



**OFFICE OF THE ATTORNEY GENERAL  
ANNUAL REPORT- FISCAL YEAR 2022-2023**

**At a Glance**

**WILLIAM TONG,**  
*Attorney General*

**EILEEN MESKILL,**  
*Deputy Attorney General*

*Established – 1897*

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

*Central Office: 165 Capitol Avenue, Hartford, CT 06106*

*Average number of full-time employees: 300*

*Recurring General Fund operating expenses: \$ 35,269,404*

*Revenues Generated: \$ 626,426,332*

**Mission**

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

**Statutory Responsibility**

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

common law authorize the Attorney General to represent the people of the State of Connecticut to protect the public interest.

**REVENUE ACHIEVED BY THE OFFICE OF THE ATTORNEY GENERAL**

During the 2022-2023 fiscal year, \$ 626,426,332 was generated by the Attorney General's Office, as described below, including \$ 198,479,833 deposited to the General Fund. The remaining monies were directly paid to, protected and/or used to benefit constituents, businesses, and other entities.

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

Tobacco Settlement Fund Collections	\$ 124,678,223
Child Support Collections	25,508,536
Child Support General Collections	9,102,843
Global Civil Settlements	1,017,962
Privacy Settlements	7,724,807
Consumer Protection Connections	276,500
Department of Banking Collections	10,399
Office of the State Treasurer Collection	5,000
Department of Social Services / Civil	12,091,116
Penalties / Environmental Violations	110,000
Miscellaneous Collections	17,954,447

**Total Revenue Generated for General Fund** **\$ 198,479,833**

**B. Revenue Generated for Special Funds**

Opioid Settlement Fund	\$ 61,371,645
Unpaid Wage & Unemployment Tax	135,576
Special Environmental Projects	115,000
DCP Consumer Fund	10,200

**Total Revenue Generated for Special Funds** **\$ 61,632,421**

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

Child Support Collected/Enforced for Families	\$ 221,445,953
Workers' Compensation Employee Collection	13,014
Consumer Assistance Unit Benefit to Consumers	1,371,698
Home Improvement Contractors -	
Consumer Restitution from Criminal Prosecution	114,321
Court ordered restitution to DCP Guaranty Fund	84,604
Healthcare Advocacy Benefit to Consumers	\$ 454,678
Restitution to Affected Customers	3,000,000

**Total Revenue Generated Individuals and Businesses**                   **\$ 226,484,268**

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

Charitable Trusts Protected	\$ 50,783,053
Charitable Funds Recovered or Preserved	4,941,757
Investment Commitment Obtained	42,500,000
Refunds for CT Utility Customers	4,605,000
Utility Rate Increases Requested (not obtained)	37,000,000

**Total Revenue Protected**   **\$ 139,829,810**

**TOTAL REVENUE ACHIEVED**   **\$ 626,426,332**

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

The Office is divided into 5 divisions: Appeals, Civil Litigation, Enforcement & Public Protection, Government Administration and Consumer and Constituent Services. Each division contains sections which, along with the Administration, represent 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 2022 - 23 is summarized as follows:

<u>Trial Court Cases</u>	
Instituted	8,144
Completed	8,511
Pending	11,229
<u>Appeals</u>	
Instituted	176
Completed	155
Pending	199
<u>Administrative Proceedings</u>	
Instituted	1,069
Completed	1,300
Pending	4,502
<u>Antitrust/Fraud Investigations</u>	
Instituted	94
Completed	72
Pending	193
<u>Consumer Protection Investigations</u>	
Instituted	27
Completed	62
Pending	59
<u>Privacy Investigations</u>	
Instituted	1,501
Completed	1,328
Pending	225
<u>Miscellaneous Investigations</u>	
Instituted	13
Completed	21
Pending	33

Home Improvement Contractor Cases

Instituted	73
Completed	38
Pending	173

Legal Documents Examined

Instituted	2,915
Completed	3,062
Pending	1,065

Consumer Protection Public Inquiries

Instituted	5,594
Completed	4,252
Pending	6,801

OAG Administration Public Inquiries

Instituted	1,273
Completed	1,147
Pending	472

Financial and Revenue Services Inquiries

Instituted	568
Completed	558
Pending	14

Health Care Advocacy Public Inquiries

Instituted	299
Completed	299
Pending	3

Miscellaneous Public Inquiries

Instituted	57
Completed	48
Pending	387

Formal Opinions Issued	5
Informal Opinions Issued	33

### **AFFIRMATIVE ACTION**

The Office of the Attorney General is firmly committed to equal employment opportunity. Exactly 61.11% of the full-time attorney workforce consists of women and minorities. Women and minorities comprise 68.81% of entry-level attorneys and 56.07% of middle and higher-level attorneys.

### **LEGISLATION**

During the 2023 session of the Connecticut General Assembly, the Attorney General spearheaded proposals to benefit consumers and taxpayers.

The Government Program Fraud Section helped craft and successfully pass the Attorney General’s proposal to expand the state False Claims Act beyond health and human service providers to cover most state contractors given recent contracting scandals. (Public Act 23-129) The Consumer Protection and Privacy Sections and Charities Unit of the Special Litigation Section helped to develop and pass a set of proposals in response to consumer complaints and recent investigations and litigation, including updates to the statutes on telemarketing and Solicitation of Charitable Funds; responding to abuses in the sale of tickets to live events; requiring companies to notify Connecticut residents when their geolocation data is compromised in a data breach and other statutory updates to give the Office of the Attorney General better tools in protecting consumers and their privacy. (Public Act 23-98)

Several Assistant Attorneys General who work on tobacco settlement enforcement and the multistate JUUL and opioid investigations and settlements helped craft and pass a bill to improve the OAG’s tools for tobacco enforcement, ensure that Connecticut’s \$16 million portion of the JUUL settlement goes directly to the front lines of the teen vaping epidemic and add an important provision to Connecticut’s Opioid Settlement law that requires municipalities who receive funds directly from the settling parties to file public reports documenting how they use those funds. (Public Act 23-92)

In light of hundreds of consumer complaints related to the merger of People’s United Bank with M&T Bank in 2022, the Finance and Revenue Services Section assisted with the development of legislation improving the OAG’s ability to protect consumers from unfair, deceptive, or abusive acts and practices and from discrimination related to consumer financial products and services, under the federal Consumer Financial Protection Act of 2010. (House Bill 6681)

The Government Program Fraud Section also proposed legislation to allow the state to recoup Medicaid funds when they are spent on deficient care provided by nursing homes (House Bill

6627) and as in previous years, the OAG proposed legislation that would protect the residential addresses of OAG employees from disclosure. (Senate Bill 1157)

Additionally, many Assistant Attorneys General reviewed bills, developed amendments, drafted testimony and assisted client agencies and legislators with analyzing legislative proposals. For example, the Privacy Section worked closely with the drafters of Public Act 23-56, which provides new protections for consumer health data and the data of minors. The Antitrust Section drafted testimony on a bill banning “pay for delay” – anticompetitive behavior by drug manufacturers that harms consumers. In addition, members of the Antitrust and Government Program Fraud Sections both drafted testimony on a state bill strengthening the 340B drug discount program and led a multistate coalition in urging a bipartisan group of U.S. Senators to reform the 340B program at the federal level so that it continues to serve community health centers and their patients. The Special Litigation Section weighed in on several bills related to the integrity of election and voting. Other sections assisted with legislative efforts aligned with its mission to serve Connecticut residents: to improve affordability and access to prescription drugs and hospital services; to strengthen firearms safety laws; to improve efficiency in the adjudication of claims made against the state; to protect electric and utility rate payers, whistleblowers, workers, mobile homeowners, abortion providers and their patients; to improve the state contracting process; to amend the statutes governing adult use cannabis and certificate of need requirements for healthcare facilities; and to ban flavored tobacco products.

### APPEALS DIVISION

The Appeals Division directs all the Office’s appellate matters. It also prepares the Attorney General’s formal opinions and coordinates informal opinions.

In most of its appellate matters, the Office represents a party. That means the State – or its officials, agencies, and employees – is an active litigant with a direct stake in the case. In a significant minority of appellate cases, the Office is weighing in as a friend of the court – an *amicus curiae*. In those cases, the State is not officially a party but has an important interest in the outcome.

