to improve Connecticut's air quality, the Department participated in a number of legal actions to enforce the Clean Air Act, including actions seeking to reduce the impact in Connecticut from air pollution generated in other states. For example, the department continued efforts to defend the Clean Power Plan, which includes rules intended to reduce emissions of $CO_2$ (the main greenhouse gas that causes climate change). In addition, the Department worked with other states to support and defend federal rules intended to promote cleaner air in Connecticut. The Department also worked to ensure that rules intended to protect Connecticut from upwind pollution are not eliminated. These efforts included joining a multistate group that seeks to prevent the rollback of vehicle emissions laws that are at the heart of Connecticut's air pollution program.

This year the department secured a number of legal victories on behalf of the Department of Energy and Environmental Protection ("DEEP") that furthered the State's efforts to enforce and defend environmental laws. The Department brought several actions seeking penalties and injunctive relief requiring remediation of polluted properties. Through these various enforcement actions the Department was able remediate a number of sites and collect $225,000 in civil penalties for the general fund and $565,000 in Supplemental Environmental Projects monies to be used to benefit public health and the environment in Connecticut.

The Department also defended a claim brought by the Schaghticoke Tribal Nation (STN) seeking $600 million in value of funds from the sale of land allegedly mishandled by the State. The Department was successful in getting this case dismissed. The court ultimately determined that there was no property interest that had been taken, and, as to the fiduciary duty claim, that because the Schaghticoke Indians had no property interest in the funds that had been handled by the overseers at the direction of the General Assembly, the Schaghticoke Indians were owed no

particular fiduciary duty at all; indeed, the trial court characterized the General Assembly's relationship to the Schaghticoke Indians as one of care and charity, and the legislature's actions as akin to expressions of legislative grace about which there could be no harm nor any viable legal claim for redress.

The Department also successfully defended an administrative appeal related to the public's right to access. An owner of waterfront property on Long Island Sound put up fencing perpendicular to, as well as below, the mean high water line, thereby encroaching on the public trust area, which is owned by the people of the State and which is and should be freely accessible to them. People enjoy access to this public trust area below the mean high-water line for fishing. The DEEP issued an order to the property owner to remove the fencing, which order the owner appealed. Based upon the administrative record, on appeal the trial court determined that the agency's decisions on the order and permit were supported by substantial evidence; that the property owner had no property right supporting his encroachment on the public trust.

This past year too, the Department participated in a number of energy issues intended to protect Connecticut ratepayers and energy efficiency. At the Federal Energy Regulatory Commission the Department filed comments to and protests of ISO-NE rules that unfairly benefit major transmission companies and cost ratepayers hundreds of millions of dollars. We also successfully pushed back on a new ISO rule that would have unjustly and unreasonably benefited fossil generators for services ratepayers do not need. On the energy efficiency front, the Department participated in major multi-state actions in two federal courts of appeals fighting rollbacks of energy efficiency standards for interior lighting and commercial and residential appliances. In addition, the Department is part of a large coalition of states fighting fundamental changes in the procedures used by the U.S. Department of Energy to establish now energy efficiency standards for new products. These energy efficiency standards have saved consumers $14 billion since they were put in effect and have lowered overall electric demand reducing pollution and carbon emissions.

The Department also intervened, on behalf of the State of Connecticut, in a matter filed by the New York Department of the State seeking to challenge the designation of a site in eastern Long Island Sound to be used for dredging. This designation of this site was the result of many years of environmental research and negotiation. The site is critical to the maritime economy of Connecticut that needs to dispose of dredging material as a result of work necessary to maintain ports and certain industries. The Department was successful in getting the case, which was filed in the United States District Court for the Eastern District of New York, dismissed. The court found that the record sufficiently supported and justified the designation of this disposal site.

The department also worked with the DEEP to negotiate Consent Orders and resolve outstanding administrative proceedings that are intended to protect the environment and remediate pollution.

The department's representation of the DEEP in bankruptcy proceedings continues to thwart polluters' efforts to avoid environmental liability by filing bankruptcy. The department attorneys handled numerous bankruptcy filings this year, representing DEEP's interests in bankruptcy courts. The department's attorneys' work in bankruptcy court seeks to ensure that contaminated properties are not abandoned and left to taxpayers to clean up.

The department continues to represent and assist the Department of Agriculture ("DoAg") in animal cruelty cases, working with DoAg to protect neglected and cruelly treated animals. This past year the Department was successful in gaining an order for the permanent custody of 18 cattle, 137 chickens, 33 ducks and 6 dogs that were being neglected and/or cruelty treated. The animals were seized and relinquished to the Department of Agriculture.

This past year the department also continued to defend challenges to DoAg decisions intended to protect the public from vicious animals. The department also provided legal support to DoAg in preserving valuable Connecticut farmland by acquiring the development rights through the Farmland Preservation Program, thereby protecting the land from commercial or residential development. The department continues to provide legal support to DoAg's Aquaculture Division and assists DoAg in leasing hundreds of acres for oyster farming and other commercial aquaculture activities, thereby generating millions of dollars for the State's economy.

In addition, the Environment Department continues to provide a full range of legal services to both DEEP and DoAg, including defense of Claims Commissioner matters, contract review, opinions, legal advice and counsel.

## FINANCE DEPARTMENT

The Finance Department ("department") provides legal services to several state agencies, including the Department of Banking, the Department of Economic and Community Development, the Department of Insurance, the Department of Revenue Services, the Office of Policy and Management, the Office of Health Strategy, and the State Insurance Risk Management Board. The department handles litigation in federal and state courts for these agencies, including regulatory enforcement actions, administrative appeals, actions requiring the defense of state laws, and in proceedings before the Freedom of Information Commission and the Claims Commissioner. The department also provides advice to the agencies it represents on a wide variety of legal and regulatory issues that arise in their daily operations, including the review of agency contracts and regulations for legal sufficiency.

During the past fiscal year, the department's work on behalf of state agencies included representing the Department of Revenue Services in nearly 500 tax warrant proceedings seeking to collect overdue and delinquent state taxes, representing the Department of Banking in numerous administrative enforcement actions and other litigation matters, providing the

Department of Economic and Community Development with legal assistance regarding grant, loan, and economic development programs, and assisting the Office of Health Strategy by providing legal advice with respect to its statutory responsibilities and guidance on state contract requirements.

Along with the work it does directly on behalf of state agencies, the department focuses on consumer financial protection and investor protection by conducting investigations, leading multistate enforcement committees, negotiating settlements, commencing litigation, drafting and reviewing regulatory comment letters, and handling consumer inquiries. Areas of focus include financial services, residential mortgage loan origination and servicing, for-profit education, student loans, and debt collection.

Department attorneys facilitated Connecticut's participation in a multistate settlement with Santander Consumer USA Inc. ("Santander") to resolve allegations that the auto lender violated state consumer protection laws by exposing subprime consumers to unnecessarily high levels of risk and knowingly placing these consumers into auto loans with a high probability of default. The settlement will include over $550 million in relief for consumers, including for approximately 1,740 Connecticut residents. Connecticut received a $30,000 direct payment. The settlement also requires the company to reform its practices going forward, including mandating that Santander will factor a consumer's ability to pay the loan into its underwriting.

The Finance Department is also responsible for enforcement of the Master Settlement Agreement ("MSA") between fifty-two states and territories, including Connecticut, and more than forty participating tobacco product manufacturers. Department attorneys work to ensure that Connecticut receives the monetary payments it is owed under the MSA, and that tobacco manufacturers also comply with the public health provisions of the MSA and other requirements of state law. In addition, department attorneys collaborate with the Department of Revenue Services to carry out the state's enforcement responsibilities pursuant to the MSA and related state statutes. During the past year, Connecticut received nearly $120 million in payments from tobacco manufacturers that participate in the MSA.

