



**OFFICE OF THE ATTORNEY GENERAL  
ANNUAL REPORT  
FISCAL YEAR 2017-2018**

**At a Glance**

**GEORGE JEPSEN,**  
*Attorney General*

**PERRY ZINN-ROWTHORN,**  
*Deputy Attorney General*

*Established – 1897*

*Statutory authority: Conn. Gen. Stat. §§3-124 to 3-131*

*Central Office: 55 Elm Street, Hartford, CT 06106*

*Average number of full-time employees: 296*

*Recurring General Fund operating expenses: \$ 32,368,256*

*Revenues Generated: \$ 707,264,815*

**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 Attorney General's Office 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 2017-2018 fiscal year, \$ **707,264,815** was generated by the Attorney General's Office, as described below:

**A. Revenue Generated for the General Fund**

Tobacco Settlement Fund Collections	\$ 116,850,108
Child Support Collections	33,423,421
Department of Banking Penalties	32,757
Recovery for Environmental Violations	15,000
VW Environmental Settlement	14,096,466
Consumer Protection Settlements	5,531,816
Department of Social Services Collections/Civil Penalties/Fines Collected	5,593,581
Global Civil Settlements/Anti-Trust	1,301,845
Reimbursement for Court Costs	11,400,356
CUTPA Civil Penalties	3,734
Miscellaneous Collections	542,704
	15,611,729
<b>Total Revenue Generated for General Fund</b>	<b>\$ 204,403,517</b>

**B. Revenue Generated for Special Funds**

Supplemental Environmental Project	\$ 750,000
<b>Total Revenue Generated for Special Funds</b>	<b>\$ 750,000</b>

**C. Revenue Generated for Consumers and Businesses**

Child Support Collected/Enforced for Families	\$ 219,546,589
Charitable Funds Recovered and/or Preserved	1,285,342
Consumer Assistance Unit Mediations	763,029
Consumer Restitution from Home Improvement Contractors	146,841
Refunds obtained for Conn. Utility Customers	182,475
Security Deposit Cases – Recovery to Consumers	1,500
<b>Total Revenue Generated for Consumers and Businesses</b>	<b>\$ 221,925,776</b>

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

Utility Rate Requested Increase –Savings to Consumers	\$ 219,900,000
Charitable Trusts Protected	60,285,522
<b>Total Revenue Protected</b>	<b>\$ 280,185,522</b>

**TOTAL REVENUE ACHIEVED** **\$ 707,264,815**

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

The Office of the Attorney General is divided into 15 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 2016-17 is summarized as follows:

Trial Court Cases	
Instituted	16,654
Completed	15,299
Pending	21,510

Appeals	
Instituted	133
Completed	122
Pending	251
Administrative proceedings	
Instituted	953
Completed	4,056
Pending	5,235
Antitrust/Fraud Investigations	
Instituted	60
Completed	51
Pending	139
Consumer Investigations	
Instituted	6
Completed	1
Pending	48
Privacy Investigations	
Instituted	676
Completed	885
Pending	95
Miscellaneous Investigations	
Instituted	20
Completed	17
Pending	32
Legal Documents Examined	8,153
Public Inquiries Completed	3,718
Opinions Issued	67

## **DEPARTMENTS**

### **ANTITRUST AND GOVERNMENT PROGRAM FRAUD DEPARTMENT**

The Antitrust and Government Program Fraud Department has two distinct and critical missions: (a) ensuring that companies and individuals that do business in Connecticut compete fairly and vigorously; and (b) protecting 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 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 health care 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 individuals. 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 health care markets usually take the form of transparent and competitive pricing, sufficient consumer choice, access to providers, and high quality care.

In July 2014, the state of Connecticut 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 Attorney General organized a bi-partisan working group of state Attorneys General to assist him with the 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. 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 (6) to eighteen (18) in the case and the number of drugs at issue in the litigation from two (2) to fifteen (15). The court granted the Attorney General's request on June 5, 2018. In addition to the lawsuit, which was transferred and is now pending in federal court in Philadelphia, the antitrust investigation is still ongoing with respect to a number of additional generic pharmaceutical manufacturers.

In early 2012 the Attorney General, along with the Office of the New York Attorney General, opened an investigation into alleged anticompetitive conduct engaged in by a number of financial institutions into the suspected rigging of the London Interbank Offered Rate – more commonly referred to as LIBOR. The LIBOR investigation ultimately grew to include over forty Attorneys General.

On June 15, 2018, the Attorney General announced that he joined 42 other states and the District of Columbia in a \$100 million settlement with Citibank N.A. (Citi). The settlement resolved allegations that Citi manipulated the LIBOR, and misrepresented the integrity of LIBOR at various times in 2008 and 2009. Most of the proceeds of the settlement will be directed as restitution to government and nonprofit entities with LIBOR-linked swaps and other investment contracts with Citi. Approximately \$400,000 is going to Connecticut entities.

Connecticut, like many Northeastern states, is in the midst of combating an unprecedented increase in heroin related overdoses and deaths. Naloxone is a medication used by many first-responders to counter the effects of a heroin overdose. In early 2015, Amphastar Pharmaceuticals, Inc. dramatically - - and without explanation - - increased the price it charged for naloxone, which imposed a significant financial burden on the state and its municipalities that were already grappling with dire budget challenges. Accordingly, in September 2015, the Attorney General contacted Amphastar's Chief Executive Officer and sought to negotiate an agreement with the company that would result in Connecticut governmental purchasers obtaining a rebate for their purchases of Amphastar's naloxone product. On April 5, 2016, the state entered into an agreement with Amphastar that provided a \$6 per-dose rebate for the purchase of the company's naloxone product. Given the critical need for first-responders continued access to naloxone, the Attorney General has negotiated two additional one-year contract extensions with Amphastar in order to continue to obtain the rebate. To date, first-responders have obtained close to \$145,000 in savings from the agreement.