#### **Party Representation Data**

The OAG opened 176 appellate matters in which the Office represented a party during the fiscal year, and closed 155 – respectively, an 8.3% and 26.5% decrease over last fiscal year, as table 1 shows:

<b>Table 1:</b>		7/1/20-6/30/21	7/1/21-6/30/22	7/1/22-6/30/23
<i>Three-year trend of appellate</i>	<i>Matters opened</i>	197	192	176

<i>representation matters (excludes amicus)</i>	<i>Matters closed</i>	200	211	155
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Over the course of the fiscal year, we represented parties in a total of 336 appellate matters. As usual, the bulk of our representation appeals came in child protection and public safety matters, which together made up more than 70% of the office’s appellate representation caseload:

<b>Table 2:</b>		<i>Opened matters</i>	<i>% of all opened</i>
<i>Share of new appellate matters opened by section (excludes amicus), 7/1/22 – 6/30/23</i>	<i>Administration</i>	1	0.57%
	<i>Antitrust/Fraud</i>	1	0.57%
	<i>Child Protection</i>	61	34.66%
	<i>Collections/Child Support</i>	1	0.57%
	<i>Employment</i>	8	4.55%
	<i>Energy/Environment</i>	15	8.52%
	<i>Finance</i>	5	2.84%
	<i>Health</i>	5	2.84%
	<i>Public Safety</i>	64	36.36%
	<i>Special Litigation</i>	10	5.68%
	<i>Torts</i>	2	1.14%
	<i>Transportation</i>	3	1.70%
	<i>TOTAL</i>	176	

Also typically, about 70% of both our newly-opened and closed appellate representation matters during the year were in state, rather than federal, appellate courts:

<b>Table 3:</b>		<i>Opened matters</i>	<i>% of all opened</i>
	<i>Connecticut Appellate Court</i>	87	49.43%



<i>Share of appellate matters opened by court (excludes amicus), 7/1/22 – 6/30/23</i>	<i>Connecticut Supreme Court</i>	35	19.89%
	<i>U.S. Court of Appeals – Second Circuit</i>	50	28.41%
	<i>Other federal appellate courts</i>	4	2.27%
	<i>TOTAL</i>	176	

Almost all appeals in which we represent a party call for briefing. Many also proceed to oral argument. This fiscal year, we argued 51 cases at the Connecticut Appellate Court; 10 cases at the Connecticut Supreme Court; and 8 cases at the United States Court of Appeals for the Second Circuit.

### **Some Key Cases Resolved During This Fiscal Year**

#### *CT Freedom Alliance*

This year, the OAG continued to successfully defend executive orders designed to protect public health and safety during the COVID pandemic.

In *CT Freedom Alliance v. Department of Education*, the plaintiffs challenged Governor Lamont’s school mask mandate on constitutional and procedural grounds. The trial court rejected their claims, and the Department of Education repealed the mask mandate – since the pandemic was easing – while the ensuing appeal was pending. The Office moved to dismiss the appeal as moot, and the Connecticut Supreme Court agreed.

While the decision is important for its discussion of the mootness doctrine and its exceptions, it is most notable for its emphasis on judicial restraint. Courts, it explained, should “resist the temptation to opine on issues concerning the emergency powers of another branch of government” unnecessarily. The Court articulated “sound judicial polic[ies]” that support restraint, including that “[c]onfidence and trust in our courts—by the parties and the public—are critical to our judiciary’s continued credibility” and may be “undercut by a court too eager to jump into such a fray” to second-guess the political branches’ response to public health emergencies. The Court’s embrace of these principles will be important to the State’s ability to protect public health and safety during future emergencies.

#### *Gottlieb*

As it does every election cycle, the Office successfully defended against attacks on the State’s election laws.

In *Gottlieb v. Lamont*, several Democratic Party candidates claimed that the petitioning requirements for ballot access in Connecticut’s primaries are too stringent and violate the First Amendment. A federal district court disagreed, holding that Connecticut’s rules impose no

severe burden on candidates – and that any burden they do impose is outweighed by Connecticut’s important interests in orderly, fair, and transparent elections. The U.S. Court of Appeals for the Second Circuit affirmed, emphasizing the long history of reasonably diligent candidates gaining primary ballot access in Connecticut.

### *Schaghticoke*

In *Schaghticoke Tribal Nation v. State*, the Tribal Nation sued Connecticut for \$610 million in damages for an alleged taking of tribal lands and breach of fiduciary duty in the late 1700s and early 1800s. The Office never disputed the tragic history of Native Americans in this country and in Connecticut, but argued that these particular plaintiffs could bring no valid claim to damages for this particular land. The trial court agreed and dismissed the case. The Appellate Court affirmed because – among other things – the Tribe has no cognizable property right to that land. The Connecticut Supreme Court denied certification to appeal.

This was an important and hard-fought case and the Office was able to obtain an excellent result – for the state treasury and for principles of sovereign immunity and tribal law.

### *Direct Energy*

In *Direct Energy Services, LLC v. PURA*, energy suppliers –middlemen who buy electrical energy from wholesalers and then sell it to consumers – challenged Public Utilities Regulatory Authority rules designed to protect consumers and advance Connecticut’s clean energy goals.

PURA requires suppliers to show that a minimum percentage of their electricity comes from renewable energy sources. Suppliers comply by buying “renewable energy certificates” (RECs) – credits that represent renewably-generated power. Because the production of renewable energy only helps Connecticut’s environment when the energy is produced in areas to the immediate south and west of the state, a PURA rule requires that RECs used in a voluntary renewable offer must come from those areas. Another rule requires suppliers to tell consumers that they are purchasing energy products backed by RECs, and not renewable energy itself.

The suppliers claimed that these rules violate the dormant commerce, free speech, and contracts clauses of the U.S. Constitution. At the AGO’s urging, the Connecticut Supreme Court rejected their claims and allowed PURA to continue pursuing its important environmental and consumer protection goals.

### **Amicus**

When the Office appears as a friend of the court, it often joins in briefs written in partnership with other like-minded states and jurisdictions. But it sometimes leads the way, writing on its own or as the primary author in multistate efforts.

This fiscal year, the Office was the primary author in five amicus briefs.<sup>1</sup> Four of those spoke to Connecticut-specific law and policy – affordable housing, employment law, and the Governor’s

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<sup>1</sup> *Amicus briefs filed by the AGO during the period*

COVID-era executive orders. In one, *Schutte v. Supervalu*, we led a (victorious) coalition of 33 states at the United States Supreme Court, arguing for robust protections against Medicaid fraud.

We reviewed, analyzed, and sometimes contributed to 88 amicus briefs written by other states.<sup>2</sup> During this fiscal year, the State joined 62 of those briefs, and declined to join 17. (The remaining three were never filed, because the case was disposed of before filing.) The briefs we joined addressed some of the most important issues, in some of the most important cases, resolved this year. At the U.S. Supreme Court, for instance, we fought for LGBTQ+ rights in *303 Creative v. Elenis*; defended the importance of diversity in higher education in *SFFA v. Harvard*; protected election integrity in *Moore v. Harper*; and stood with Native American children and families in *Haaland v. Brackeen*.

Table 4 shows the subject matter distribution of the amicus briefs we joined:

<b>Table 4:</b>		<i>Number</i>
<i>Multistate amicus briefs joined by subject matter, 7/1/22 – 6/30/23</i>	<i>Antitrust and other consumer protection</i>	11
	<i>Gun safety</i>	5
	<i>Immigration and racial justice</i>	7
	<i>LGBTQ+ rights</i>	9
	<i>Other</i>	7
	<i>Abortion rights and other reproductive justice</i>	5
	<i>Voting rights and election integrity</i>	4
	<i>Workers' rights</i>	5
	<i>TOTAL</i>	62

## Opinions

A formal opinion is a published written opinion on a question of law, requested by legislative leaders, executive department heads, or state boards and commission. Formal opinions are archived on the Attorney General’s website. Informal opinions are private, confidential legal questions from the AGO’s client agencies.

<sup>2</sup> Total number of amicus briefs written by another office that the AGO joined or declined to join on a date during the period, or that were mooted (usually with the brief ultimately not filed, or the case dismissed) on a date during the period

<b>Table 5:</b>		7/1/20-6/30/21	7/1/21-6/30/22	7/1/22-6/30/23
<i>Three-year trend of formal opinions</i>	<i>Number of formal opinions</i>	2	3	5

We had a significant uptick this fiscal year, releasing five formal opinions, including an opinion – released in response to troubling litigation in Texas aimed at forcing abortion medication off the market – explaining that the prescription medication mifepristone, which millions of women have safely used for abortion, remains legal and available in Connecticut.

## SECTIONS

### ANTITRUST SECTION

The Antitrust Section’s mandate is focused on identifying and deterring anticompetitive conduct and obtaining civil penalties, restitution, and injunctive relief. The benefits to the people, state agencies, and businesses of Connecticut through fair and effective enforcement of antitrust laws usually take the form of transparent and competitive pricing, sufficient consumer choice, and access to high-quality products and services. During the past year the Section focused significant resources to ensuring competition in Connecticut's healthcare and technology markets, with a primary emphasis on generic pharmaceuticals. In addition, the Section has advocated for effective competition policy at the state and national levels by promoting procompetitive legislation and filing legal briefs in important antitrust cases.

#### **1. Generic Pharmaceutical Manufacturers**

In July 2014, the Office of the Attorney General initiated an investigation into the reasons behind suspicious price increases of certain generic pharmaceuticals. In the fall of 2016, after accumulating significant evidence of potential violations, the Office of the Attorney General organized a bi-partisan working group of state Attorneys General to assist with the office’s investigation, which had broadened considerably since the inception of the investigation.