## HEALTH AND EDUCATION DEPARTMENT

The Health and Education Department provides legal services and representation to a broad spectrum of state agencies, including the University of Connecticut, the University's Health Care Center and John Dempsey Hospital, the Connecticut State Colleges and Universities composed of the four Connecticut State Universities and the thirteen Connecticut Community Colleges, the Office of Higher Education, the State Library, the State Department of Education and the Connecticut Technical High Schools. This department also represents the Department of Public Health, the Department of Social Services, the Department of Mental Health and

Addiction Services, the Department of Aging and Disability Services, the Department of Developmental Services, the Department of Veterans' Affairs, the Office of Early Childhood, the Psychiatric Security Review Board, the Commission on Human Rights and Opportunities, the Office of the Chief Medical Examiner and the sixteen health licensing boards and commissions.

The department's workload addresses the entire spectrum of litigation in federal and state courts for these clients, including but not limited to class action lawsuits, administrative appeals, regulatory enforcement actions, non-employee discrimination claims, civil rights actions, probate proceedings, bankruptcy and receivership actions. The department also is involved in a variety of administrative proceedings representing the adjudicating agency (*e.g.* licensing boards), the prosecuting agency (*e.g.* day care and health care facility prosecutions) and defending agencies in proceedings before the Office of the Claims Commissioner, the Freedom of Information Commission and the Commission on Human Rights and Opportunities. The department advises and counsels client agencies on wide spectrum of issues, including, for example, regulatory issues for health care facilities and professions, emergency medical services, child day care services and environmental health such as public water supply, lead paint, and asbestos; Medicaid and other welfare programs such as food stamps; nursing home and hospital rates; health care facility certificates of need; confidentiality of medical and education records; civil commitment law, medical/psychiatric treatment at state facilities, property acquisitions, state contract law, disability accommodations for students; federal higher education law, and oversight of public and private educational entities. The department also reviews and approves for legal sufficiency regulations and contracts for its client agencies.

## Health

Starting on March 10, 2020, with the Governor's declaration of a public health emergency and civil preparedness emergency, the department has been extensively engaged in responding to legal demands arising from the COVID-19 pandemic. The department provided advice on provisions in 27 of the Governor's executive orders issued under the declaration and 23 orders of the Commissioner of Public Health. The department negotiated consent orders with 13 health care facilities after the declaration often to permit and regulate the expansion of services needed to respond to the COVID-19 surge. The department secured the agreement and approval of the Office of Civil Rights of the Department of Health and Human Services of an order from the Commissioner of Public Health addressing access of support persons to disabled patients in hospital and other facilities.

The department worked with the Department of Public Health (DPH) to further its role as a health regulatory and enforcement agency. These activities included, among others, defending a number of challenges to the regulatory authority of DPH and decisions of the licensing boards for health care professionals. For example, the department secured

compliance with a DPH order that a nurse undergo a medical examination to determine her fitness to practice. The department secured a dismissal of a court challenge to the Department of Public Health's issuance of a report on aggregate immunization rates for each school in Connecticut. In *Jackson v. Department of Public Health*, the Court of Appeals for the Second Circuit affirmed the district court's dismissal of a suit brought by a practitioner of "Nedicine" claiming that the regulatory actions taken against her were in violation of her First Amendment rights.

The department handled a substantial amount of litigation for the Department of Social Services (DSS). In addition to resolving court cases involving issues of Medicaid eligibility, the department negotiated a settlement agreement in the lawsuit challenging the legality of the Connecticut hospital tax and as a part of the global settlement resolved over a hundred hospital rate appeals pending at the Department of Social Services. The settlement resolved claims that could have amounted to $2.5 billion and established a tax and Medicaid rate structure that will apply for the next five years bringing certainty and stability for the hospitals and the State. The department secured the appointment of a receiver for a nursing home in Waterbury, Connecticut that was financially failing. The department also secured the safe wind down and closure of a nursing home in bankruptcy.

The department was also able to secure court decisions rejecting challenges to decisions of the Department of Developmental Disabilities (DDS) placing persons on its abuse and neglect registry. The department continues to represent DDS in ongoing settlement compliance in the Southbury Training School litigation.

On behalf of the Office of Early Childhood, the department secured the revocation of a license of a child care facility due to numerous regulatory violations. The Superior Court affirmed the decision on appeal.

## Education

The department negotiated a settlement agreement in *Sheff v. O'Neil, the* long-standing litigation against the State Board of Education seeking the desegregation of the Hartford school system. The agreement runs through June 2022 and will bring more opportunities to Connecticut students to attend diverse schools, and greatly expands opportunities for Hartford students. The agreement achieves a number of important goals including substantially increasing the number of seats available to Hartford students in more diverse educational settings through systemic changes in the magnet school lottery. The agreement commits the parties to developing a long-term plan during the next two years. As a result of the settlement agreement, the department was able to secure a withdrawal of a federal lawsuit challenging the lottery system as unconstitutional. In addition, the department secured the dismissal of a federal lawsuit challenging laws governing magnet schools outside the Sheff region. In

*Moulthrop v. Connectiuct State Board of Education*, the court affirmed the Board's determination to revoke the plaintiff's teacher and principal certificates as a result of various breaches of testing security at elementary school attributable to the plaintiff that were part of massive cheating that occurred during the administration of the March 2011 Connecticut Mastery Test.

The department provided legal services on a broad array of issues to the Connecticut State Colleges and Universities. Some of these issues included contract questions, discrimination claims, Title IX claims, due process rights and issues arising under the Freedom of Information Act. Notably, in *Haughwout v. Tordenti*, the Connecticut Supreme Court upheld the decision of Central Connecticut State University to expel a student for various statements and gestures with respect to gun violence and mass shootings as constituting true threats that were not protected by the First Amendment.

The department also provides services for the wide variety of legal matters involving the University of Connecticut. This responsibility continues to increase as the University grows and higher education matters become more complex involving litigation and administrative proceedings including challenges to student disciplinary matters. The department attorneys expend substantial time on legal review, negotiation and approval of highly complex transactions and contracts.

The University of Connecticut Health Center continues to present broad and challenging legal issues that arise from the operation of an academic health center. The department also secured the dismissal of lawsuits brought by prisoners seeking damages against the Center for a data breach that resulted in access to some email accounts, but not medical records of the Center.

## PRIVACY AND DATA SECURITY DEPARTMENT

The Privacy and Data Security Department handles matters related to the protection of Connecticut residents' personal information and data. The Department enforces state laws governing notification of data breaches, safeguarding of personal information, and protection of social security numbers and other sensitive information. The Department is also responsible for enforcement of federal laws under which the Attorney General has enforcement authority, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Children's Online Privacy Protection Act (COPPA), and the Fair Credit Reporting Act (FCRA). In addition, this Department provides the Attorney General with advice and counsel on proposed legislation and other matters regarding privacy and data security, and it engages in extensive outreach to citizens and businesses on matters relating to data protection and privacy.

## Education

The Privacy and Data Security Department provides education and outreach with public and private entities that have a role or strong interest in privacy and data protection. In addition to small business roundtable or industry-specific events, Privacy and Data Security Department staff have spoken on national panels, including at the Practicing Law Institute's Annual Privacy Seminar, and presented continuing legal education in addition to other discussions and presentations regarding data security and privacy.

## Legislation

In consultation with the Privacy and Data Security Department, the Attorney General raised Senate Bill 137, An Act Concerning Data Privacy Breaches. This bill would have updated Connecticut's data breach notification law to include expanded notification obligations, including for breaches involving medical information or email addresses and passwords, and would have lessened the requisite notice timeframe to 30 days. Our office also submitted testimony on Senate Bill 134, An Act Concerning Consumer Privacy. The legislation sought to strengthen and enhance the privacy protections afforded to Connecticut consumers by granting them certain rights over their personal information, including the right to opt-out of the sale of their information and the right to request that a business delete their information. The Attorney General's testimony raised concerns about discrete issues with the proposed legislation but supported the concept behind the bill. The Department also monitored Federal privacy and breach notification legislation as well as numerous proposals in other states. We met with both state and federal legislative staff to discuss these proposals.