In 2017, at the urging of the Attorney General, the Legislature passed legislation that amended Connecticut's antitrust laws to allow indirect purchasers - - largely Connecticut state, municipal and local agencies and our consumers - - to recover damages sustained from illegal price fixing agreements in the pharmaceutical and medical device markets. This year, the Attorney General sought to broaden the law to encompass all markets impacted by such anticompetitive and anti-consumer schemes and thus enable Connecticut state agencies and consumers who ultimately paid the artificially higher price to have the opportunity to recover the financial damages they incurred. The amendment was passed and signed by the Governor in June 2018.

### **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 health care fraud settlements with pharmaceutical companies related to problematic marketing practices that

affected the Medicaid program. In all, the Attorney General entered into six (6) settlements with pharmaceutical companies yielding a total recovery (federal and state) of approximately \$10.6 million for the Medicaid program.

In addition to the multi-state pharmaceutical settlements, the section filed three state False Claims Act Lawsuits and entered into several Connecticut-specific false claims act settlements this past fiscal year that provided restitution to the Medicaid program. These actions include the following:

- In July of 2017 the Attorney General filed a false claims act lawsuit in Hartford Superior Court against a Norwalk-based family practice doctor alleging that he engaged in a pervasive scheme to defraud Connecticut's Medicaid program by submitting false claims for services never provided to his Medicaid patients. The case is currently still in litigation.
- In September 2017 the office, along with the Connecticut U.S. Attorney's Office, entered into a \$627,000 settlement with a behavioral health clinic and its former CEO to resolve allegations that it violated the false claims act by falsely certifying to federal and state officials that it had a current medical director that was performing his duties in accordance with federal and state law. The government's investigation found that that the medical director had not treated patients for many years, did not appear on the clinic's physician schedules, and failed to fulfill other responsibilities required of an opioid treatment program.
- In September 2017 the Attorney General filed a false claims act lawsuit against a Fairfield dentist alleging that the dentist billed the state's Medicaid program for dental services such as tooth restorations and repairs to dentures supposedly provided to his Medicaid patients, but the services were never actually performed. The case is still pending in Hartford Superior Court.
- In October 2017 the Attorney General filed a lawsuit against a Waterbury behavioral health provider and his two companies for allegedly billing the Medicaid program for services that were provided by unlicensed individuals or were "upcoded." The practice of upcoding occurs when a provider knowingly uses a higher-paying code on the claim form for a Medicaid patient to reflect the use of a more expensive service, procedure or device than was actually used or was medically necessary. In June 2018 the Attorney General reached a settlement with the provider requiring him and his companies to pay \$200,000 in damages to the Medicaid program. The settlement also excludes the provider and his companies from participation in the Connecticut Medicaid program for ten years.
- In February 2018 the Attorney General resolved a false claims act investigation against a Massachusetts-based clinical laboratory for allegedly marketing medically unnecessary complex drug testing packages to Connecticut residential drug treatment facilities and sober homes. The settlement required the laboratory and its former owner to forfeit \$656,912 in reimbursement and excluded the laboratory and its owner from participation in the Connecticut Medicaid program for ten years.

- In April 2018 the Attorney General and the Connecticut U.S. Attorney's Office, entered into a \$1.3 million dollar false claims act settlement with a New Haven methadone treatment clinic and its owners to resolve a long-standing investigation that found the clinic engaged in a long term scheme to bill the Medicaid program for psychotherapy services that were never provided to the clinic's Medicaid patients.

### **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 for 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. The cases of committed delinquents had been subject to permanency plan review on an annual basis and at times, motions to extend commitment are heard by the criminal session of the Superior Court of Juvenile Matters and the Office of the Attorney General represents DCF in these cases.<sup>1</sup> 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.

The Child Protection Department also successfully represented DCF in a large number of appeals to the state Appellate and Supreme Courts, including several positive outcomes in appeals concerning abused and neglected children and youths.

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<sup>1</sup> Effective July 1, 2018, DCF is no longer responsible for the delinquent children whose cases are heard before the criminal session of the Superior Court for Juvenile Matters.

## **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 2017-2018, 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, approximately 11,000 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-OCSS, and SES, successfully enforced/collected approximately \$290 million in child support for families, and of that amount, more than \$ 33 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 1,200 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 37 cases, for a total Department litigation collection recovery of approximately \$ 16 million for the state General Fund. The largest of these matters involved recoveries of \$1.6 million, \$ 1.2 million, \$ 992,000, and \$827,000 respectively, arising out of claims on behalf of DAS and DSS seeking reimbursement for public assistance from various Trusts in Probate Court, \$ 550,000 successfully enforced a state statutory lien filed against a lawsuit settlement, \$ 510,000 recovery from the enforcement of a DAS public assistance claim on a decedent estate in Probate Court, and approximately \$137,000 recovery arising out of an unpaid tax claim filed on behalf of DRS in federal bankruptcy court.

The Department also recovered nearly \$64,000 on behalf of the Department of Correction for cost of incarceration debt statutorily owed by inmates, and recovered nearly \$ 339,000 for unpaid medical care provided by John Dempsey Hospital. The Department also successfully collected in excess of \$1.3 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 \$ 1.4 million this fiscal year.

Additionally, within the Department's bankruptcy case load, staff are litigating questions of law involving matters of first impression. First, the Department is defending a sudden increase in Chapter 7 bankruptcy trustees seeking to recover or "clawback" 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 is also defending a complicated bankruptcy matter involving a question of law when/whether sole members of an LLC can be held liable for unpaid taxes when the level of control they had over the business operations is in dispute.

The Department also successfully litigated several appeals in the state Appellate Court involving both child support and civil collections cases. All of these appeals involved complex questions of law that would have had a negative impact on either the State's Title IV-D child support program and/or our client agencies charged with collections of state debts. Of particular importance is the fact the Department successfully safeguarded the state child support program's ability to expeditiously establish and enforce child support cases for the neglected children the program serves.

Department staff instituted and litigated approximately 12,200 child support and civil collections cases this past year in state and federal courts throughout the state, and successfully recovered approximately \$16 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 approximately \$290 million in child support payments, of which the vast majority was collected for needy families.