In December of 2016, Connecticut and nineteen other states filed a federal antitrust lawsuit in Connecticut against six generic pharmaceutical manufacturers alleging the companies engaged in a well-coordinated and long-running conspiracy to fix prices and allocate markets for two generic pharmaceuticals: doxycycline hyclate delayed release and glyburide. The lawsuit was subsequently transferred to federal court in the Eastern District of Pennsylvania.

In October 2018, the Attorney General's working group asked the federal court for permission to file a new complaint in the states' pending lawsuit that increased the number of generic drug manufacturer defendants from six to 18 in the case and the number of drugs at issue in the litigation from two to 15. The court granted the Attorney General's request on June 5, 2018.

In May, 2019, the Attorney General led an expanded 44-state coalition that marked a significant broadening of the investigation by filing a lawsuit against Teva Pharmaceuticals and 19 of the

nation's largest generic drug manufacturers, alleging a vast conspiracy to inflate and manipulate prices, reduce competition and unreasonably restrain trade for more than 100 different generic drugs. The lawsuit, which was filed in U.S. District Court for the District of Connecticut and subsequently transferred to federal court in the Eastern District of Pennsylvania, also names 15 individual senior executive defendants at the heart of the conspiracy who were responsible for sales, marketing, pricing, and operations. The drugs at issue account for billions of dollars of sales in the United States, and the alleged schemes increased prices affecting the health insurance market, taxpayer-funded healthcare programs like Medicare and Medicaid, and individuals who must pay artificially inflated prices for their generic prescription drugs.

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

In January 2021, the Attorney General released the third full unredacted complaint. The complaint was unsealed after the court granted the states' motion to unseal. The previously redacted portions of the complaint include detailed descriptions and images of evidence documenting the widespread price-fixing. In May 2021, the Court selected the June 10, 2020, Complaint as the bellwether case, reconsidering its earlier ruling selecting the Teva case as bellwether due to the intervening indictment of Teva by the U.S. Department of Justice on related claims. In November 2021, various Defendants filed motions to dismiss the June 10, 2020 Complaint and the Attorneys General responded. In February 2023, the Court granted in part and denied in part the defendants' motion to dismiss claims for injunctive relief under federal law. The Court denied all other motions to dismiss except the motion to dismiss the state law claims, which is still pending. In May 2023, the Court amended the schedule of proceedings for the bellwether cases, including the third lawsuit, and established a fact discovery deadline of October 2, 2023. The Attorneys General are currently fully engaged in affirmative and defensive discovery.

## **2. Suboxone Settlement**

Connecticut, like many other states, is in the midst of combating an unprecedented increase in opioid related overdoses and deaths. Suboxone is a prescription medication used to treat dependence on opioid drugs. In 2016, Connecticut, and 41 other states, filed a complaint against the maker of Suboxone, Indivior Inc., alleging that it tweaked its product to illegally preserve its drug monopoly. The states alleged that Indivior restrained competition that could have made this lifesaving opioid dependency treatment more affordable and available for patients and communities in need. A trial was set for September 2023. However, in June 2023, Indivior agreed to a \$102.5 million settlement with the states, with Connecticut receiving \$1.78 million from the agreement.

### **3. Big Tech**

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

Since May 2020, the Attorney General has been a member of a coalition of states litigating a case against Google, alleging a monopoly position that derives principally from its overwhelming dominance of the market for general internet searches. The suit, often referred to as the “Google Search”, alleges that Google uses its massive financial resources to lock up opportunities that competitors might otherwise be able to use to reach consumers. The case is going to trial in the U.S. District Court for the District of Columbia in September 2023.

Since July 2021, the Attorney General has been a member of coalition of attorneys general in a lawsuit against Google alleging antitrust violations involving the tech giant’s app store, often referred to as the Google Play Store case. The suit alleges exclusionary conduct relating to the Google Play Store for Android mobile devices and Google Billing. The heart of the case centers on Google’s exclusionary conduct, which substantially shuts out competing app distribution channels. A trial in this case is currently scheduled for November 2023 in the U.S. District Court for the Northern District of California.

In January 2023, the Attorney General joined the U.S. Department of Justice and seven states in bringing a new civil antitrust suit challenging Google’s dominant grip on the online advertising industry, which allows the company to dictate how digital ads are sold and the terms under which its rivals can compete. The lawsuit, often referred to as “Google AdTech”, alleges that that Google uses its monopoly power to exclude rivals from the publisher, the advertiser, and the ad exchange sections of the digital advertising market thereby monopolizing multiple digital advertising technology products. A trial is tentatively scheduled for March 2024 in the U.S. District Court for the Eastern District of Virginia.

### **4. Healthcare Markets**

Ensuring open and vigorous competition in Connecticut's health care markets is a chief law enforcement objective of the Attorney General. The benefits to consumers from competitive and healthcare markets usually take the form of lower prices, sufficient consumer choice, access to providers, and high-quality care. During this fiscal year the Antitrust Section reviewed a number of proposed acquisitions of physician practice groups by Connecticut hospitals and other entities, as well as possible anticompetitive conduct in the Connecticut healthcare market. These investigations are non-public unless the Attorney General ultimately challenges the acquisition or anticompetitive conduct in court. Although none of the reviews or investigations conducted this year resulted in a court challenge, two did raise potential competitive concerns. After investigations by the office, the relevant parties ultimately decided to terminate their conduct.

## 5. Opioids

Connecticut continues to be a leader in negotiating settlements with the opioids and pharmacy industry. In the past fiscal year, through the Attorney General's previously negotiated landmark settlements with opioid distributors Cardinal, McKesson, AmerisourceBergen, and manufacturer Johnson & Johnson, along with McKinsey and Mallinckrodt, Connecticut received approximately \$70.8 million to support opioid treatment and prevention. Moreover, Connecticut recently helped lead the way on multiple settlements, subject to court approval.

### a. **Manufacturers**

#### i. Endo

In August 2022, the Attorney General announced an agreement with opioid manufacturer Endo International and its lenders that included terms that would provide approximately \$450 million over 10 years to participating states and local governments for treatment and prevention, ban promotion of Endo's opioids, and require Endo to turn over millions of documents related to its role in the opioid crisis for publication in a public online archive. Connecticut will receive approximately \$7.68 million from the settlement.

#### ii. Allergan

In July 2022, the Attorney General announced a \$2.37 billion agreement, payable over 7 years, with Allergan regarding the generic drug manufacturer's role in the opioid epidemic. Additionally, Allergan is required to stop selling opioids for the next 10 years. Connecticut will receive approximately \$26 million from the settlement.

#### iii. Teva

In July 2022, the Attorney General announced a \$4.25 billion agreement, payable over 13 years, with Teva Pharmaceuticals regarding the generic drug manufacturer's role in the opioid epidemic. The settlement requires Teva's opioid business to provide stringent injunctive relief that, among other things, will prevent all opioid marketing and ensure systems are in place to prevent drug misuse. Connecticut will receive approximately \$47 million from the settlement.

### b. **Pharmacies**

In 2023 the three largest pharmacies agreed to settlements for their role in the opioid epidemic. CVS will pay approximately \$5 billion over 10 years, Walgreens will pay approximately \$5.52 billion over 15 years, and Walmart will pay approximately \$3 billion over 6 years. Connecticut will receive approximately \$62 million from CVS, \$67 million from Walgreens, and \$45 million from Walmart. All three nationwide pharmacies are required to implement changes in how they handle opioids, including requirements addressing their compliance structures, pharmacist judgment, diversion prevention, suspicious order monitoring, and reporting on red-flag processes, as well as blocked and potentially problematic prescribers.

## 6. Other Investigations

In addition to the specific investigations and cases listed, the Antitrust Section received and investigated complaints from Connecticut residents and businesses that led to a number of non-public inquiries and investigations across a variety of industries, in a number of geographic and product markets. These inquiries and investigations, while non-public, are a crucial to deterring anticompetitive conduct and ensuring consumer choice and access to high-quality products and services.

### CHILD PROTECTION SECTION

The Child Protection Section represents the Department of Children and Families (DCF), which is the state agency responsible for protecting Connecticut's children from abuse and neglect; strengthening families by enhancing parental capacity for good childcare; and providing a safe and nurturing home for children when necessary. *See* Conn. Gen. Stat. § 17a-101(a). To accomplish these goals, DCF investigates reports of abuse and neglect and provides treatment services and other non-legal interventions to support families across the state. When DCF substantiates reports of abuse or neglect and initiates legal proceedings to protect a child, the Assistant Attorneys General (AAGs) of the Child Protection Section advocate on behalf of DCF in the Superior Court for Juvenile Matters.