## Data Breaches

In fiscal year 2019-20, the office logged in approximately 811 data breaches. The Privacy and Data Security Department reviews and triages all breach notifications submitted to the office, and conducts all necessary follow-up with the reporting company, including requests for further information about the incident itself, copies of consumer notice letters, and/or requests for extended protection services where warranted under the circumstances. The Department also conducted investigations into data breaches involving violations of state consumer protection and privacy laws and/or federal laws protecting personal information. Of note:

### Equifax

On July 22, 2019, the office announced a historic $600 million multistate settlement with Equifax relating to the 2017 data breach affecting over 147 million Americans. Our department co-led the multistate investigation and actively participated in negotiations. The settlement was part of a

global settlement that Equifax reached with the Federal Trade Commission, Consumer Financial Protection Bureau, and the Multi-District Litigation ("MDL") class action.

Equifax announced in September 2017 that it had suffered a data breach affecting approximately 148 million consumers nationwide. In Connecticut, 1,575,191 residents were impacted. The breached information included SSNs, names, dates of birth, addresses, and in some cases, driver's license numbers, credit card numbers, and credit report dispute documents.

Under the settlement, Equifax agreed to detailed data security and governance provisions designed to significantly strengthen its security practices going forward. Equifax also agreed to strong consumer-related relief, such as extended credit monitoring, a hands-on consumer assistance process, and a commitment to minimize the use of Social Security numbers as the sole authentication method for consumers.

In addition to injunctive terms, Equifax agreed to provide a single Consumer Restitution Fund of up to $425 million—with $300 million as a guaranteed amount and a possibility of an additional $125 million (auxiliary funds) if the initial $300 million is exhausted. This Fund is being administered through the MDL.

Finally, Equifax agreed to pay the states a total of $175 million in lieu of civil penalties. This represents the highest payment for a data breach investigation to date. Connecticut's share, with our leadership bump, was $4,785,588.51. The bulk ($4,035,588.51) was placed in the General Fund with $500,000 to the Attorney General's Consumer Protection Fund and $250,000 to the DCP Consumer Protection Fund.

**Premera**

On July 12, 2019, our office announced a $10 million settlement with Premera to resolve a multistate investigation of a data breach that Premera announced in May 2015. As a result of the breach, the personal information of up to 11 million Premera customers was compromised. The breach was national in scope, but the primary impact was in the Pacific Northwest (for e.g., Washington was disproportionately affected with over 4.8 million residents impacted). In CT, approximately 15,000 residents were affected by the breach.

After settlement negotiations stalled, we requested and received approval to join a Complaint that lead state Washington would file in the U.S. District Court, Western District of Washington, on behalf of the group. On the eve of filing, Premera agreed to resolve the states' investigation. Under the settlement, in addition to the payment, Premera agreed to injunctive terms aimed at addressing its HIPAA non-compliance and security issues that contributed to the breach. These terms included: the implementation of a compliance program; the implementation of a comprehensive Information Security Program; corporate governance and reporting requirements, including

eliminations of conflicts-of-interest that contributed to the breach; a third-party Cybersecurity Assessments for three (3) years; and a Compliance and Governance Assessment.

Connecticut's share of the payment, with our litigating state bump, was $52,642.00 and was placed in the General Fund.

**Medical Informatics Engineering**

In late May 2019, our office entered into a settlement to resolve a multistate investigation of a data breach of Medical Informatics Engineering's systems. The breach exposed the sensitive personal and medical information of 3.9 million individuals nationwide, the majority of whom are Indiana residents (1.5 million). In Connecticut, 6,106 individuals were affected with 4,590 having their SSNs compromised.

We negotiated a settlement with MIE to address our concerns that MIE violated HIPAA and state law by failing to have reasonable security measures in place. Under the settlement, MIE has agreed to injunctive terms requiring MIE to remediate the issues that led to the breach and strengthen its security practices going forward. For example, MIE is prohibited from using generic accounts that have administrative privileges. MIE must also: require multi-factor authentication for access to any portal it manages in connection with ePHI and for employees' remote access; implement a Security Incident and Event Monitoring solution and analyze system activity in as close to real-time as possible; require strong, complex passwords and ensure such passwords are securely stored; and have annual risk assessments performed by an independent assessor for 5 years (and the resulting reports must be provided to the AGs).

In addition to injunctive relief, MIE also agreed to make a $900,000 payment to the states, in three (3) annual installments of $300,000. Connecticut's share, as an Executive Committee state, totals $60,886.19. The first payment was due on July 1, 2019 July 1st, 2019 ($15,221.55); the second payment will be due on July 1, 2020 ($22,832.32) and the third payment on July 1, 2021 ($22,832.32). All payments will be placed in the General Fund.

## PUBLIC SAFETY DEPARTMENT

This past year the Public Safety Department represented the Department of Correction; the Department of Emergency Services and Public Protection, including the Division of State Police, the Division of Emergency Management and Homeland Security; the Military Department; the State Marshal's Commission and the Department of Consumer Protection Liquor Control Division. The Department also provides legal services and representation to a number of associated boards, commissions and agencies, including the Division of Criminal Justice, the Division of Public Defender Services, the Office of Adult Probation, the Governor's Office

(Interstate Extradition), the Statewide Emergency 9-1-1 Commission, the State Police Special Licensing and Firearms Unit, the Board of Firearms Permit Examiners, the Commission on Fire Prevention and Control, the Board of Pardons and Paroles and the Police Officer Standards and Training Council. Within the last year, attorneys in the department have also represented the Judicial Branch in various litigation matters.

## The Department of Correction

The Department of Correction ("DOC") is the Department's largest client agency. With over 6,000 employees, nearly 10,000 inmates and another 6,000 offenders supervised in community placements, all of the attorneys in the Department devote most of their time to representation of the DOC. Much of this work is done in defense of the agency and its employees in lawsuits brought by and on behalf of prisoners. The Department continues to defend a large number of lawsuits in state and federal court challenging conditions of confinement in state correctional facilities and the administration of community programs. The pending corrections cases in the U.S. District Court alone continue to represent more than 15% of the overall federal court docket. These lawsuits collectively seek millions of dollars in money damages and seek to challenge and restrict the statutory authority and discretion of the Department of Correction. The Department's efforts in defense of these cases save the State of Connecticut millions of dollars in damages claims, and preserve the state's authority to safely and securely manage an extremely difficult prison population free of costly and onerous court oversight as has been the experience in other states. Significant areas of litigation in the last year include: continued defense of the DOC's classification of former death row inmates; defense of various challenges to limitations on access to courts by inmates; defense of policy restrictions on the ability of restrictive housing inmates to move out of cell without restraints; class action litigation regarding the provision of treatment for Hepatitis C, litigation challenging DOC's pornography ban and limitations on inmate access to gang materials; environmental claims arising from exposure to Radon, PCBs and other hazardous conditions at several correctional facilities; litigation brought by certain violent groups that seek to be recognized as religious organizations; inmates challenging their classification as members of security risk groups; and inmates challenging the policies and procedures relating to strip searches conducted by correctional staff.

Because the inmate population continues to present exceptionally challenging medical and mental health issues, we continue to see a considerable increase in the number of complex medical cases involving issues such as: suicides; the alleged misdiagnosis of cancer and other serious chronic illnesses; viral infections allegedly resulting in blindness; loss of organ function; medical claims of individuals impacted by the opioid epidemic; and even the pre-term birth of a child at the women's facility. Additionally, at least once a month we initiate emergency proceedings to allow for extraordinary measures to reverse the physical effects of inmates actively engaged in hunger strikes. This Department continues to work with the Department of Correction, the University of Connecticut Health Center, and outside medical and mental health

experts to defend litigation, develop policies addressing inmate patient care and identify systemic deficiencies in an effort to improve medical care and reduce the state's exposure to substantial damages awards.

A great number of inmate claims addressing conditions of confinement continue to be brought as habeas corpus cases. Thus, the Department continues to defend inmate challenges to prison conditions and the application of the "good time" statutes to multiple sentences. The DOC utilizes a "Risk Reduction Earned Credit" program to reduce the inmate population by awarding sentence credits for participation in designated inmate programming. Inmates who feel they have not received a sentence decrease frequently litigate these claims by means of habeas corpus cases. In each of the last several legislative sessions, statutory changes have altered the calculation of the award of discretionary sentence credits. This has resulted in a significant increase in habeas cases. The legislature has also implemented numerous changes to parole and pardon eligibility. There has been a resulting rapid increase in the number of parole eligibility cases defended by the attorneys in this Department. We also continue to see an increase in medical claims in habeas court.