## **CONSUMER PROTECTION DEPARTMENT**

The Consumer Protection Department's focus is on protecting consumers from unfair and deceptive business practices through its representation of the Connecticut Department of Consumer Protection. The department directs and participates in consumer education, complaint mediation, investigations, appearances before state and federal agencies, and litigation under various state and federal laws, primarily the Connecticut Unfair Trade Practices Act (CUTPA).

### **Mediation**

As part of the Attorney General's focus on consumer mediation, the department includes a Consumer Assistance Unit (CAU). The CAU is dedicated to assisting individuals in resolving consumer complaints through voluntary mediation efforts. During the past fiscal year, CAU staff responded to 1,792 written consumer inquiries and many telephone inquiries. More than \$763,029.28 was refunded or credited to Connecticut consumers due to the mediation efforts of CAU.

### **Consumer Education**

Educating consumers is part of the department's core mission. During this past fiscal year, outreach efforts by staff included consumer information fairs in Avon, Bloomfield, Cromwell, and West Hartford, as well as consumer fraud presentations at senior centers in Ansonia, Danielson and Westbrook. Staff also attended the Department of Aging's Elder Justice Coalition Symposium for CT Elder Justice Coalition and the AARP Fraud Watch Network presentation. Staff also participated monthly on a Spanish language radio show to help educate the Latino community on consumer fraud issues.

### **Multistate Activities**

On February 5, 2018, Connecticut joined in a \$13.5 million multi-state settlement with drug-maker Boehringer Ingelheim Pharmaceuticals, Inc. ("BIPI") to resolve allegations that BIPI engaged in off-label marketing and made deceptive and misleading representations in its promotion of four prescription drugs. The states alleged that BIPI made representations about the drugs regarding approval, characteristics, ingredients, benefits, uses or qualities that they did not have. Connecticut's share of the settlement fund was \$186,357.19 and was deposited into the General Fund.

On September 5, 2017, Connecticut lead a 32-state, \$3.5 million settlement with technology

company Lenovo (United States) Inc. to resolve allegations that the company violated state consumer protection laws by pre-installing software on laptop computers sold to Connecticut consumers that made consumers' personal information vulnerable to hackers. The State alleged that Lenovo began selling certain laptop computers in August 2014 that contained pre-installed ad software called VisualDiscovery, which was created by the company Superfish. The State alleged that VisualDiscovery was faulty in that it risked exposing consumers' personal information to "man in the middle" attacks. Connecticut's share of the settlement funds was \$286,145.00, which was allocated to the General Fund.

On October 19, 2017, Connecticut joined in a \$120 million multi-state settlement with General Motors (GM). Our office served on the nine-state Executive Committee of the multistate investigation into allegations that the company concealed safety issues related to ignition-switch defects in certain GM vehicles. Connecticut's portion of the settlement came to a little over \$3.2 million, of which \$350,000.00 was deposited into the Attorney General's Consumer Protection Fund and the remainder was deposited into the General Fund.

### **Other Unfair and Deceptive Trade Practice Cases**

#### Unauthorized Electric Distribution Company Accounts

In 2018, the Attorney General's Office successfully negotiated Assurances of Voluntary Compliance ("AVC") with six solar installation companies ending the practice of solar companies creating on-line accounts with electric distribution companies in the names of customers. This practice allowed the solar companies to access customer specific information, including historical usage and billing information. Once created, these accounts remained open indefinitely, and many of these customers may not have authorized the creation of such accounts or understood they would remain open indefinitely. This practice was brought to the Office's attention after the electric distribution companies identified more than 6,000 suspicious on-line accounts in the names of their customers. Upon investigation, the Attorney General's Office determined that many of these accounts had likely been created by solar companies without adequate customer knowledge or consent. The AVCs require the solar companies to discontinue the practice of creating on-line accounts in customers' names. Moreover, the electric distribution companies deleted certain suspicious accounts and agreed to notify affected customers of other potentially unauthorized accounts in their name.

### **Utility Cases**

#### Department of Energy

Last October the Secretary of Energy, Rick Perry, announced a "notice of proposed rulemaking" (NOPR) directing the Federal Energy Regulation Commission ("FERC") to take comments and issue a final decision in sixty days that would seek new ways to assure adequate compensation for certain baseload generation that stores fuel on-site. Essentially this meant providing subsidies to support nuclear and coal-fired electric generation. The NOPR proposed to provide these units "cost-of-service" compensation – essentially re-regulating a large portion of the electric generation marketplace.

FERC's NOPR proposed to upend twenty years of market development to promote questionable

public policies. The initiative was plainly designed to subsidize inefficient and dirty coal plants. These plants are currently being pushed out of the market because of their high costs and inability to compete economically. The Attorney General's Office joined the attorneys general of Massachusetts, California, Illinois, Maryland, North Carolina, Rhode Island, Vermont, and Washington (as well as other state actors, like the Connecticut Department of Energy and Environmental Protection) in comments opposing the proposed NOPR. FERC rejected the proposed NOPR in a unanimous decision that was not just a victory for consumers and state policy priorities, but also a signal that FERC retained its independence under intense political pressure.

### Palmco Power

On August 16, 2017, the Public Utilities Regulatory Authority accepted a settlement negotiated by the Attorney General's Office with Palmco Power CT, LLC ("Palmco") and the Connecticut Office of Consumer Council in which Palmco agreed to make a \$5 million payment to the State of Connecticut in two installments (October 9, 2017 and July 13, 2018) and agreed to relinquish its electric supplier license in the State of Connecticut for a period of five years. PURA initially opened this proceeding in response to customer complaints regarding Palmco's marketing and enrollment practices in the state. During this proceeding, the Attorney General's Office demonstrated that Palmco systematically and repeatedly deceived and misled consumers in Connecticut. Palmco's improperly trained sales force used deceptive, misleading and coercive sales practices to market its products in the state, including providing false and misleading information concerning the pricing of its products. Palmco then transitioned its customers to a variable rate product that charged among the highest rates in the state. At the same time, Palmco's internal compliance operation failed to oversee and discipline its sales force which allowed the conduct to continue. The first installment in the amount of \$3,000,000.00 was made in October of 2017 and deposited into the General Fund.