In the twelve juvenile courts throughout the state, the attorneys and support staff of the Child Protection Section help DCF obtain the authority to supervise neglected children who remain in their parents' care or remove children who cannot safely remain in the home and place them in foster care. After a juvenile court orders DCF to remove a child, our staff litigates the case as DCF attempts to reunify the child with their parents or, if those efforts fail, secure an alternative permanent home for the child through a transfer of guardianship or adoption following termination of parental rights. In 2022-23, Child Protection AAGs – with the invaluable assistance of the section's secretaries, administrative assistant, and paralegals – were responsible for handling over a thousand trial matters, which led to approximately 500 children being adopted and finding their "forever" home.

The enormous trial load the Child Protection Section handles each year in the juvenile courts requires our Section to defend a large volume of cases in the state appellate courts. In 2022- 23, the Child Protection Section handled approximately thirty-five appeals in the Connecticut Appellate Court, one of which was transferred to the Connecticut Supreme Court. In the overwhelming majority of those appeals, DCF prevailed and our AAGs successfully defended the judgment of the trial court. In approximately eighteen of those appeals, our AAGs also persuaded the Connecticut Supreme Court to deny certification for further appellate review. Many of the appeals pertained to whether DCF presented sufficient evidence to support the favorable trial judgment below, while others involved novel and complex legal issues. For instance, in the past year, the Appellate Court decided Child Protection cases involving questions such as:



- Whether a parent’s criminal conviction and terms of probation barring visitation with the child constitute unlawful interference with the parent-child relationship;
- Whether the requirements of the Interstate Compact on the Placement of Children applies when a Connecticut juvenile court vests co-guardianship in an out-of-state biological parent and relative;
- Whether a juvenile court judge can ask an attorney for the child to call an additional witness at trial;
- Whether the testing methods of the juvenile court’s psychological evaluators are subject to *Porter* hearings;
- Whether juvenile courts may constitutionally hold “hybrid” trials in which some of the participants appear virtually and others appear in-person;
- Whether respondent parents must personally waive their right to testify or have their attorney waive that right for them;
- Whether juvenile courts may admit under the business-record exception to the hearsay rule the records of third-party treatment providers with whom DCF contracts;
- Whether the Americans with Disabilities Act imposes an additional prerequisite to termination of parental rights;
- Whether a respondent parent whose rights have been terminated may petition for a new trial based on events arising after the termination trial.

Lastly, in addition to representing DCF in our state juvenile and appellate courts, the members of the Child Protection Section also represent DCF in all administrative appeals brought in the Superior Court challenging the rulings of DCF administrative hearing officers. In the past year, the Child Protection Section successfully defended multiple administrative appeals in which the Superior Court upheld DCF’s decision to place certain perpetrators of sexual and physical abuse on its Central Registry to protect all children from them.

### **COLLECTIONS/CHILD SUPPORT SECTION**

The Collections/Child Support Section 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 section 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 section also represents the Office of Child Support Services within the Department of Social Services (DSS-OCSS), to establish child support orders. Additionally, the section provides legal services to enforce child support orders at the request of the Support Enforcement Services division of the Connecticut Judicial Branch (SES). Section 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 2022-2023, section attorneys recovered millions of dollars in cash payments on debts owed to the state. The section's activities on child support orders continue to create exceptionally large and increased caseloads. During the fiscal year, in excess of 4,100 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 section 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 \$ 221 million in child support for families, and of that amount, more than \$ 25 million was paid to the state General Fund under the state's assignment of rights.

Section 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, section 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, section attorneys engaged in excess of 689 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 section concluded several litigation collection matters involving the recovery of debts owed to numerous state agencies, boards and commissions.

The Section's collections efforts resulted in a recovery of \$100,000 or more in approximately 8 cases, for a total section litigation collection recovery of nearly \$ 9 million for the state General Fund. The largest of these matters involved recoveries of over \$ 1.2 million and 2 cases of over \$600,000 respectively, arising out of successfully enforced state claims on behalf of DAS seeking reimbursement for public assistance from various Special Needs Trust matters in Probate Court.

The Section also recovered in excess of \$36,000 on behalf of the Department of Correction for cost of incarceration debt statutorily owed by inmates, and recovered nearly \$58,000 for unpaid medical care provided by John Dempsey Hospital. The section also successfully collected nearly \$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 section collected approximately \$618,000 this fiscal year.

Additionally, within the section's bankruptcy case load, staff are litigating complicated questions of law involving matters of 1<sup>st</sup> impression. First, the section successfully defended Chapter 7 bankruptcy trustee "clawback" cases involving tuition payments made by parents of students who subsequently filed bankruptcy on the theory that parents are not legally liable for college tuition and therefore did not receive reasonably equivalent value for the payments. This is an area of first impression in Connecticut that may impact state colleges and universities, and a number of actions have been both threatened and initiated against the state various state universities.

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

The Section also actively litigated numerous appeals in filed to both the Superior Court, as well as the state Appellate Court. This past year, the section successfully defended an appeal to the appellate court of a Superior Court decision in favor of the section holding a private law firm/attorney legally liable for failing to comply with a DSS child support lien. The appellate decision culminated six years of highly contested litigation efforts and will help ensure the payment of much needed financial support for families in need.

All told, section staff instituted and litigated approximately 4,800 child support and civil collections cases this past year in state and federal courts throughout the state, and successfully recovered approximately of \$ 9 million dollars for the state's General Fund. Section staff worked tirelessly in coordination with our Title IV-D child support client agencies and partners to collect nearly \$ 250 million in child support payments - of which the vast majority was collected for needy families.

### **CONSUMER ADVOCACY SECTION**

During fiscal year 2022-2023, the Consumer Assistance Unit ("CAU") became a section of the Office of the Attorney General, the Consumer Advocacy Section ("CAS"). CAS utilized a staff consisting of two attorneys, one investigator, and two secretaries and was supervised by Section Chief Inez Diaz Galloza. The section works tirelessly to assist constituents with numerous consumer related complaints and inquiries. The section is responsible for processing incoming complaints, mediating, investigating, and referring those complaints to the proper department or partner agency for possible enforcement. During the past fiscal year, CAS received and responded to thousands of electronic, written and telephone complaints. Due to CAS' mediation efforts, over \$1,371,698.00 was refunded or credited to Connecticut's consumers. CAS continues to address a high volume of complaints even with staffing shortages due to retirement and the lack of Senior Advocates since COVID-19.

CAS received over 5,200 complaints in multiple areas including, but not limited to, auto, home improvement/repair, travel, and internet/cable as well as reports of potential scams. In addition, CAS also managed over 500 complaints against M&T Bank. Moreover, CAS fielded over 9,242 telephone calls and thousands of additional emails from concerned constituents.

An additional critical component of CAS is its collaboration with other sections in the OAG, such as Consumer Protection, Health and Education, Privacy and Finance, to support the ongoing litigation of the OAG on behalf of Connecticut constituents and consumers. CAS staff analyzes complaint driven data to track patterns of potential unfair trade practices and compliance with the Office's major settlements and stipulated judgments. CAS further provides critical resources to constituents and consumers as it engages in front-facing communications with constituents regarding, for example, the sudden closing Stone Academy, the M&T merger and local companies' data breaches. Furthermore, as a newer initiative, CAS collaborates with the Department of Veterans Affairs and our military facilities to provide consumer assistance to our service personnel and our veteran population who unfortunately face an increased scam risk.

The Office continued to operate the Elder Justice hotline which has been instrumental in assisting numerous Connecticut seniors facing significant financial, social, and physical issues. While handling 1,299 incoming hotline calls, CAS referred numerous issues to our local, State and Federal partners within the Coalition of Elder Justice and opened over 100 new Elder Justice focused complaints. The section focused its outreach efforts on both the promotion of the hotline and scam prevention at many Senior Centers through the State.

## **CONSUMER PROTECTION SECTION**

The Consumer Protection Section protects Connecticut's consumers by investigating and litigating consumer protection matters under the authority of the Connecticut Unfair Trade Practices Act ("CUTPA") and other state and federal statutes. The section advises the Attorney General and the Commissioner of the Department of Consumer Protection on consumer protection matters and represents and defends the Department of Consumer Protection in court. The section also advocates on behalf of Connecticut's energy and utility ratepayers in state and federal fora. Some highlights from the 2022-2023 fiscal year are described below.

### **Frontier:**

On August 31, 2022, the Attorney General announced a settlement with Frontier Communications worth over \$60 million to dramatically expand access to high-speed internet for Frontier consumers in economically distressed communities, end a hidden monthly \$6.99 internet surcharge and force significant improvements in Frontier's marketing and customer service. This investigation was prompted by a review of more than 1,400 consumer complaints concerning Frontier alleging poor internet and customer service, charges for returned equipment, charges that exceeded promised rates and charges that persisted after service had been canceled.

## **JUUL:**

On September 6, 2022, the Attorney announced that he, along with Texas and Oregon, led 34 states and territories in reaching a \$438.5 million agreement with JUUL Labs, resolving a two-year bipartisan investigation into the e-cigarette manufacturer's marketing and sales practices. In addition to the financial terms, the settlement forced JUUL to comply with a series of strict injunctive terms severely limiting their marketing and sales practices. Connecticut will receive a minimum of \$16.2 million through the settlement.