With the onset of the Covid-19 pandemic, inmates have brought a number of new cases, and filed and emergency motions in pending cases, challenging DOC's response to Sars-CoV-2 and seeking emergency release from custody. After considerable motion practice and discovery, we negotiated a settlement of a class action brought on behalf of the entire inmate population, and successfully defended numerous other proceedings in state and federal court arising from the pandemic. Thus far, none of the cases we have defended has resulted in a court-ordered release of an inmate.

In addition to our litigation commitments, Public Safety attorneys continue to advise the Commissioner of Correction on the legal aspects of a myriad of policy initiatives and legal issues, including: transfer of oversight for medical care from UCONN to DOC and to contract providers outside of government; provision of necessary services to inmates discharging from custody; accommodating the practices of several religious faiths of the inmate population; management of high profile inmates; maintaining appropriate services for mentally ill offenders; developing and maintaining appropriate administrative directives; and implementing safety and security procedures that protect staff and the public while also accommodating evolving constitutional standards as articulated in developing case law. We regularly provide training to DOC staff and supervisors through their academy program.

The Department also continues to monitor compliance with agreements resolving litigation regarding the conditions of confinement in the women's prison and treatment of HIV infected inmates. With the recent class action settlements regarding HCV care and Covid-19 management, our work monitoring compliance will increase in the upcoming fiscal year. As the DOC continues to shift its focus to increasing community placements and reducing the number

of inmates assigned to restrictive housing settings, the Department works closely with the agency to implement policies governing these new initiatives that comport with statutory and constitutional mandates. Department attorneys also provide instruction at the DOC training academy on legal issues arising in corrections. These obligations will continue to challenge the Department as budget constraints take a toll on the correctional system.

## Board of Pardons and Paroles

The Department continues to defend a number of cases involving the Board of Pardons and Paroles ("BOPP"). These cases involve challenges to the Board's authority relative to the granting, rescission and revocation of paroles, as well as parole eligibility and changes to the parole statutes. More recently, as the standards for the granting of pardons have been relaxed by the legislature, we are seeing an increase in pardon-related litigation in state and federal courts. The Public Safety Department continues to provide the Board with advice and training on legal issues involving its hearing procedures and developing legal trends.

## Department of Emergency Services and Public Protection

Department attorneys defend all lawsuits involving the State Police, a division of the Department of Emergency Services and Public Protection ("DESPP"), where plaintiffs seek money damages arising from the exercise of police powers. The Department caseload of police litigation continues to grow in both number and complexity. The cases include false arrest and excessive force cases claims, wrongful death claims arising from police shootings, administrative proceedings before the Commission on Human Rights and opportunities arising from racial profiling of persons stopped and/or arrested by CSP, and contract claims arising from the agency's relationships with outside service providers. During the past year, the Department successfully litigated a number of cases in federal court and received favorable decisions in many of those cases. In addition to the department's litigation efforts, Department attorneys meet regularly with State Police command staff and in-house counsel to review the agency's policies and procedures and to address legal issues relating to release of confidential information, compliance with subpoenas, and relations with other agencies.

This Department continues to represent DESPP in revocation proceedings relating to firefighters, private investigators and certain tradesmen involved in fireworks and demolition and to give advice to agency attorneys who prosecute and sit as hearing officers in these administrative proceedings. Department attorneys also routinely appear on behalf of DESPP in state and federal court and before the Freedom of Information Commission to address the many different statutory provisions that mandate confidentiality, and even erasure, of police records. Our attorneys also appear on behalf of DESPP in matters before the Commission on Human Rights and Opportunities in matters relating to racial profiling and discrimination based on past criminal history.

With the recent passage of significant police accountability legislation, it is likely that this department will see an increase in police misconduct litigation in state court, as well as an increase in administrative proceedings arising from the revocation of the credentials of municipal police officers by the Police Officers' Standards and Training Council, as well as regulation review to comport with the regulatory requirements of this new legislation.

## Board of Firearms Permit Examiners

During the past year, the Department provided legal advice and representation to the Board of Firearms Permit Examiners on a number of issues, including appeals from denials of permits based on mental health and medicinal marijuana use. The Department has handled several appeals to the Superior Court from the Board's decisions, including efforts to compel towns to issue permits in accordance with the orders of the Board. The Department also continues to field many public inquiries related to the concealed and open carrying of firearms under Connecticut law and the recently enacted firearms legislation as it relates to the licensing of firearms owners and their purchases of firearms and ammunition. The Department continues to work with the Board to enforce the firearms laws of the State of Connecticut.

## Liquor Control Division

During the past year, the Department has handled a number of administrative appeals involving permits and licenses that are within the purview of the Liquor Control Division. In addition, department staff provided the Division with advice on legal issues concerning enforcement of the state's liquor laws.

## State Marshal Commission

During the past year, the Department continued to provide legal advice to the State Marshal Commission on several matters, particularly with respect to the duties of state marshals and the removal of state marshals. This Department also represented individual Marshals in cases brought by detainees raising claims of excessive force and failure to protect from physical harm.

## Division of Criminal Justice & Division of Public Defender Services

The Department continues to defend numerous cases involving the Division of Criminal Justice and the Division of Public Defender Services. These cases often raise constitutional questions involving governmental immunity, and relate to the core duties of prosecutors and public defenders throughout the criminal justice process. In addition, the Department works closely with the Office of the Chief State's Attorney and several State's Attorneys in areas of overlapping jurisdiction, such as complex habeas corpus matters in state and federal courts. In

addition, we serve on the DNA Oversight Committee, which is responsible for overseeing policies governing the state's DNA databank. Finally, the Department oversees the contract between the Office of the Chief State's Attorney and outside labor counsel.

## Military Department

The Department continues to work closely with the Military Department on a variety of issues, particularly in review and approval of substantial contracts and funding programs from the U.S. Department of Defense.

## Prosecution of Home Improvement Contractors

An Assistant Attorney in our Public Safety Department oversees the Attorney General's program for prosecution of fraudulent and/or unlicensed home improvement contractors. Under this program, several of the office's AAGs are appointed as special assistant state's attorneys to prosecute new home construction contractors and home improvement contractors for various crimes including failure to obtain proper licensing and refusing to refund deposits. The program's AAGs review and approve warrant applications leading to the arrest of individuals who violate the laws governing home improvement and new home construction contractors. The AAGs then prosecute the cases to completion in criminal court and recover restitution for victims of unscrupulous home improvement contractors.

## Wrongful Incarceration Claims

The Department continues to represent the State in claims for wrongful incarceration brought in the Claims Commission pursuant to Conn. Gen. Stat. § 54-102uu. Since the legislature created this remedy, more than 40 individuals have filed claims seeking millions of dollars in damages for being wrongfully convicted of, and incarcerated for, crimes they did not commit. This Department reviews each claim to determine whether a claimant is eligible for damages, which requires examination of the underlying criminal case files and consultation with prosecutors. In several of the cases where it appeared the claimants were not eligible for damages, the Department contested the claim in litigation before the Claims Commissioner. Defense of these claims usually requires lengthy discovery and administrative proceedings before the Commissioner.

## Contracts

Each year, the Department works closely with its client agencies, including DOC, DESPP, DEMHS, and the Military Department, to review and approve contracts for the Commissioners' and Major General's signature. Included are memoranda of understanding, grants, and agreements with service providers as well as with local/federal government entities. The contracts are carefully reviewed to ensure compliance with all applicable statutes and regulations. This year the Department reviewed over 100 contracts, requiring authorization of the Commissioners and Major General for expenditures totaling in excess of $50 million dollars.