## **THE ENERGY DEPARTMENT**

The Energy Department provides legal services to the Public Utilities Regulatory Authority (PURA) and the Connecticut Siting Council (Council). The Department defends the state's interests in energy and utility issues in regional and national organizations, before the Federal Energy Regulatory Commission (FERC), before state and federal courts and before state agencies. The Department also represents PURA in telecommunications issues before the Federal Communications Commission (FCC) and the federal courts.

The Energy Department vigorously defended the state's energy policy in a series of three cases before the D.C. Circuit Court of Appeals. In *NextEra v. FERC*, the State successfully defended FERC's decision to continue to encourage the development of renewable energy generation by permitting that generation into the capacity energy market without being subject to the minimum offer rules. In *Exelon v. FERC*, and *NEPGA v. FERC*, the state advocated in support of the regional transmission organization's rules designed to encourage new electric generation. In those two cases, the D.C. Circuit remanded the issues back to FERC for further explanation regarding the basis of their decisions.

During the past fiscal year, the Energy Department recovered over \$182,000 for the benefit of Connecticut electric ratepayers through a case before FERC and the state courts. The Energy

Department also successfully defended PURA in a judicial challenge to its ability to issue civil penalties. In *Liberty Power Holdings v. PURA*, the state court upheld PURA's imposition of a civil penalty on an electric supplier, clarifying the criterion for the imposition of civil penalties, and affirming PURA's interpretation of Conn. Gen. Stat. § 16-259a.

During this fiscal year, the Energy Department defended the Connecticut Siting Council's denial of a fossil fueled power plant in Killingly, Connecticut in *NTE Connecticut, LLC v. CSC*. Working with the Sierra Club, the Connecticut Fund for the Environment, and local groups, the Energy Department was successful in persuading the plaintiff to withdraw its appeal. Additionally, the Energy Department rendered advice to the Connecticut Siting Council on implementation of Public Act No. 17-218, concerning the installation of solar facilities on agricultural lands.

### **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, Connecticut petitioned the Environmental Protection Agency ("EPA") to make a finding that the Brunner Island power plant in Pennsylvania significantly contributes to Connecticut's nonattainment of the ozone standard. EPA failed to act and a lawsuit was filed in federal court seeking for EPA to take action on the petition. The court ruled in favor of Connecticut and ordered EPA to take action on the petition. The State of Connecticut and the State of New York won their joint lawsuit in federal court against EPA over the agency's failure to adequately control ozone pollution from other states that negatively impacts air quality in the two downwind states. In the lawsuit, the states alleged that EPA failed to perform its mandatory duty to develop federal implementation plans that fully address requirements for upwind states under the Good Neighbor Provision of the federal Clean Air Act for the 2008 ozone National Ambient Air Quality Standards. The department also continued efforts to defend the Clean Power Plan, which includes rules intended to reduce emissions of CO<sub>2</sub> (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, including rules that establish more stringent controls on vehicle emissions.

This year the department had 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. In conjunction with a coalition of states, Connecticut entered a settlement

with Volkswagen to resolve a number of air pollution violations. Connecticut received \$14,846,465 through a multistate settlement with the auto-maker that resolved state claims that the company violated environmental laws when it equipped certain diesel vehicles with illegal and undisclosed emissions defeat devices designed to circumvent emissions standards. The investigation confirmed that Volkswagen sold more than 570,000 2.0 and 3.0-liter diesel vehicles in the United States – including 11,911 vehicles in Connecticut – that were equipped with defeat device software intended to circumvent applicable emissions standards for certain air pollutants and that Volkswagen actively concealed the existence of the defeat devices from regulators and the public. The investigation also found that Volkswagen made false statements to consumers in their marketing and advertising, misrepresenting the cars as environmentally friendly or "green" when, in fact, the company knew that the vehicles emitted harmful nitrogen oxides (NOx) at rates significantly higher than permitted by law.

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 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 provides legal services to several state agencies, including the Department of Banking, the Department of Economic and Community Development (DECD), the Department of Insurance (CID), the Department of Revenue Services (DRS), the Office of Policy and Management (OPM), the Office of Health Strategy (OHS), 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, and 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.

In addition to the work it does directly on behalf of state agencies, the Finance Department focuses on the consumer financial protection and investor protection by conducting investigations, leading multistate enforcement committees, negotiating settlements, commencing litigation, and handling consumer complaints and other inquiries. Areas of focus include residential mortgage loan origination and servicing, for-profit colleges, student loan servicing, and debt collection.

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 DRS to carry out the state's enforcement responsibilities pursuant to the MSA and related state statutes. During the past year, Connecticut received over \$116 million in payments from tobacco manufacturers that participate in the MSA.

Department attorneys played a leading role in negotiating a multistate settlement with mortgage servicer PHH, which will result in direct payments to approximately 660 eligible Connecticut borrowers to address servicing and foreclosure abuses. As part of the settlement, Connecticut received a \$390,000 payment to the general fund.

Department attorneys also represented DRS in numerous matters over the past year, including 702 tax warrant proceedings seeking to collect overdue and delinquent state taxes. In addition, department attorneys assisted the efforts of DECD in support of businesses operating in or relocating to Connecticut by providing frequent assistance and advice regarding grant, loan, and economic stimulus programs administered by the agency.

## **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 Rehabilitation Services, the Office of Early Childhood, the Office of Health Care Access, the Psychiatric Security Review Board, the Department of Developmental Services, the Department of Veterans' Affairs, the Commission on Medical and Legal Investigations, 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 is also 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 a 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.

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. In *Commissioner of Public Health v. Colandrea*, the Appellate Court affirmed an order of the trial court requiring a dentist to comply with an investigatory subpoena of patient records. In *Robb v. Connecticut Board of Veterinary Medicine*, the Superior Court affirmed the decision of the Board to impose discipline on a veterinarian for failure to provide rabies vaccines as required by federal and state law. In *Beverly Jackson v. State of Connecticut Department of Public Health*, the U.S. Court of Appeals for Second Circuit affirmed the district court's dismissal of an action brought by a practitioner of "Nedicine" claiming the State's law governing the practice of medicine could not be applied to her without violating her federal rights under various laws including her trademark of the word Nedicine.