The multistate investigation revealed that JUUL willfully engaged in an advertising campaign that appealed to youth, even though its e-cigarettes are both illegal for them to purchase and are unhealthy for youth to use. JUUL also manipulated the chemical composition of its product to make the vapor less harsh on the throats of the young and inexperienced users. To preserve its young customer base, JUUL relied on age verification techniques that it knew were ineffective. The investigation further revealed that JUUL's original packaging was misleading in that it did not clearly disclose that it contained nicotine and implied that it contained a lower concentration of nicotine than it actually did. Consumers were also misled to believe that consuming one JUUL pod was the equivalent of smoking one pack of combustible cigarettes.

The company also misrepresented that its product was a smoking cessation device without FDA approval to make such claims. As part of the settlement, JUUL has agreed to refrain from, among other things: youth marketing; funding education programs; use of cartoons; paid product placement; sale of brand name merchandise; advertising on billboards or on public transportation; use of paid influencers; and free samples. This matter was handled jointly by the Consumer Protection and Finance Sections.

## **Robocalls:**

In the 2022-2023 fiscal year, the Attorney General aggressively fought illegal robocalls on a number of fronts. On August 2, 2022, the Attorney General announced the formation of a nationwide Anti-Robocall Litigation Task Force of 50 states to investigate and take legal action against the telecommunications companies responsible for bringing a majority of foreign robocalls into the United States. Connecticut is on the Executive Committee of this Task Force. On November 1, 2022, the Attorney General announced that this Task Force had filed enforcement actions against two alleged illegal robocallers, Avid Telecom and One Eye LLC, to force compliance with the Task Force's investigative demands. This investigation ultimately led to the filing of a lawsuit, announced May 23, 2023, against Avid Telecom and others for allegedly initiating and facilitating billions of illegal robocalls to millions of people and violating the Telephone Consumer Protection Act, the Telemarketing Sales Rule and other federal and state telemarketing and consumer laws.

Moreover, on December 13, 2022, urged the Federal Communications Commission to help cut down on unwanted text messages by requiring mobile wireless providers to block texts from invalid, unassigned or unused numbers and from numbers on a Do No Originate List. And, on February 21, 2023, the Attorney General and a bipartisan group of legislators announce new proposed legislation to strengthen Connecticut's ability to fight robocalls. This legislation, which ultimately passed into law, modernized the state's anti-robocall statutes to combat new tactics and match new technology used to inundate Connecticut households with unwanted,

illegal robocalls. The law expanded the statutes to cover text messages, ban “gateway” voice of internet protocol providers from facilitating overseas scammers’ access to U.S. telecom networks, allows for enforcement action against calls received by Connecticut area codes regardless of where the calls originate, bars telemarketers from contacting Connecticut residents before 9 a.m. and after 8 p.m., strengthens disclosures that telemarketers must make, and clarifies protections provided by the Do Not Call List.

### **Aquarion Water Rates:**

In PURA Docket No. 22-07-01. *Application of Aquarion Water Company of Connecticut to Amend Its Rate Schedules*, Aquarion sought to increase its rates by more than \$36 million, or more than 15 percent. Much of this increase was due to an exorbitant return on equity request of 10.3 percent, a costly capital structure over reliant on equity, and additional incremental increases in years 2 and 3 of the rate plan. The Attorney General opposed this in its entirety, and PURA agreed. In its decision, PURA rejected the entire rate increase and even cut Aquarion’s rates by nearly \$400,000, saving an average customer about \$67 dollars a year.

### **Public Power:**

In July 2022, the Attorney General entered a settlement agreement with Public Power, resolving claims that Public Power had failed to publish the correct “next cycle rate,” effectively withholding information about future rate hikes and preventing customers facing those hikes from switching to a lower cost alternative. The agreement provided that Public Power and four affiliated electric suppliers permanently cease business in Connecticut and further provided that Public Power pay \$3 million to pay down accumulated unpaid electric bills for families struggling to pay their bills.

## **EMPLOYMENT RIGHTS, LABOR AND WORKERS COMPENSATION SECTION**

The Employment Rights division of this Section devotes a substantial amount of its resources to defending state agencies, including the University of Connecticut, the UCONN Health Center, the Connecticut State Colleges and Universities, and state officials in employment related litigation and administrative complaints. Its staff continues to work to effectively defend employment claims against the state and state officials – thereby limiting or avoiding the state's exposure to financial liability and other costs associated with litigation -- while ensuring protection of employees' legitimate legal rights. The section also regularly provides legal advice and counsel, both orally and in writing, to state agencies on a variety of employment matters.

This section’s role continues to increase in this regard as the issues facing state agencies become more complex. Section staff also participate in training agency staff in employment laws including the Connecticut Fair Employment Practices Act, the Civil Rights Act of 1964, and the Americans with Disabilities Act.

Section staff members are currently defending the State in approximately 270 employment cases. Section staff are defending 61 employment cases in the state and federal courts, 1 Second Circuit Court appeal and 3 appeals in the Connecticut Appellate and Supreme Courts. In addition to these cases, the section is defending approximately 197 complaints before the Connecticut Commission on Human Rights and Opportunities ("CHRO"), Office of Public Hearings, the Equal Employment Opportunity Commission ("EEOC") and Freedom of Information Commission ("FOIC"). The section is also defending 10 claims in the Office of the Claims Commissioner. During the past year, the section successfully defended state agencies in numerous cases in the state and federal courts. Significantly, the section was able to obtain judgment in favor of the state and its officials in many cases, including 5 summary judgment motions that were filed in federal court and summary judgment motions filed in state court, thus eliminating the need for trials in those cases. These victories are important as they eliminate not only the need to expend resources at trial, but also eliminate the uncertainty and exposure the state has to large jury awards. During fiscal year 2022-2023, the COVID-19 pandemic continued to affect the judicial system. As such, the section handled two trials to verdict. The section was also successful in avoiding the state's exposure to financial liability by entering into favorable settlement agreements, and by filing motions in several cases, which resulted in dismissals by the Courts and CHRO.

The Labor and Workers' Compensation division of this Section 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 section'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. The section'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.

The section's labor attorneys represent various state agencies before administrative agencies such as the Freedom of Information Commissioner and the Claims Commissioner, as well as represent the State in Superior Court when administrative appeals are taken from entities such as the Employees' Review Board and the Employment Security Appeals Division. The labor attorneys represent the Commissioner of Labor in Superior Court when they initiate collection proceedings for unpaid wages due Connecticut employees in the private sector, and for the recoupment of civil penalties assessed for wage and hour violations. In addition, the section's labor attorneys conduct extensive document review and handle appeals to both the Appellate and Supreme Court.

During the past fiscal year, section attorneys and paralegals appeared for the Fund and the State in 2,876 hearings before workers' compensation commissioners. Section attorneys and paralegals were responsible for recouping \$475,729.54 for the State of Connecticut and \$50,174.23 through third party interventions in Superior Court and negotiated settlements in

lieu of litigation. These sums represent reimbursements to the State of money which was paid out in workers' compensation benefits for injuries caused by third parties.

During the past fiscal year, the section's labor attorneys opened fifty-seven (57) new cases, and completed nineteen (19). The labor attorneys also completed the review of seventy-two (72) contracts on behalf of the State, and collected \$214,633.94 in unpaid wages and civil penalties for Connecticut citizens whose employers failed to pay them in accordance with Connecticut's wage and hour laws.

## **ENVIRONMENT SECTION**

The Environment Section represents the state Department of Energy and Environmental Protection (DEEP) and the Department of Agriculture in court and administrative proceedings. The Section continues to have important success in abating pollution and in enforcing environmental laws. This year the Section initiated and participated in a number of cases that sought to protect the environment and the citizens of the State of Connecticut. The Section 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 Environment Section 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. We will continue to work with DEEP and the multistate group to pursue tools that reduce greenhouse gas emissions and meet Connecticut's climate goals.

In addition, the Section worked with other states to support and defend federal rules intended to promote cleaner air in Connecticut. The Section also worked to ensure that rules intended to protect Connecticut from upwind pollution are enforced and not eliminated. These efforts included joining a multistate group that sought to protect vehicle emissions laws that are at the heart of Connecticut's air pollution program. This year the Section also secured a number of legal victories on behalf of the DEEP that furthered the State's efforts to enforce and defend environmental laws. This Section worked with its partners at the United States Department of Justice in resolving a case against a company that produces electrical cables in Seymour, Connecticut. The company had multiple violations of its wastewater treatment permit. This enforcement action resulted in a stipulation where the company agreed to pay a civil penalty to a Supplemental Environmental Project in the amount of \$100,000 and broad injunctive relief to prevent future violations. Our Office successfully resolved a lawsuit against Triple S Investments, LLC, a company that owns a small commercial strip mall property in Milford, CT. Triple S Investment was out of compliance with a DEEP Final Pollution Abatement Order for the failure to investigate and remediate the property's soil and groundwater that are polluted with substances such as Petroleum, Tetrachloroethylene, Trichloroethylene and Vinyl Chloride. Triple S agreed to comply with the Order and remediate the property. The Judgment also requires that Triple S pay a \$100,000 civil penalty to resolve the case.