The Department reviewed and provided advice to DESPP on contracts and MOUs, including agreements relating to the licensing of telecommunication facilities to effect consolidation of dispatch services around the state, as well as all resident trooper agreements between the department and the more than forty municipalities participating in the resident trooper program. The Department also reviewed and provided advice to the DOC on contracts, including those related to administration of temporary supportive housing, medical care for inmates, outpatient treatment, and rehabilitative services to offenders on parole. An AAG in the Department advises the agencies in the negotiation of problematic contractual provisions to ensure agency policies and practices are effectuated, as well as educating and training its agency staff in contract law.

### Appeals

This Department has a substantial appellate practice in state and federal courts. More than 25% of all appeals in this agency are handled by attorneys in this Department. The issues on appeal range from Second Circuit appeals raising complex constitutional issues to State Appellate and Supreme Court cases arising from habeas court and the regular session of the Superior Court. Our attorneys work closely with the Solicitor General on these appeals.

## SPECIAL LITIGATION & CHARITIES DEPARTMENT

The Special Litigation Department represents the Governor, Lieutenant Governor, the General Assembly, the Judicial Branch, the Secretary of the State, the Treasurer, the Comptroller, the Auditors of Public Accounts, the State Elections Enforcement Commission, the Office of State Ethics, the Department of Consumer Protection, the Department of Revenue Services, the Office of Governmental Accountability, the State Contracting Standards Board, the State Properties Review Board, the Judicial Review Council, the Judicial Selection Commission, the Statewide Grievance Committee, the Probate Court Administrator, the Office of Child Advocate, the Office of the Victims Advocate, the Public Utility Regulatory Authority and the Connecticut Siting Council. In addition, through its Public Charities Unit, the Department protects the public interest in gifts, bequests and devises for charitable purposes, and in conjunction with the

Department of Consumer Protection, enforces state laws regulating charities and professional fundraisers who solicit from the public.

In the past year, the department represented the State's interests in a number of important matters, including:

- the defense of numerous federal and state constitutional challenges to the Governor's executive orders issued to address the COVID-19 public health emergency, including challenges to the restrictions placed on bars, restaurants and other businesses;
- the providing of advice to the Governor and Secretary of State related to election issues during the COVID-19 public health emergency, including in particular the availability of absentee balloting and the process for petitioning candidates to obtain ballot access, and the subsequent defense of lawsuits challenging the actions of the Governor and the Secretary;
- the successful litigation in the U.S. Supreme Court challenging the Trump administration's decision to terminate the Deferred Action for Childhood Arrivals program for noncitizens who came to this country as children;
- an ongoing court challenge to the imposition of a cap on state and local tax deductions for the federal income tax before the U.S. Court of Appeals;
- the successful defense of a constitutional challenge to the legislature's budget decision to transfer energy-environmental related funds to the General Fund;
- the successful defense of a lawsuit challenging the manner in which prisoners are counted for purposes of legislative redistricting;
- continued litigation challenging the Trump administration's efforts to impose immigration-related conditions on unrelated federal criminal justice grants;
- the defense of a constitutional challenge to new legislation about the confidentiality of criminal proceedings involving juveniles treated as adults;
- advice to the Governor and legislative leaders regarding complex legal issues related to existing and proposed gaming within the State, including sports betting, online gaming, and the development of a gaming facility jointly owned and operated by the Mohegan and Mashantucket Pequot tribes, and related federal court litigation;
- assistance in the implementation of the SEBAC v. Rowland settlement;
- defense of first amendment-based challenges to decisions of the State Elections Enforcement Commission relating to campaign finance regulation;
- the ongoing lawsuit by the Schaghticoke Tribal Nation alleging that the State breached its duties to the Schaghticoke tribe since the early 1800s;
- pursuit of a resolution of unique title questions pertaining to the historic Lebanon town green; and
- an ongoing investigation of the use of charitable funds designated for first responders involved in the Sandy Hook shooting.

In the area of charitable trusts and gifts, the department was active in investigations or court actions to ensure that charitable gifts are used for the purposes for which they were given. In several matters involving private organizations, department attorneys mediated and successfully resolved, without resort to litigation, complaints about mishandling or misuse of charitable funds. Members of the charities unit regularly offer guidance on best practices for governance of charitable organizations, with the goal of avoiding problems that often inflict such organizations where good governance is lacking.

In this past year, added to the Department were attorneys of the former Energy Department, who are responsible for advising and representing the Public Utilities Regulatory Authority and the Connecticut Siting Council. These attorneys defend the state's interests in energy and telecommunications issues before state and federal courts, before the Federal Energy Regulatory Commission and the Federal Communications Commission, and in regional and national organizations.

The attorneys in the Special Litigation Department provide ongoing advice to the Governor's office, the legislature, constitutional officers, commissioners and others on a wide variety of constitutional and other important legal questions. The department also provides advice and guidance to state officials and agencies on Freedom of Information Act matters.

The department also represents the interests of the State in matters related to federal tribal recognition and provides advice to numerous state agencies regarding issues of Indian law and issues connected to the two federally recognized Indian tribes in Connecticut and the operation of their casinos, as well as issues relating to gaming generally.

The department plays a leading role in the preparation of appeals and opinions in the Office. The department often participates as amicus curiae in litigation involving other states, the federal government and private parties in which important state interests are implicated. In addition, a considerable portion of the department's resources is committed to defending the State's interests in self-represented litigation against judges and other state officials.

## TORTS DEPARTMENT

The Torts/Civil Rights Department defends state agencies, officials and employees in tort and civil rights matters, including high exposure personal injury and wrongful death claims and lawsuits. Many of the department's cases are brought by parties alleging injuries or civil rights violations at state facilities or while receiving services from state agencies. The department's cases reflect the wide and varied activities and programs in which the state is involved: administering technical high schools and colleges; providing care and assistance to persons with

mental illness, substance abuse disorders, and intellectual or developmental disabilities; maintaining recreational parks and swimming areas; owning buildings and land; protecting abused or neglected children; and providing numerous other services. Claimants often seek large sums of monetary damages. The department has saved the state and its taxpayers millions of dollars through the years by obtaining favorable judgments and fair settlements in the state and federal courts, as well as at the Office of the Claims Commissioner ("OCC").

During the year, the department continued to defend several complex, high-exposure, wrongful death, medical malpractice, civil rights, intentional tort, and personal injury cases. The department appeared for the state, its employees or officials from 41 state agencies and institutions this fiscal year; and successfully argued in most cases that the claims lacked merit, had jurisdictional defects, or failed to state a legally sufficient cause of action. Of the 54 cases the department closed this fiscal year, the state prevailed in 24 after department attorneys filed dispositive motions or defended the state in trials or hearings on the merits; and obtained withdrawals in 16. In four cases, department attorneys were successful in negotiating reasonable and just settlements. Of the remaining 10 cases, eight were not pursued by the claimant and two are awaiting filing in the superior court after the claims commissioner granted permission to sue the state.

Two hundred and three of the department's cases are ongoing, 24 more than last year. Many involve a death, assault or serious injury. Most of these cases are pending in the U.S. District Court, Connecticut Appellate Court, Connecticut Superior Court, and the OCC. Two are now pending in the U.S. Court of Appeals for the Second Circuit. To defend these cases, the department engages in extensive investigation, legal research, discovery and briefing, including complicated electronic forensic examinations and consultation with expert witnesses.

As an outgrowth of handling the many supervisory and premises liability claims filed, the department advises agencies on issues relating to physical or policy changes designed to increase safety or ameliorate unsafe conditions or practices in the future. This advice contributes to reduced risk of state liability, thereby resulting in substantial savings of state taxpayer funded resources. When plaintiffs owe money to the state, the department has been successful in recovering that money or reducing settlements by the amounts owed. It does so by consulting with the Department of Administrative Services for the outstanding figures and asserting setoffs in the claims brought by parties who have uncollected debt to the state.

Where an alleged injury may be covered by an insurance policy that a private party purchased as a term and condition of a contract or lease with a state agency -- or when a state contract requires a private contractor to indemnify the state -- the department seeks insurance coverage to ensure that the state is held harmless and/or reimbursed for expenses. In such cases, the department has been successful in persuading contractors or their insurance carriers to settle and pay claims against the state, thereby saving the state thousands of dollars. Indeed, most of the 16

withdrawals the department obtained, and some of the claims parties abandoned, resulted from convincing state contractors to assume liability for the claims. If state contractors and/or their insurers do not quickly come forward to defend and indemnify the state, department attorneys seek monetary compensation for their time and costs in defending the claims.