The department also provided assistance in securing numerous consent orders between DPH and health care facilities securing regulatory compliance including with nursing homes, a clinical laboratory, and a water supply company. The department was successful in securing a court finding of contempt resulting in incarceration of the water supply company operator for repeated failure to comply with court orders to perform water quality tests and comply with other regulatory requirements.

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 also assisted DSS with the bankruptcy filing of a chain of three nursing homes and also secured the appointment of a trustee for the homes after the Bankruptcy Court found that the facilities were grossly mismanaged. The department also was involved in placing two nursing homes in receivership on behalf of DSS to stabilize the financially failing homes. The department was also successful in securing the sale to a new operator of a nursing home placed in receivership last

fiscal year. The department continues its work in representing DSS in two class action settlements on the processing of Medicaid and food stamp applications. In addition, the department represents DSS in 146 hospital appeals challenging inpatient and outpatient Medicaid rates, supplemental Medicaid payments and hospital taxes. The department is also representing DSS in a court challenge to the hospital tax.

The department also secured an agreement in a class action lawsuit that DSS and the Department of Mental Health and Addiction Services had fully met their obligations under a court ordered settlement agreement in providing community based services for psychiatrically disabled nursing home residents subject to a short extension of time for 16 residents who were not timely identified by the homes as class members.

The department addressed a variety of issues for the State Board of Education and the Department of Education (SDE). The department successfully negotiated a settlement agreement in *Alicia B. Malloy et al*, a class action lawsuit challenging the educational opportunities provided to students who had been expelled from school. The department continues to work with SDE on the *Sheff v. O'Neill* case. 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.

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, real property matters, requests for access to student information, discrimination claims, Title IX claims, due process rights and issues arising under the Freedom of Information Act. In *Haughwout v. Tordenti et al*, the department secured a dismissal of a suit challenging the expulsion of a student on the basis of threatening conduct.

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. The department attorneys expend substantial time on legal review, negotiation and approval of highly complex transactions and contracts. In *Akers v. University of Connecticut Law School*, the Appellate Court upheld the dismissal of an applicant's complaint that he had been denied admission due to age discrimination. In *Almonte v. University of Connecticut*, the Superior Court dismissed claims asserted by a student terminated from the position of resident assistant. The department continues to work with the University of Connecticut Health Center in its broad and challenging legal issues that arise from the operation of an academic health 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, the Attorney General or Privacy and Data Security Department staff members have spoken to trade groups such as the Connecticut Library Association and the Young Lawyer Section of the Connecticut Bar Association, as well as participated in numerous panel discussions and presentations regarding data security and privacy.

### **Legislation**

The Attorney General and the Privacy and Data Security Department submitted testimony in support of legislation to increase the length of identity theft prevention services from one year to two years and prohibit fees for credit freezes. That legislation has been enacted effective October 1, 2018. The Department also monitored Federal legislation impacting the Fair Credit Reporting Act as well as numerous proposals in other states.

### **Data Breaches**

In fiscal year 2017-18 the office logged in approximately 781 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.

On August 9, 2017, Connecticut joined with 31 other states and the District of Columbia in a \$5.5 million settlement with Nationwide Mutual Insurance Company and its subsidiary, Allied Property & Casualty Insurance Company (collectively, "Nationwide") to resolve the states' investigation into a 2012 data breach that exposed sensitive personal information of 1.2 million consumers across the country (including 774 Connecticut residents). As a co-lead state, Connecticut's share of the settlement funds totaled \$256,559.28, which was deposited in the state's general fund.

By way of background, on October 3, 2012, Nationwide experienced a data breach when hackers exploited a vulnerability in the companies' third-party Web application hosting software. The states' investigation found that Nationwide failed to apply a critical software patch that the third-party software company had deployed in 2009 to address the vulnerability. The vulnerability allowed hackers to access a host of consumer information that Nationwide collected when providing consumers with quotes for its insurance products. This included full names, sex, occupations, employer names and addresses, driver's license numbers and states of issuance, Social Security numbers, marital status, dates of birth and a Nationwide internal credit-related score – all were accessed by the hackers.

In addition to the monetary payment, as part of the settlement, Nationwide agreed to be more transparent about its data collection practices by disclosing that they retain information collected from consumers even if the consumers do not become insureds. Nationwide was also required to strengthen its security practices and procedures, in particular with respect to its patch management, as well as have annual security audits conducted by an outside third party.

### **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 and the law enforcement functions of the former Division of Fire, Emergency and Building Services; 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 Codes and Standards Committee, the Crane Operator's Examining Board, 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, 14,000 inmates and another 5,000 offenders supervised in community placements, all of the attorneys in the Department devote at least some 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. Federal District Court alone continue to represent more than 10% 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 pornography ban; 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; defending lawsuits brought by former death row prisoners challenging their conditions of confinement, and handling ongoing challenges by certain violent groups that seek to be recognized as religious organizations.

Because the inmate population continues to present exceptionally challenging medical and mental health issues, Department attorneys increasingly find themselves defending complex medical cases involving issues involving the alleged misdiagnosis of cancer and other serious illnesses. In addition, the Department continues to defend a number of medical malpractice and civil rights cases arising from suicides and other acts of self-harm committed by persons in custody. Recent pharmacological advances in infectious disease treatment have led to a corresponding increase in lawsuits seeking Hepatitis medications. Additionally, at least once a month department attorneys handle 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 ("UCONN"), 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. These claims involve 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 the parole system. 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 this practice area.

In addition to our litigation commitments, Department staff continues 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; providing necessary services to inmates discharging from custody, 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.

During the last year, the Department represented DOC in discussions with the Office of Protection and Advocacy and the Yale and Columbia Law School clinics in an effort to avoid litigation challenging conditions of confinement at the state's maximum security facility. The Department also continues to monitor compliance with agreements resolving litigation regarding the conditions of confinement in the women's prison, treatment of HIV infected inmates and release of offenders sought by immigration authorities for possible deportation. As the DOC shifts 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 issues 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. 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 claims, wrongful death claims arising from police shootings, 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. Recent legislative mandates requiring adoption of policies addressing use of Tasers and body-worn cameras by police will continue to require the department to work closely with DESPP command staff in formulating their policies and practices.