The Environment Section continued to represent the Department of Energy and Environmental Protection in a case involving Long Island Sound. In *Rosado v EPA*, New York officials sought to overturn an EPA decision approving a disposal area in the eastern Long Island Sound for dredged materials. This Section intervened on behalf of DEEP and took a leading role in this federal litigation in the Eastern District of New York. The case is important because any impact on the ability to dredge the state's ports and harbors could cost Connecticut businesses and industry more than 40,000 jobs and hundreds of millions of dollars. This Section has participated in defending the designation of this site and this past year received a favorable decision by Second Circuit Court of Appeals. This decision ends the legal challenge to the designation of this site for disposal and makes this critical disposal site available to the maritime industry of southeastern Connecticut.

The Section also represented and worked extensively with the DEEP to negotiate Consent Orders and resolve outstanding administrative proceedings that are intended to protect the environment, remediate pollution and impose penalties for past violations.

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

The Section 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, this Section continued its work on behalf of the Chief Animal Control Officer of the DoAg to gain permanent custody of 95 goats that were seized from a property in Redding, Connecticut. At the time of the seizure by the DoAg, the goats were found to be living in extremely poor conditions. This matter was heavily litigated with the court finally awarded permanent custody of the animals to the State of Connecticut in 2022.

The Section also worked with DoAg on a number of other animal cruelty cases. The Section worked with the DoAg on the seizure of thirty-three dogs, twenty-eight cats, five ducks, three goats, one parakeet and one pony from a home in Hebron. The conditions were so unsanitary that the building was declared unfit for human habitation by the regional health department. The animals were in poor condition and were suffering from various ailments and other effects of their unsanitary circumstances. Following both a full preliminary evidentiary hearing and a full trial, the court found that the animals had been neglected and cruelly treated as defined in CGS 22-329a, vesting permanent ownership of the animals with the State. The Section also supported the DoAg in the seizure of a heard of sheep from a farm in Beacon Falls. The sheep were found to be in extremely poor and unshorn condition and there were numerous deceased sheep found on the property. After initiating a seizure action in court the owner voluntarily relinquished these animals.

This past year the Environment Section 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 Section 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 Section continues to provide a full range of legal services to both DEEP and DoAg, including

### **FINANCIAL & REVENUE SERVICES SECTION**

The Financial and Revenue Services Section ("Section") provides legal services to several state agencies, including the Connecticut Insurance Department, Department of Banking, the Department of Revenue Services, the Department of Economic and Community Development, the Office of Policy and Management, the Office of Health Strategy, the Office of Workforce Strategy, the State Insurance Risk Management Board, the Public Utility Regulatory Authority and the Siting Council. The Section handles litigation in federal and state courts for these agencies, including regulatory enforcement actions, administrative appeals, actions requiring the defense of state laws, as well as proceedings before the Freedom of Information Commission and the Claims Commissioner. The Section provides advice to these agencies on a wide variety of legal and regulatory issues that arise in their daily operations, including the review of contracts and regulations for legal sufficiency.

The Section is also responsible for a variety of tobacco-related matters. These include implementation and enforcement of the Tobacco Master Settlement Agreement ("MSA") between fifty-two states and territories, including Connecticut, and more than forty participating tobacco product manufacturers. The Section also engages in a variety of affirmative efforts to protect Connecticut's residents, particularly youth, from the deleterious health effects of smoking and vaping.

#### **State Agency Representation**

During the past fiscal year, the Section's work on behalf of state agencies included representing the Department of Revenue Services in state and federal appellate proceedings, as well as 341 tax warrant proceedings seeking to collect overdue and delinquent state taxes. The Section represented the Department of Banking and the Connecticut Insurance Department in numerous administrative enforcement actions and other litigation matters and provided the Department of Economic and Community Development with legal assistance regarding grant, loan, and economic development programs. The Section also defended numerous decisions issued by the Public Utility Regulatory Authority and the Siting Council throughout the administrative appeal process. Other work performed by the Section included assisting the Office of Health Strategy and the Office of Workforce Strategy by providing legal advice with respect to their statutory responsibilities and guidance on state contract requirements.

#### **Representative litigation matters included the following:**

- *1<sup>st</sup> Alliance Lending LLC v. Dep't of Banking*, 2023 Conn. Super. LEXIS 559 (Conn. Super Ct. April 19, 2023) - An administrative appeal where the Superior Court upheld the Banking Commissioner's final decision revoking the plaintiff's license and imposing a

civil penalty based on the plaintiff's violations of, inter alia, the SAFE Act, the Fair Credit Reporting Act and the Truth in Lending Act.

- *City of New York, et al. v. United States Postal Service, et al.*, 1:19-cv-05934 - In 2020, Connecticut joined the City of New York and the states of California, Pennsylvania and Illinois in suing the United States Postal Service for violating the federal Prevent All Cigarette Trafficking Act, which prohibits cigarettes from being transmitted via U.S. mail. The complaint alleges that the conduct of the Postal Service in delivering packages of cigarettes arriving in the United States from foreign countries or returning them to their senders, rather than confiscating and destroying the cigarettes, deprives state and local governments of millions of dollars in tax revenue and thwarts the public health policies of those jurisdictions. In August, 2022, the parties entered into a settlement agreement in which the Postal Service agreed to invest in upgrading its methods of detection of cigarette shipments from other countries, to seize illegal packages of cigarettes rather than delivering or returning them, and to make periodic reports to the plaintiff states.
- *Constellation Mystic Power, LLC v. FERC*, 45 F.4th 1028 (D.C. Cr. 2022) - The Public Utility Regularity Authority ("PURA") successfully contested a decision of the Federal Energy Regulatory Commission ("FERC") assigning cost responsibility to end use ratepayers for fully 91 percent of the fixed costs of a liquified natural gas terminal. FERC's decision failed to follow cost causation principles. In contravention of these principles, it assigned no cost responsibility whatsoever to third-party customers who purchase gas from the terminal. The Court also affirmed FERC in a significant ruling which benefitted ratepayers - one which correctly prevented Constellation Mystic Power from overstating its investment in the generating facility.
- *Consumer Financial Protection Bureau v. 1st Alliance Lending LLC et al.*, 3:21cv00055 (D.Conn). - The Connecticut District Court quashed the defendants' document and deposition subpoenas directed at the Department of Banking ("DOB) for, *inter alia*, insufficient relevance. Defendants attempted to use third-party discovery under the federal regulator's CFPB enforcement action as a sword to attack the DOB's state law regulatory actions still unresolved under appeal. The District Court agreed that federal matter discovery was limited to CFPB's allegations of defendants' actions and legitimate affirmative defenses.
- *Direct Energy Servs., LLC v. Pub. Utils. Regulatory Auth.*, SC 20643, 2023 Conn. LEXIS 149 (July 4, 2023) (released on June 29, 2023) -The Office successfully defended a challenge by electric suppliers to a decision of PURA which imposed certain geographic and marketing restrictions when electric suppliers promise to include increased renewable energy content compared to normal electric generation supply. The electric suppliers claimed that the geographic and marketing restrictions violated the dormant Commerce Clause of the United States Constitution as well as the Contracts Clause, that PURA violated their rights to free speech, and that PURA violated procedural requirements of the Uniform Administrative Procedure Act ("UAPA). The Supreme Court affirmed PURA's decision, rejecting all of the appellants' arguments.

- *In re Lear Capital*, No. 22-10165 (U.S.B.C D. Del.) - This office appeared on behalf of the Banking Department and joined 40 other states ("participating states") in a common interest agreement focused on pursuing unfair trade practices claims against Lear Capital, Inc. ("Lear"), a California based precious metals dealer. The gravamen of the claims is that Lear defrauded thousands of investors nationwide by persuading them through false and misleading statements to invest in gold and silver coins, and charging them up to 33% in hidden commissions on over \$43 million in sales, all while failing to register as a commodity broker-dealer or investment advisor. After reaching settlements with the State of New York and the City of Los Angeles, on March 2, 2022, Lear filed for bankruptcy in U.S. Bankruptcy Court for the District of Delaware. The participating states moved to dismiss the bankruptcy filing and simultaneously commenced settlement negotiations with Lear. On June 8, 2023, Lear settled the matter by agreeing to pay a total of \$5.5 million to its aggrieved customers in the participating states, to include Connecticut.
  
- *Perez v. Cohen*, HHD-CV17-6078758.-S.- In an action brought in Superior Court to enforce a consent order issued by the Department of Banking, the parties arrived at a stipulated Judgment against the Estate of defendant Stuart Cohen that provided \$1,000,000 in relief to consumers who were injured by Cohen's unlicensed mortgage loan activities.
  