Similarly, the department has saved the state considerable expense by obtaining dismissals of claims brought at the OCC by employees of private companies with state contracts who were injured and were awarded workers' compensation from their employers, based on the argument that, because the state contributed to such compensation by requiring that the contractors obtain workers' compensation insurance and factoring the expense into the overall cost of the contract, additional compensation from the state for the claims would not be just and equitable.

## TRANSPORTATION DEPARTMENT

The Transportation Department ("Department") of the Office of the Attorney General provides representation for the following state agencies: Department of Transportation ("DOT"), Department of Administrative Services ("DAS"), Bureau of Enterprise Systems and Technology ("BEST") part of DAS, Division of Construction Services ("DCS") part of DAS, Department of Motor Vehicles ("DMV"), Department of Housing ("DOH"), Department of Energy and Environmental Protection ("DEEP") for real property matters, and the State Historic Preservation Office. In addition, the Transportation Department provides representation for various occupational licensing boards within the Department of Consumer Protection ("DCP"). The representation of the foregoing state agencies/boards includes, but is not limited to, counseling and advice on legal issues, the prosecution or defense of lawsuits or claims in both federal and Connecticut courts and before various administrative entities, including the defense of claims filed with the Office of the Claims Commissioner pursuant to Chapter 53 of the Connecticut General Statutes.

### Contracting matters

As a result of the large number of public works projects undertaken by the State during any given year, and the broad scope and complexity of many of these projects, there is a continuing need for the attorneys in the Transportation Department to provide legal assistance to the DOT, DCS, DAS, DMV, Housing and other state agencies, such as the General Assembly's Joint Committee on Legislative Management ("JCLM"). The Department also provides counsel on and drafting of many of the state's significant transactional matters. In conjunction with agency staff, the department has been assisting with the development and amendment of various master contracts for use in all areas of contracting at the DOT, DAS, DCS and DOH with the goal of streamlining the State's contracting process.

At the end of this past year, the Department worked closely with DAS to review and approve contracts necessitated by the public health crisis as a result of COVID-19. These included: assisting DAS with the review and approval of agreements with multiple hotels and motels for the housing of homeless individuals and homeless shelter staff and the review and approval of a license agreement with Yale New Haven Hospital for the use of State property for nurse training.

In addition, the Department reviewed contracts for substance and form and provided substantive advice in connection with the negotiation of a number of significant State transactions, including:

- Assisted and assisting DOT with the review and approval of various construction and consultant contracts.
- Assisted and assisting DOT with various property transfers, easements, and leases.
- Assisted DOT with the creation and finalization of a design/build contract template.
- Assisting DOT with a land swap transaction between DOT and the City of New Britain related to the construction of a new State commuter parking lot.
- Assisting DOT with the review and approval of a lease with the City of New Haven to permit the City to use certain State property as a temporary waste stockpile area related to construction activities being undertaken by the City.
- Assisting DOT with the review and approval of a cost reimbursement agreement with Providence & Worcester Railroad necessitated by the disruption of rail freight service due to DOT construction.
- Assisting DOT with the review and approval of a cost sharing agreement with Eversource Energy related to the relocation of certain Eversource utility infrastructure necessitated by the Norwalk Walk Bridge replacement project.
- Assisting DOT with the review of a contract for the design and construction of rail cars for the operation of passenger rail service.
- Assisting DOT with the review of an agreement with the Naugatuck Valley Council of Governments for the planning and implementation of capital projects.
- Advising DOH with regard to the proper structure of the so-called Resilient Bridgeport project, including advice on the appropriate state agencies to carry out various portions of the project.
- Assisted DOH with the review and approval of an agreement with the Connecticut Children's Medical Center relating to the identification and rehabilitation of homes containing lead paint.
- Assisted and assisting DOH with the review and approval of various personal service agreements, personal service agreement amendments, assistance agreements, and other contracts and agreements.

Other legal assistance involving contracts is provided in resolving public contracting bid protests, interpreting and drafting contract language, and addressing problems that arise during the course of large construction and statewide procurement projects.

**Litigation Matters and Construction Claims**

In addition to prosecuting and defending lawsuits in court, the Department continues to regularly assist agency personnel with early analysis and settlement negotiations in an attempt to avoid litigation, with the goal of quickly resolving disputes to avoid or minimize the potential adverse financial impact of such claims on the public treasury.

During the past fiscal year, the Department mediated a claim filed against DOT by O&G Industries for $28,571,305 pursuant to Conn. Gen. Stat. § 4-61 on the New Haven Rail Yard Project. The parties reached a settlement agreement following mediation in the amount of $9,702,000.00, a total savings to the State of $18,869,305. The Department also defended DAS in a construction claim filed by Lawrence Brunoli Industries for $1,561,587. The matter was scheduled for arbitration but after doing extensive discovery the department was able to settle the matter for $215,000, saving the State $1,346,587. The department continues to represent DOT and DAS in several pending claims against the State.

During the past fiscal year, Department staff has been involved in the prosecution and defense of several major lawsuits and appeals. The Department routinely argues cases at the Supreme Court and the Appellate Court.

The Department is defending several agencies with regard to contract litigation. The department is currently defending two injunction actions against DAS brought by vendors who claim that DAS engaged in favoritism in awarding contracts to other vendors. In addition, the Department is defending DCF in a breach of contract claim related to the purchase of a telephone system. Finally, Department staff assisted DOT with the termination of a contractor on a DOT project and the successful takeover agreement with the bond company.

The Department continues to provide assistance to DOT regarding litigation involving Certificates of Public Convenience and Necessity for various bus companies. These bus companies, in four separate actions, claim that they have exclusive authority to run certain routes and in certain locations based on the Certificates. All of the cases are currently pending at the Complex Litigation Docket.

In White Oak v. Department of Transportation, the Connecticut Supreme Court ruled that setoffs applied to an arbitration award against DOT for the Department of Labor and

Department of Revenue Services were proper. That decision meant the State was able to set off approximately $1 million against the award.

Finally, the Department is defending several claims filed against DOT involving salt contamination

## Property Matters

The Department's representation of DOT also includes provision of legal services and advice relating to: eminent domain; rights-of-way; surplus property divestitures; service plazas and other properties and facilities along I-95 and the Merritt Parkway; Transit Oriented Development projects in various towns; public transit and rails; the State Traffic Commission; and environmental matters involving permitting, salt shed and maintenance facilities located throughout the State. We also counseled the DOT regarding the divestiture of surplus properties.

We resolved 2 eminent domain appeals filed against DOT by trial and 9 by stipulated judgment. There are currently 9 eminent domain appeals in litigation. The litigation outcomes of the concluded eminent domain appeals resulted in savings to the State of $916,900.

The Transportation Department represented DEEP in real property matters. Of particular significance was the department's successful representation in Peruzzotti v. DEEP, in which the homeowner claimed that DEEP was interfering with their easement rights. The matter went to trial and the court ruled in DEEP's favor.

The Department also worked with DEEP in connection with the procurement of conservation easements, resulting in the dedication of acres to public recreation.

These conservation easements equal the value of the grants that DEEP provided for land purchases by other entities, specifically municipalities and land trusts. The Department also regularly provides legal advice to DEEP on complex property law issues. During the past year, the Department provided DAS and DCS with legal counsel and review of leases, agreements and contracts including:

- Assisted and assisting DAS with the review, negotiation, and approval of various agreements related to property purchases, sales, and leases.
- Assisted DAS with the review and approval of an easement for a retaining wall to be constructed on property adjacent to the new State parking garage constructed on Washington Street in Hartford.