The Department continues to represent DESPP and its successor agencies in administrative appeals involving the State Building Code and Fire Safety Code, and in revocation proceedings relating to firefighters, private investigators and certain tradesmen involved in fireworks and demolition. 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.

### **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. 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. The Department's efforts have included developing protocols and appropriate training for marshals who have authority to serve criminal process, and developing guidelines for serving process on behalf of pro se litigants.

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

The Department has appeared and defended numerous cases involving the Division of Criminal Justice and the Division of Public Defender Services. These cases often raise constitutional questions and 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. The Department has also seen an increase in Freedom of Information matters involving the Office of the Chief Public Defender and the Division of Criminal Justice and has provided legal advice and representation in this area.

### **Military Department**

The Department continues to work closely with the Military Department on a variety of issues, particularly in claims from one of the ceremonial military units challenging the authority of the

Military Department.

### **Prosecution of Home Improvement Contractors**

An Assistant Attorney General in the 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.

### **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 30 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.

### **Contracts**

Each year, the Department works closely with its client agencies, including DOC, DESPP, the Division of Emergency Management and Homeland Security, 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 130 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 Memoranda of Understanding, 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, 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.

## **SPECIAL LITIGATION & CHARITIES DEPARTMENT**

The Special Litigation and Charities 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, and the Office of the Victims Advocate. 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 successful defense in the Second Circuit of a federal commerce clause challenge to the method under state law for allocating the cost of recycling of electronic device waste on manufacturers;
- the successful defense of a first amendment challenge to the prohibition on convicted felons participating in the public campaign finance program;
- the ongoing defense in the Second Circuit of a class action alleging that the State's response to the 2014 Ebola outbreak was unconstitutional, raising numerous novel questions of law;
- the ongoing lawsuit by the Schaghticoke Tribal Nation alleging that the State breached its duties to the Schaghticoke tribe since the early 1800s;
- 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;
- the review and protection of the charitable assets of Chase Collegiate School in connection with its purchase by a for-profit entity;
- actions, coordinated with other states, in response to decisions and actions of the Trump administration and Congress that are detrimental to the interests of the State and its residents, including in the areas of immigration, reproductive rights, state and local tax deductions, and the 2020 Census; and
- a constitutional challenge to the legislature's budget decision to transfer energy-environmental related funds to the General Fund.

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 addition, members of the department have been actively involved in a multistate effort to develop a single portal website for public charity registration.

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 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 also 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/CIVIL RIGHTS DEPARTMENT**

The Torts/Civil Rights Department defends state agencies and employees in tort and civil rights actions, including high exposure personal injury and wrongful death actions. 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 money 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").

Of the 68 cases the department closed this fiscal year, the state prevailed in 34 after department attorneys filed dispositive motions or defended the state in trials or hearings on the merits; and obtained withdrawals in 18. In four cases, department attorneys were successful in negotiating reasonable and just settlements. Of the remaining 12 cases, four were claims in which the Claims

Commissioner made a modest monetary award, one was a claim for which the Claims Commissioner or General Assembly granted permission to sue the state in the Connecticut Superior Court, five were not pursued by the claimant, one was transferred to another department in the Office of the Attorney General, and one was transferred to the state's insurance counsel. The department represented the state, its employees or officials from 21 state agencies in these cases; and successfully argued in most that the claims lacked merit, had jurisdictional defects, or failed to state a legally sufficient cause of action.

During the past fiscal year, the department continued to defend several complex, high-exposure, wrongful death, medical malpractice, constitutional, intentional tort, and personal injury cases. Much effort has gone into preparing these cases by engaging in extensive discovery, including conducting complicated electronic forensic investigations, retaining appropriate expert witnesses, and filing motions and briefs. One hundred fifty-nine of the department's cases are ongoing, 15 more than last year. Sixty-two of these cases involve a death, assault or serious injury. Most of these cases are pending in the U.S. District Court, Connecticut Supreme Court, Connecticut Appellate Court, Connecticut Superior Court, and the OCC.

As an outgrowth of defending the many 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 set-offs in the claims brought by parties who have uncollected debt to the state.

Where an alleged injury may be an insurable event under 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 18 withdrawals the department obtained resulted from our convincing state contractors to assume liability for the claims. When state contractors and/or their insurers have not quickly come forward to defend and indemnify the state, department attorneys have sought and obtained 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 by employees of private companies with state contracts who were injured and were awarded workers' compensation from their employers, based on the argument that 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.

## **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 and 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 state 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.

This past year, the department continued to review and work with DOT in negotiating on a number of contracts related to DOT's rail service, including DOT's new Hartford/Springfield rail line. These included contracts for the operation of the CT Rail Service, agreements and amendments among the State, MetroNorth and Amtrak for service along various passenger rail lines relating to the requirements of the Passenger Rail Investment and Improvement Act of 2008, amendments to the service contract and construction and maintenance agreement between the State and Amtrak, the contracts for the overhaul and repair of State-owned locomotive units and the review, negotiation, and approval of a contract with Metro North relating to work and repairs Metro North conducts along the commuter rail line between New Haven and New York.

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:

- a) Assisted DOT with the review, negotiation, and approval of a contract for engineering services to be provided in connection with the replacement of the Norwalk Walk Bridge.
- b) Ongoing assistance to DOT with the review and approval of various construction and consultant contracts.
- c) Ongoing assistance to DOT with various property transfers, easements, and leases.

- d) Assisted DOT with the review and approval of various construction contracts;
- e) Assisted DOH with the review and approval of a contract with the Capitol Region Council of Governments to provide funds for homeowners with potentially crumbling foundations to test those foundations for pyrrhotite content.
- f) Assisted DOH with the review and approval of various personal service agreements, amendments, assistance agreements, and infrastructure 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 to avoid litigation, with the goal of quickly resolving disputes to preclude or minimize the potential adverse financial impact of such claims on the public treasury.