- *State of Connecticut v. JUUL Labs, Inc.*, HHD-CV22-6163204-S - On September 6, 2022, the Attorney General announced that he, along with Texas and Oregon, led 34 states and territories in reaching a \$438.5 million agreement with JUUL Labs, resolving a two-year bipartisan investigation into the e-cigarette manufacturer's marketing and sales practices. In addition to the financial terms, the settlement forced JUUL to comply with a series of strict injunctive terms severely limiting their marketing and sales practices. Connecticut will receive a minimum of \$16.2 million through the settlement. The multistate investigation revealed that JUUL willfully engaged in an advertising campaign that appealed to youth, even though its e-cigarettes are both illegal for them to purchase and are unhealthy for youth to use. JUUL also manipulated the chemical composition of its product to make the vapor less harsh on the throats of the young and inexperienced users. To preserve its young customer base, JUUL relied on age verification techniques that it knew were ineffective. The investigation further revealed that JUUL's original packaging was misleading in that it did not clearly disclose that it contained nicotine and implied that it contained a lower concentration of nicotine than it actually did. Consumers were also misled to believe that consuming one JUUL pod was the equivalent of smoking one pack of combustible cigarettes. The company also misrepresented that its product was a smoking cessation device without FDA approval to make such claims. As part of the settlement, JUUL has agreed to refrain from, among other things: youth marketing; funding education programs; use of cartoons; paid product placement; sale of brand name merchandise; advertising on billboards or on public transportation; use of paid influencers; and free samples. This matter was handled jointly by the Financial and Revenue Services and the Consumer Protection Sections.

Along with the work it does directly on behalf of state agencies, the Section also focuses on consumer financial protection by conducting investigations, leading multistate enforcement

committees, negotiating settlements, drafting and reviewing regulatory and other comment letters, and handling consumer inquiries. Areas of focus include financial services, securities regulation, consumer lending, residential mortgage loan origination and servicing, for-profit education, student loan servicing, and debt collection.

### **Tobacco Enforcement and Advocacy**

In April, 2023, Connecticut received over \$124.5 million in annual payments from tobacco manufacturers that participate in the Master Settlement Agreement (MSA). Section attorneys work to ensure that Connecticut continues to receive the monetary payments it is owed under the MSA from participating manufacturers, that those manufacturers also comply with the public health provisions of the MSA, that nonparticipating manufacturers selling cigarettes in Connecticut make their requisite escrow deposits for Connecticut's benefit, and that all tobacco product manufacturers abide by other requirements of state and federal law. This year, section attorneys wrote a letter, on behalf of Connecticut and 24 other states, to the federal Substance Abuse and Mental Health Services Administration seeking to prevent the reduction of federal Substance Abuse Block Grant funding for state-funded programs, including tobacco prevention, underage alcohol use prevention, the prevention of opioid overdoses and non-medical use of prescription drugs, as well as mental health promotion programs and various initiatives that link substance use, mental health and other issues statewide. In the past year, Section attorneys have also facilitated multistate efforts to reduce depictions of smoking and vaping in youth-rated movies and serial programming available on streaming services.

### **GENERAL LITIGATION SECTION**

The General Litigation Section defends state agencies, officials and employees in tort, civil rights and other matters, including high exposure personal injury, medical malpractice and wrongful death cases. Many of the section's cases are brought by parties alleging injuries or civil rights violations at state facilities or while receiving services from state agencies.

The section's cases reflect the wide and varied activities and programs in which the state is involved: administering technical high schools, colleges and universities; 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; issuing orders to keep our state's residents safe in health crises; and providing numerous other services. Claimants often seek large sums of monetary damages. The section has saved the state and its taxpayers millions of dollars through the years by negotiating fair settlements and obtaining favorable judgments.

During the past year, the section continued to defend several complex, high-exposure, wrongful death, medical malpractice, civil rights, intentional tort, and personal injury cases. The section appeared for the state, its employees or officials from 29 state agencies and institutions this fiscal year; and successfully argued in most cases that the claims lacked merit, had jurisdictional defects, or failed to state a legally sufficient cause of action. Of the 83 cases the section closed this fiscal year, the state prevailed in 39 after section attorneys filed dispositive motions or defended the state in trials or hearings on the merits; and obtained withdrawals in 12. In six

cases, section attorneys were successful in negotiating reasonable and just settlements. Of the remaining cases the section concluded, eight were not pursued by the claimant, some after discussion with our attorneys; and in 18 the claims commissioner or the general assembly granted permission to sue the state in the superior court. Two hundred seven of the section's cases are ongoing. Many involve a death, assault or serious injury. Most of these cases are pending in the U.S. District Court, Connecticut Appellate Court, Connecticut Superior Court, and the Office of the Claims Commissioner. To defend these cases, the section engages in extensive investigation, legal research, discovery and briefing, including complicated electronic forensic examinations and consultation with expert witnesses.

As an outgrowth of handling the many supervisory and premises liability claims filed, the section 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 section has been successful in recovering that money or reducing settlements by the amounts owed. It does so by consulting with the Department of Administrative Services for the outstanding figures and asserting setoffs in the claims brought by parties who have uncollected debt to the state.

Where an alleged injury may be covered by an insurance policy that a private party purchased as a term and condition of a contract or lease with a state agency -- or when a state contract requires a private contractor to indemnify the state -- the section seeks insurance coverage to ensure that the state is held harmless and/or reimbursed for expenses. In such cases, the section 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 12 withdrawals the section obtained, and some of the claims parties abandoned, resulted from convincing state contractors to assume liability for the claims. If state contractors and/or their insurers do not quickly come forward to defend and indemnify the state, section attorneys seek monetary compensation for their time and costs in defending the claims.

### **GOVERNMENT PROGRAM FRAUD SECTION**

Once again, the Section's attorneys, investigators, and staff obtained significant results from their government program fraud investigations. The Section continued to participate in numerous multistate healthcare fraud settlements with pharmaceutical companies and other healthcare providers related to violations of the Connecticut False Claims Act that affected the Connecticut Medicaid Program. The Attorney General entered into five (5) multistate settlements with healthcare companies and obtained a total recovery (federal and state) of more than \$9.9 million for the Connecticut Medicaid Program. In addition to the multistate healthcare fraud settlements, the Attorney General pursued several Connecticut-specific enforcement actions and obtained a total recovery (federal and state) of more than \$8.5 million for the Connecticut Medicaid Program and other state programs. These actions included the following:

- In November 2022, the Attorney General William Tong, announced a \$532,830.33 Connecticut False Claims Act settlement resolving allegations that a New Haven-based psychiatrist overbilled the Medicaid program for psychotherapy sessions.

- In November 2022, the Attorney General announced a \$2.6 million state and federal settlement resolving allegations that a Southington physician submitted false claims for medical visits when, in fact, the patients had received fitness-related services with no legitimate medical component at a gym, for services allegedly rendered by a physician when he was not physically present, for medically unnecessary testing or procedures for neurofeedback, ultrasounds, and autonomic function testing, and for receipt of illegal kickbacks.
- In December 2022, the Attorney General announced a \$4.2 million state and federal settlement with an Orange, CT physician resolving allegations that his businesses submitted false claims to Medicare and Medicaid for medically unnecessary allergy services, unsupervised allergy services, services improperly billed at higher physician rates, and improper billing for certain office visits associated with COVID-19 testing.
- In February 2023, the Attorney General announced that a New Britain based mental health provider agreed to pay \$384,322 to resolve allegations it overbilled the Connecticut Medicaid program by collecting monthly fees for client services it failed to document.
- In April 2023, the Attorney General announced a \$234,064.89 state and federal settlement with a New Hampshire behavioral health provider resolving allegations that the provider billed the Medicaid Program for services provided by unlicensed individuals.
- In May 2023, the Attorney General announced the State reached a \$150,000 settlement with a home health agency and its owner resolving allegations that the agency violated the Connecticut False Claims Act by billing Medicaid for services delivered by home health aides who lacked the requisite training, as well as improperly billing for home health services delivered to clients without a treatment plan signed by the client's physician.
- In May 2023, the Attorney General announced a \$399,440 federal and state settlement with a Waterbury naturopath and his company to resolve allegations that they submitted false claims to, and received overpayments from Medicare and Medicaid, for allergy immunotherapy preparation, and office visits, also known as evaluation and management services.

### **Pension Revocation**

The Section continued to prosecute civil actions to revoke and reduce the pensions of public officials, State employees, and municipal employees who commit crimes related to their government office.

### **Whistleblower Matters**

The Section in coordination 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.