- Assisted DAS with the conveyance of certain properties to the Capital Region Development Authority pursuant to Public Act.
- Assisting DAS with revisions to its form commercial lease.
- Advising DAS regarding an encroachment by a neighboring property owner onto certain State property known as the Platt Technical High School in Milford.
- Assisting DEEP with the review and approval of a lease with Woodcock Nature Center, Inc. for the use of certain State property located in Ridgefield and Wilton for passive recreational purposes.
- Assisted DEEP with the review and approval of documentation with the Town of Putnam related to the release of certain property from a Dedication Agreement between DEEP and the Town in exchange for the Town granting a new conservation easement to DEEP over other Town property.
- Assisted DEEP with the review and approval of an easement relating to bridge repair on property located within the Sherwood Island State Park in Westport.
- Assisted DEEP with the review and approval of an easement agreement whereby DEEP granted a neighboring property owner an access easement over State property in exchange for a scenic easement over the neighboring property.
- Assisting DEEP with the review of a purchase and sale agreement with Connecticut Yankee Atomic Power Company for the purchase by the State of certain property located in Haddam
- Assisted and assisting DEEP with the review and approval of various grant agreements and conservation easements in connection with the statutory Open Space and Watershed Land Acquisition Grant Program.
- Assisted and assisting DEEP with the purchase of various properties pursuant to its statutory land acquisition authority.
- Assisted and assisting DEEP with various leases, easements and boundary line agreements.

## Housing Matters

The Transportation Department is also responsible for representing the Department of Housing. These matters include representing the Department at the Commission of Human Rights and Opportunities for housing discrimination complaints, administrative appeals, and disputes with residents of state-owned residential properties and foreclosures involving real property in which the state has an interest in the property. The Department is currently defending DOH in several construction claims brought by a contractor hired to renovate and rebuild properties as part of Superstorm Sandy. In addition, the Department is defending DOH in a declaratory judgment action.

### State Historic Preservation Office

The Department represents the State Historic Preservation Office matters and is occasionally called upon to seek the court's protection of historic properties on the National Register of Historic Places (16 USC 470a, as amended) which face destruction by owners or developers. During this past year the Department has been working on an agreement with a developer to preserve Howe Street in New Haven.

### Department of Motor Vehicles

The Department handles a variety of matters for DMV, including appeals of administrative suspensions or revocations of driving licenses of impaired drivers. The Department also provides legal support to DMV in connection with dealers and repairer complaints, registration matters, the emissions program and safety inspections. Currently, the Department is defending DMV's decision on tow rates as well as an enforcement action against a tow company for improper charges.

### Environmental Matters

In addition, the Department is deeply involved in various environmental matters associated with public works projects, roads and bridges projects, and other activities of its client agencies. Staff continues to provide legal assistance and guidance to those agencies to ensure that there is compliance with applicable federal and state environmental laws in the planning of projects and the operation of state facilities. In particular, the Department assists these agencies in complying with the requirements of the National Environmental Policy Act ("NEPA"), the Connecticut Environmental Policy Act ("CEPA") and other federal and Connecticut regulations that have been enacted to balance the need to develop our state economy and governmental services with the need to protect the air, water and other natural resources of the state. In this regard, the Department assists the agencies in preparing and obtaining required environmental permits from both Connecticut and federal regulatory agencies, including the DEEP and the United States Army Corps of Engineers. The Department also defends client agencies in court when environmental challenges are brought.

## WORKERS' COMPENSATION & LABOR RELATIONS DEPARTMENT

The Workers' Compensation and Labor Relations Department represents the State Treasurer as the Custodian of the Second Injury Fund, the Workers' Compensation Commission and the Department of Administrative Services in its capacity as the administrator of the state employees' workers' compensation program, as well as DAS Personnel, the Labor Department, the Office of

Labor Relations, the Office of the Claims Commissioner, the State Employees Retirement Commission, the Teachers' Retirement Board, and others. The department's workers' compensation attorneys and paralegals represent the Second Injury Fund in cases involving potential liability of the Fund for workers' compensation benefits and the State of Connecticut in contested workers' compensation claims filed by state employees, while the department's labor attorneys represent the Department of Labor in unemployment compensation appeals to the Superior Court. The department also represents the Department of Labor's Wage Enforcement Division, collecting unpaid wages due Connecticut employees in the private sector. The department's workers' compensation attorneys and paralegals also devote significant time to third party tortfeasor cases that result in the recovery of money for the State and the Fund, as well as handling a large number of appeals to the Compensation Review Board and the Appellate and Supreme Courts.

During the fiscal year that ended on June 30, 2020, department attorneys and paralegals appeared for the Fund and the State in 2,615 hearings before workers' compensation commissioners and in 137 new unemployment compensation cases in the Superior Court. The department also opened 61 new cases on behalf of Connecticut citizens who were not paid wages by their employers.

Department attorneys and paralegals were responsible for recouping $507,711.35 for the State of Connecticut and $111,979.46 for the Second Injury Fund through third party interventions in Superior Court and negotiated settlements in lieu of litigation. These sums represent reimbursements to the State or the Fund of money which has been paid out in workers' compensation benefits for injuries caused by third parties. Finally, department attorneys were responsible for the collection of $267,764.79 in unpaid wages and civil penalties for Connecticut citizens whose employers failed to pay them in accordance with Connecticut's labor laws.

As part of a concerted effort to reduce paper, department staff closed 2,700 dormant workers' compensation files and have been digitizing both older and new workers' compensation files. During the fiscal year that ended on June 30, 2020, the Workers' Compensation & Labor Relations Department was involved in the following significant cases:

- In *Dunkling v. Lawrence Brunoli, Inc.*, 195 Conn. App. 513 (2020), the Appellate Court affirmed the decision of the Compensation Review Board that defendant Brunoli, the general contractor on a state building contract, was legally liable for the worksite injuries sustained by the plaintiff, a laborer who was employed by an uninsured subcontractor. In affirming the CRB, the Appellate Court rejected Brunoli's claim that it was not a principal employer pursuant to Conn. Gen. Stat. Sec. 31-291 because the project was substantially completed before the plaintiff was injured while performing some corrective work at the state's request and, therefore, lacked the requisite legal control over the work site, one of the requirements for principal employer liability under Sec. 31-291. Relying on Appellate Court case law going back to 1986, we argued on behalf of the Fund that Brunoli had the requisite control over the worksite in general and over the laborer's activities at the worksite on the date of injury in particular due to 1) its warranty

obligations to the state requiring the corrective measures taken by the plaintiff at Brunoli's request; and 2) it was Brunoli who sent the plaintiff to the worksite to correct the deficiencies in the work on the day he sustained injury. Thus, Brunoli had the requisite control for principal employer liability even though no one from Brunoli's company was at the worksite when the plaintiff was injured. The Appellate court agreed and held that Brunoli was legally liable to pay workers' compensation benefits to the plaintiff. The Appellate Court's conclusion relieved the Fund from liability to pay benefits that were appropriately the responsibility of Brunoli, the principal employer who sought to benefit by hiring an uninsured subcontractor. Former AAG Joy Avallone handled the case before the Commission and the CRB.

- In *Mendes v. Administrator, Unemployment Compensation Act*, 199 Conn. App. 25 (2020) (officially released on July 14, 2020), the state Appellate Court reversed the decision of the Superior Court (Blue, J.T.R.), who had reversed the decision of the Employment Security Board of Review and remanded the matter to the appeals division for a *de novo* hearing before the referee on the employer's appeal from the defendant's initial award of benefits on grounds that the record contained no evidence from which the Board of Review could have determined that notice had been properly mailed and received by the plaintiff who claimed non-receipt of the Appeals Referee's hearing notice which resulted in the plaintiff failing to attend the *de novo* hearing on the merits of his claim. In addition, the trial court concluded that the plaintiff's failure to file a motion to correct was not fatal to his claims because there was no evidence in the record to support the Board's findings that the plaintiff failed to demonstrate good cause for his failure to attend the referee's hearing because no one testified on behalf of the Administrator as to the correct mailing of the hearing notice. In its decision, the Appellate Court agreed with the Administrator that the trial court exceeded its authority when it disregarded the Board of Review's factual findings, credibility determinations and conclusions of law regarding whether the plaintiff received notice of the hearing. The Appellate Court concluded that the trial court, in the absence of a motion to correct, was bound by the Board's factual findings and that it exceeded its permitted scope of review by assessing the factual findings of the referee, as adopted by the Board of Review. Accordingly, the Appellate Court reversed the trial court's decision and remanded the case with direction to enter judgment affirming the Board's decision.