During the past fiscal year, department staff has been involved in the prosecution and defense of several major lawsuits and appeals. The department finalized a settlement on behalf of DAS in which the State received \$500,000 as a result of a claim against a contractor who owed money to the State. The department also received a favorable district court decision in federal court brought by Tweed-New Haven Airport Authority challenging, on federal preemption grounds, a state statute limiting the length of the runway at Tweed Airport. The case is on appeal to the Second Circuit Court of Appeals.

The department argued three cases at the Supreme Court and two at the Appellate Court.

The department defended a Construction claim against the Department of Transportation in an arbitration hearing in which the contractor challenged the DOT's ability to issue a sanction for failure to comply with the Disadvantaged Business Enterprises (DBE) requirements. The parties are awaiting a decision.

During the past fiscal year the department defended DOT in a claim with a total claimed value of \$8,098,062.28, which was ultimately resolved for \$3,600,000, a total savings to the State of \$4,498,062.28. The department is representing DOT and DAS in several pending claims against the State.

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. Three of the cases are currently pending at the court's Complex Litigation Docket. The Department successfully defended an injunction brought by a bus company

claiming it had exclusive rights to operate the new CT Transit route from UCONN Storrs to Hartford.

### **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 4 eminent domain appeals filed against DOT by trial and 15 by stipulated judgment. There are currently 26 eminent domain appeals in litigation. The litigation outcomes of the concluded eminent domain appeals resulted in savings to the State of \$3,599,200.00.

The Transportation Department represented DEEP in real property matters. Of particular significance was the department's work with DEEP in connection with the procurement of conservation easements, resulting in the dedication of thousands 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 regularly provides legal advice to DEEP on complex property law issues. During the past year, the department also provided DAS and DCS with legal counsel and review of leases, agreements and contracts including:

- a) Assisted DAS with the negotiation and execution of a purchase agreement for property in Griswold to be used as the new State Police firing range and training facility.
- b) Assisted DAS with the termination of the lease for the Litchfield County Courthouse and the return of the Courthouse to its fee owners.
- c) Assisted DAS and DOT with a property exchange relating to the Norwalk Armory.
- d) Assisted DAS with the review, negotiation, and approval of various agreements related to property purchases, sales, and leases.
- e) Assisting DAS with revisions to its form commercial lease.
- f) Assisted DDS with the drafting and negotiation of a property exchange agreement for properties located in Glastonbury pursuant to a special act of the State legislature.
- g) Assisted DEEP with the drafting, negotiation, and review of a lease and a lease amendment for the public use of a walkway along the Windsor Locks Canal.
- h) Assisted DEEP with the transfer of the Burrville Fire School to the Department of Emergency Services and Public Protection.
- i) Assisted DEEP with the drafting, negotiation and review of a lease for the construction of hydroelectric generating facilities at the Upper Collinsville Dam.
- j) Assisted DEEP with the review and approval of several subterranean easements granted to MDC to facilitate its construction project.

- k) Assisted 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.
- l) Assisted DEEP with the review of an easement request over the Air Line Trail in Pomfret.
- m) Assisted DEEP with the review of an easement relating to bridge repair on property located within the Sherwood Island State Park, Westport.
- n) Assisted DEEP with the purchase of various properties pursuant to its statutory land acquisition authority.
- o) Assisted 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.

### **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 prevailed in an injunction action to protect two historic properties in New London from demolition. The trial lasted six days involving over nineteen witnesses. A ruling by Superior Court Judge Joseph Q. Koletsky blocked demolition of two historic buildings on Bank Street in downtown New London under the Connecticut Environmental Protection Act. The preservation victory was a major milestone in preserving New London's whaling era heritage as the "Whaling City".

### **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.

### **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. Currently the department is defending a NEPA case brought in federal court by the Norwalk Harbor Keeper challenging DOT's environmental assessment pertaining to the Walk Bridge in Norwalk.

### **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 past fiscal year, department attorneys and paralegals appeared for the Second Injury Fund and the State in 3,897 hearings before workers' compensation commissioners and in 217 new unemployment compensation cases in the Superior Court. The department also opened 83 new cases on behalf of Connecticut citizens who were not paid wages by their employers.

Department attorneys and paralegals were responsible for recouping \$1,035,832.61 for the State of Connecticut and \$129,756.66 for the Second Injury Fund through third party interventions in

Superior Court. The Department was also successful in saving money for the state by entering into reasonable 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 \$236,589.60 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 in preparation for the agency's relocation to the State Office Building, department staff closed 3,740 dormant workers' compensation files.

During this fiscal year, the Workers' Compensation & Labor Relations Department was involved in the following significant cases:

In *Kirby of Norwich v. Administrator, Unemployment Compensation Act, et al.*, 328 Conn. 38 (January 21, 2018), a vacuum cleaner company appealed three decisions of the Employment Security Board of Review that found that there was an employer-employee relationship between the company and its door-to-door sales representatives, thereby obligating the company to contribute to the state's unemployment compensation fund. The appeals were dismissed by two judge trial referees who found an employer-employee relationship existed between the company and its sales representatives. The company appealed the decisions which were transferred to the Supreme Court. The Supreme Court affirmed the decisions of the Superior Court holding that the company did not establish that its door-to-door sales representatives were engaged independently in businesses of the same nature as the service that the representatives performed for the company, and thus, an employer-employee relationship existed between the company and its representatives, thereby obligating the company to contribute to the state's unemployment compensation fund. The court's decision is noteworthy because it upheld the Department of Labor's interpretation of Conn. Gen. Stat. Sec. 31-222(a)(1)(B)(ii)(III), the third prong of the ABC test for identifying an employment relationship.

In *Pajor v. Administrator, Unemployment Compensation Act, et al.*, 174 Conn. 157 (June 27, 2017), the Appellate Court dismissed an appeal from a Superior Court decision and held that the plaintiff did not have good cause for failing to attend the Referee's hearing on failing to report income while receiving unemployment compensation benefits. The Board of Review found that his counsel advised him to attend the hearing without representation by counsel. The Appellate Court's opinion is significant for several reasons including its unique appellate precedent on a procedural issue in the unemployment compensation appeals process - good cause for failing to attend a Referee's hearing as distinguished from substantive issues of eligibility for benefits.

In *Lampo v. Angelo's Pizza East Rock, LLC*, 6134 CRB-3-16-10 (January 31, 2018), an insurance company issued a workers' compensation policy and then cancelled it. Before the cancellation took effect pursuant to Conn. Gen. Stat. Sec. 31-348, the claimant was injured. The insurance company argued that the policy was voided because of malfeasance, which had allegedly occurred prior to the issuance of the insurance policy. On behalf of the Second Injury Fund, the department

filed a motion to preclude seeking to bar the insurer from presenting evidence that the policy was void. The Fund's motion to preclude was granted by the trial commissioner who relied on Conn. Gen. Stat. Sec. 31-343 which prohibits the insurer from raising the issue of "breach of warranty, coverage or misrepresentation" by the insured.

The insurance company appealed the trial commissioner's decision to the Compensation Review Board (CRB). The CRB upheld the trial commissioner's ruling based on Conn. Gen. Stat. Sec. 31-343 indicating that the Workers' Compensation Commission lacked jurisdiction over certain insurance disputes and that the records of the National Council on Compensation Insurance (NCCI) are given conclusive effect relative to the presence or absence of coverage. However, the CRB noted that the insurer would not be barred from pursuing appropriate remedies in another forum. This decision is pending appeal to the Appellate Court.

### **INTERNSHIP & VOLUNTEER PROGRAMS**

The Office of the Attorney General ("OAG") sponsors an internship and volunteer program that offers unpaid learning opportunities for students and volunteers to assist the OAG and its work on behalf of the State. The program is open to law, paralegal, graduate, undergraduate and highly motivated high school students; volunteer professionals and other adults interested in learning about legal practice, civil law and public service in the state's largest civil law firm. The Office also provides work experience for special needs students in vocational training transition programs through an arrangement with West Hartford Public Schools and the Farmington Valley Transition Academy.

Applications are made online and students are accepted for fall, spring or summer academic semesters by departments in need of assistance. The greatest need is for law students. While the internships are unpaid, students may be eligible, in cooperation with their sponsoring school, for course credit, federal work-study, public-service grant or fellowship assistance.

The work performed by student volunteers varies by department, but all assignments require critical thinking, research and writing. Law students also gain experience in legal practice skills, drafting legal documents and trial preparation.

Non-students and adults have opportunities to serve as volunteer advocates in the Consumer Protection Department's Consumer Assistance Unit. Under staff supervision, they provide informal mediation services to help consumers resolve complaints.

In limited cases, the Office accepts the assistance of volunteer professionals -- licensed attorneys, law school graduates awaiting admission to the bar, or paralegals, seeking to supplement their legal training or practical experience by volunteering in the Office. Volunteers may be assigned to a department for up to a year to provide legal research and drafting assistance to a supervising assistant attorney general.

During fiscal 2017-18, 129 students participated in internship, field placement or legal fellowship programs. In addition, the Office was assisted by two volunteer attorneys, five volunteer advocates and seven special needs students. All participants provided invaluable assistance to OAG staff and their work on behalf of the people of Connecticut.

The internship and volunteer program is coordinated by OAG staff and applications and communications are handled electronically. Expenses associated with the program are primarily staff time and limited copying and mailing.

## **SPECIAL PROJECTS**

### **The Connecticut Coalition for Justice in Education Funding (CCJEF) v. Rell**

In *CCJEF v Rell*, a group of students, parents, unions, school districts and others challenged the constitutionality, under the State constitution, of Connecticut's methods of financing public education. The case was filed in 2005. After an interim decision by the Connecticut Supreme Court in 2010, the case was tried in the Connecticut Superior Court in 2016. The plaintiffs were represented by a large team from the Yale Law School, and another large team from the multi-national law firm of Debevoise and Plimpton. The State was represented by a team of five lawyers from the Attorney General's Office. The massive litigation involved over a million documents in discovery and almost 6 months of trial. Plaintiff's expert had asserted prior to trial that the state should be ordered to increase state funding for public education by about \$2 billion per year. The trial court ruled for the defendants on most issues, but ordered the State legislature to make major changes in its distribution of education funding and in various education policies. Both sides appealed, and in January, 2018, the Connecticut Supreme Court ruled in favor of the State on all issues, concluding the case permanently.

### **State Employees Bargaining Agent Coalition ("SEBAC") v. Rowland**

*SEBAC v. Rowland* is a Federal District Court case in which a purported class of unionized State employees sued the Governor and the Secretary of the Office of Policy and Management alleging, in essence, that they were laid off in violation of their constitutional rights. The plaintiff class consists of over 49,000 unionized state employees, nearly 3,000 of whom sustained economic damages as a result of a layoff, demotion or transfer. The class claimed back wages, damages, attorneys' fees and costs. The matter proceeded through a series of rulings and appeals and the Court of Appeals for the Second Circuit granted summary judgment in favor of the plaintiff class. After lengthy discussions, the parties reached a tentative agreement to resolve all claims, which avoided the state's exposure to excessive financial liability. The proposed settlement was submitted to the legislature on May 1, 2015 and was deemed approved, in accordance with provisions of Connecticut General Statutes Section 3-125a, on or about June 1, 2015. The court held a Final Fairness Hearing on October 1, 2015 and granted final approval of the settlement. This

fiscal year, a team of lawyers in this office has been working with class counsel, several state agencies, and U.S. Magistrate Judge Holly B. Fitzsimmons, the court-appointed Claims Administrator, in calculating economic damages for each class member who sustained damages as a result of the layoffs. The settlement also resolved two related cases that were brought in the Connecticut Superior Court. The settlement agreement provides for monetary payments to class members who are no longer employed by the State and vacation and/or personal leave time for class members who are active employees, which has saved the State thousands of dollars.

### **AFFIRMATIVE ACTION**

The Office of the Attorney General is firmly committed to equal employment opportunity. Nearly 59.3% of the full-time attorney workforce consisted of women and minorities. Women and minorities comprised 71.4% of entry level attorneys and 51.3% of middle and higher level attorneys.