- *In Lamberty v. Connecticut State Police Union and Office of the State Comptroller and Office of Labor Relations,* No. 3:15-CV-00378-VAB (D. Conn. September 6, 2019), the U. S. District Court in Connecticut denied plaintiffs' motion for attorney's fees of almost $300,000 following the U. S. Supreme Court's *Janus* decision holding agency fees unconstitutional, on the ground they were not prevailing parties, per U. S. Supreme Court and Second Circuit precedent, after the court dismissed their case as moot based on *Janus*. The federal court held that the plaintiffs could not be considered prevailing parties in the absence of court ordered relief due to a dismissal for mootness. The plaintiffs appealed this ruling and the mootness dismissal to the Second Circuit Court of Appeals, where all briefs have been filed and the parties are awaiting oral argument.

- In *California v. Azar*, No. 4:19-cv-02552, a multistate complaint that the state of Connecticut joined, was filed in the U. S. District Court for the Northern District of California, challenging the U. S. Department of Health and Human Services' repeal of a regulation allowing union dues deductions by states for personal care assistants, pursuant to state laws authorizing collective bargaining for such employees. The federal court held on February 11, 2020, that plaintiffs had standing to pursue their multistate complaint, and on February 12, 2020, after a hearing on pending motions for summary judgment and dismissal, concluded that the Medicaid rule repealing the regulation should be vacated and remanded to the federal agency. The repeal could have jeopardized the states' receipt of billions of dollars in federal Medicaid funds.

- A favorable settlement was reached in a wage claim for mealtime compensation on behalf of the drivers in a waste collection business, *All American Waste, LLC.* Payments of $675,000, less deductions, were made to the company's employees on the claim. The employer paid the employees the full amounts of the wage claims, notwithstanding waiver of civil penalties. This outcome was achieved without placing the matter into suit. AAG Richard Sponzo handled this matter for the department.

- In *State Department of Children and Families v. State Board of Labor Relations and Dale King*, No. HHD-CV-19-6052672-S, a settlement was reached on an appeal from a state Board of Labor Relation's decision ordering reinstatement of a state employee, Dale King, pursuant to an arbitration award, resulting in withdrawal of the appeal. The settlement did not require the reinstatement of Mr. King to his position with DCF but, instead, required his retirement from state service in exchange for back pay and appropriate retirement benefits. The settlement was achieved through negotiations between the parties.

- In *Saquipay v. All Seasons Landscaping of Ridgefield, LLC and the Second Injury Fund*, 6332 CRB-7-19-5 (January 31, 2020), a formal hearing was held before a trial commissioner acting for the 7th district (Truglia) wherein counsel for the claimant and counsel for the Second Injury Fund submitted a Stipulated Findings of Fact and Proposed Conclusions of Law wherein it was conceded that the claimant was permanently functionally disabled from all forms of gainful employment under the doctrine established in *Osterlund v. State*, 135 Conn. 498 (1949). The stipulation of the parties was the product of medical evidence indicating that the claimant had sustained a serious burst fracture to his back after falling more than twenty feet from a ladder while working for the uninsured respondent employer. The trial commissioner rejected the Stipulated Findings of Fact and Proposed Conclusions of Law and, instead, reviewed medical and vocational evidence all of which concluded that the claimant was totally disabled and unemployable. Rather than issue a decision consistent with the evidence in the record, the trial commissioner, *sua sponte*, raised the issue of the claimant's illegal immigration status and concluded that undocumented workers were precluded from claiming benefits under *Osterlund* because the claimant could not meet all of the requirements for permanent functional disability since he could not legally search for employment. The claimant appealed the trial commissioner's decision to the Compensation Review Board arguing that the trial commissioner erred as a matter of law in concluding that the

claimant's immigration status precluded him from claiming benefits under the *Osterlund* doctrine, that the commissioner drew unreasonable inferences from the medical evidence supporting total disability and that the commissioner's rejection of the stipulation constituted reversible error. The CRB held that the stipulation of facts accurately reflected the evidentiary record and was not inconsistent with the law. Accordingly, the CRB reversed the commissioner denial of total disability for a two-year period supported by the medical evidence. In addition, the CRB held that the commissioner acted arbitrarily in rejecting the evidence of the two vocational experts who evaluated the claimant and were aware of his immigration status but, nonetheless, found his labor unmarketable. Consequently, the CRB reversed the trial commissioner's denial of ongoing total disability benefits. Finally, the CRB, in its decision, indicated that the commissioner's decision was improper in that it addressed a public policy issue which is the purview of the legislature, not the judiciary. After the CRB issued its decision, our office negotiated a full and final settlement of the claim for $350,000, a sum that likely resulted in a savings to the Fund of several hundred thousand dollars. Department attorneys represented the Fund before the CRB and at the trial level. They were also very instrumental in negotiating the settlement of the claim.

- In *Lisa Kocol, surviving dependent spouse of Howard Kocol, deceased v. Plastic Horizons, Inc. et. al.,* Workers' Compensation Commission Docket No. 200197615, the injured employee died of lung cancer allegedly caused by prolonged exposure to asbestos while working for the respondents Plastic Horizons, Wyre Wynd Division and other companies. The claimant sought survivor's benefits pursuant to Conn. Gen. Stat. Sec. 31-306, presumably for the remainder of her life. The Second Injury Fund was cited into the case as a possible uninsured apportionment party pursuant to Secs. 31-355 and 31-299b. There was a dispute among the respondents as to which company employed the decedent at the time of his last injurious exposure to asbestos which, if known, would have made that employer and its insurer primarily liable to the claimant for survivor's benefits and responsible for the overall administration of the claim. It was this dispute that prompted the commissioner to cite the Fund into the case. A department attorney, who represented the Fund, was successful in gathering enough evidence to determine the decedent's last day of injurious exposure to asbestos and identify the responsible employer and insurer having primary liability under the Workers' Compensation Act. Consequently, the Fund was released from the case without any contribution toward survivor's benefits or responsibility for the administration of the claim. As a consequence of the department's considerable efforts on the Fund's behalf and in light of the claimant's compensation rate and age, it is estimated that the Second Injury Fund saved more than $817,000 in expenditures over the projected life of the claim.

## INTERNSHIP & VOLUNTEER PROGRAMS

The Office of the Attorney General continues to maintain strong and robust internship and volunteer programs. These programs allow students, along with some mid-career and retired professionals, to volunteer their time in assisting the work of the Office of the Attorney General. One of the most unique aspects of the program is the variety of applicants which are placed into

positions. Each year, the Office utilizes not only law students, but also high school, special needs, undergraduate, paralegal, graduate, and recently graduated students to assist on substantive projects in each of the 14 departments. In addition to students, the Office also uses retired professionals from the Retired Senior Volunteer Program (RSVP) to assist with mediating consumer complaints. Currently the Office has several RSVP volunteers working on a part-time basis.

The internship program is organized by the office's Deputy Director of Constituent Services, and is broken into three distinct periods (spring, summer, and fall), roughly following the college schedule. During this fiscal year, the office utilized over 75 legal, graduate, undergrad, and high school interns who assisted in a variety of activities. The group of interns are made up of a diverse group of students which represent many Connecticut communities. During much of the spring and summer sessions, the internship program operated under a remote work arrangement which presented new and unique challenges. The office worked with IT and Department Heads to utilize new and innovative technology which allowed for a robust program for the interns including numerous remote seminars led by department attorneys and other staff members, as well as judges of the Superior Court. Besides the regular internship program, the office participates in presentations with many outside student organizations including the Lawyers Collaborative for Diversity internship program, Kids Speak, and the Hartford Public Schools Law Day program. These programs create a pipeline for Connecticut students to gain exposure to the legal field through lectures, group discussions, and interactive seminars led by our attorneys and staff.