## **Health Care Advocacy Matters**

Health Care Advocacy (“HCA”) continues to assist patients and their doctors by resolving disputes with health benefit plans. Some of the more prominent issues addressed during fiscal year 2023 relate to managed care denials of coverage, with the most pressing concerns are for medically necessary care. It has helped recover approximately \$454,678, derived primarily from improperly denied claims and illegally billed services. HCA continues its role as the investigator of individual allegations of HIPPA Privacy Rule violations. HCA also assists the Connecticut Long Term Care Ombudsman Program by providing legal guidance and participating in weekly issue discussion with regional ombudsman and interactions with DSS, DPH and facility counsel on behalf of the program.

## **HEALTH AND EDUCATION SECTION**

The Health and Education Section 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 Universities and Connecticut Community Colleges, the Office of Higher Education, the State Library, the State Department of Education and the Connecticut Technical High Schools. This section also represents the Department of Public Health, the Department of Social Services, the Department of Mental Health and Addiction Services, the Department of Aging and Disability Services, the Department of Developmental Services, the Department of Veterans’ Affairs, the Office of Early Childhood, the Psychiatric Security Review Board, the Commission on Human Rights and Opportunities, the Office of the Chief Medical Examiner and the sixteen health licensing boards and commissions.

The section’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 section also is involved in a variety of administrative proceedings representing the adjudicating agency (*e.g.* licensing boards), the prosecuting agency (*e.g.* day care and health care facility prosecutions) and defending agencies in proceedings before the Office of the Claims Commissioner, the Freedom of Information Commission and the Commission on Human Rights and Opportunities. The section advises and counsels client agencies on wide spectrum of issues, including, for example, regulatory issues for health care facilities and professions, emergency medical services, child day care services and environmental health such as public water supply, lead paint, and asbestos; Medicaid and other welfare programs such as food stamps; nursing home and hospital rates; health care facility certificates of need; confidentiality of medical and education records; civil commitment law, medical/psychiatric treatment at state facilities, property acquisitions, state contract law, disability accommodations for students; federal higher education law, and oversight of public and private educational entities. The section also reviews and approves for legal sufficiency regulations and contracts for its client agencies.



## Health

Our section continues to support state agencies with the issues still presented by the Covid-19 pandemic.

During a joint investigation of facilities in Manchester and West Hartford, the Department of Consumer Protection and the Department of Public Health determined that the facilities were preparing hazardous drugs, specifically chemotherapy medications, in insanitary conditions that posed a threat to public health and safety. After months of negotiations, our team, in collaboration with the Department of Consumer Protection (DCP), reached an agreement whereby the facilities would be subject to numerous conditions designed to require improvement to their facility and practice, including ongoing monitoring and training. The agreement also included a \$49,500 civil penalty.

Our section represented the Department of Mental Health and Addiction Services (DMHAS), *Wang v. Delphin-Rittmon, et al.*, 21-397, 2022 U.S. App. LEXIS 32384 \*. This case involved allegations of medical indifference and the failure to keep plaintiff safe after an assault by another patient. The Second Circuit affirmed the district court's decision granting summary judgment in this matter, finding that it was harmless error for the court to not conduct a 17(c) competency inquiry. The error was harmless because if the court had been aware of the state criminal court's finding, it would have been entitled to rely on it and would not have been required to inquire into the plaintiff's competency under 17(c). As we had argued, the state court's finding of competency prior to any ruling on the merits by the district court terminated any obligation of the district court under *Ferrelli* to investigate the plaintiff's competence. While the Second Circuit states that this order has no precedential value, there is value in it as a guide to reading the Second Circuit's thinking as to when a Rule 17(c) hearing is required and when that obligation terminates. This issue was left open after *Ferrelli*, but today's decision offers a glimpse at how the court will answer the question if the issue arises again. The court also dismissed several other issues raised by the plaintiff on the grounds that they each lacked merit.

Our section successfully defended physicians from Whiting Forensic Hospital in actions filed in state court and federal court. We also successfully defended DMHAS in federal court in an action alleging violation of the Americans with Disabilities Act (ADA) and the Rehabilitation Act.

Our section also obtained a criminal conviction in two home improvement contractor cases which included full restitution to the homeowners in excess of \$14,000. The section handled a substantial amount of litigation for the Department of Social Services (DSS). The section continues to represent DDS in ongoing settlement compliance in the Southbury Training School litigation.

## Education

The section provided legal services on a broad array of issues to the Connecticut State Colleges and Universities. Some of these issues included contract questions, discrimination claims, Title IX claims, due process rights and issues arising under the Freedom of Information Act.

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

The University of Connecticut Health Center continues to present broad and challenging legal issues that arise from the operation of an academic health center.

## **INFRASTRUCTURE & ECONOMIC DEVELOPMENT SECTION**

The Infrastructure Section 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 Information Technology Solutions (“BITS”) 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 (“SHPO”). In addition, the Infrastructure Section provides representation for various occupational licensing boards within the Department of Consumer Protection (“DCP”). The representation of the foregoing state agencies/boards includes, but is not limited to, counseling and advice on legal issues, the prosecution or defense of lawsuits or claims in both federal and 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 and Property Matters**

The Infrastructure Section advises virtually all state agencies on contract matters and drafts many of the state’s significant transactional matters. In conjunction with agency staff, the Infrastructure section also assists with the development and amending of various master agreements for use in all areas of contracting at the DOT, DAS, DCS, and DOH with the goal of streamlining the State’s contracting process. Finally, the Infrastructure section has amended the templates for standard contracting provisions consistent with legislative changes and assisted state agencies in the implementation of both new and revised standard State contracting languages required by statute.

During the past year, the Infrastructure Section has assisted 4 different state agencies in approximately 569 real estate and contract related matters to review contracts in substance and form and provided substantive advice in connection with the negotiation of several significant State transactions including:

- a) Assisting DOT with the review and approval of an agreement with the New York Department of Transportation relating to the rehabilitation of an interstate bridge.

b) Assisting DOT with a land transaction between DOT and the City of New Britain related to the construction of a new State commuter parking lot.

c) Assisting DOT with the drafting, review, and approval of a contract for the purchase of electric buses, electric bus charging facilities, and digital purchase of bus fares through a mobile ticketing application.

d) Assisted DOT with the review and approval of a tri-party agreement for the continued use of a portion of the Union Depot Railroad Station in North Canaan as a railroad museum.

e) Assisted DOT with the review of a form license agreement for wireless facilities to be installed by third parties on State railway property.

f) Assisted and assisting DOT with various property transfers, easements, leases, licenses, and request for breaks in non-access highway lines.

g) Assisting DEEP with the review and approval of the lease of public trust coastal lands in connection with tenant use and occupancy of lighthouses.

h) Assisting DEEP with land swap/easement transaction involving property in Middletown related to the access of a dam located on State property.

i) Assisted and assisting DEEP with review and approval of various grants agreements and conservation easements in connection with the statutory Open Space and Watershed Land Acquisition Grant Program.

j) Assisted and assisting multiple state agencies with the review and approval of various personal services agreements, including amendments, assistance agreements and other contracts and agreements/agreement templates.

k) Assisted DAS with the review and approval of documentation related to the acquisition of a co-generation utility plant in Hartford.

l) Assisting DAS with the review, negotiation, and approval of various construction agreements, commercial leases, as well as agreements to sell and purchase property within the state.

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

### **Litigation Matters and Construction Claims**

The Infrastructure Section litigates a wide array of cases on behalf of DOT, DAS, DOH, and DMV in virtually all the tribunals of the State to include: the Claims Commission, the AAA, state and federal courts, and the Appellate Court and Supreme Court of our State. In addition to

prosecuting and defending lawsuits in court on behalf of our client agencies, the section regularly assists agency personnel in the pre-suit analysis and settlement of disputes to avoid expensive and time-consuming litigation. In doing so, the section has minimized adverse operational and financial impacts to our client agencies and the public treasury.

The following represents a summary of the cases handled by the Infrastructure Section during the past fiscal year:

a) The Infrastructure Section resolved three complex construction cases brought pursuant to Conn. Gen. Stat. section 4-61 in the AAA and one pre-suit case. Each case settled for less than demanded and, two cases resulted in a payment to the State. In all, these settlements resulted in a net savings to the state of almost \$2 million dollars. The Infrastructure section recently tried to conclusion a fourth arbitration case and is awaiting decision.

b) In the Superior Court, the Infrastructure Section resolved a complex breach of contract action against DAS spanning more than 10 years for 10% of the original demand; resulting in a savings of \$18 million dollars. The section also favorably resolved two additional Superior Court cases relating to construction litigation, several administrative appeals, and two condemnation appeals. The section achieved a dismissal of a case on behalf of DOT. The section is currently representing DOH in an administrative appeal involving Conn. Gen. Stat. section 8-30g.

c) At the appellate level, the Infrastructure Section prevailed on behalf of DMV and DOT in two appeals at the Appellate Court while one case awaits decision after argument. The section has two additional cases at the Appellate Court and Supreme Court, respectively.

d) Finally, the Infrastructure section received several favorable decisions from the Office of the Claims Commission dismissing actions brought against the State.

### **Environmental Matters**

In addition, the Infrastructure Section is deeply involved in various environment matters associated with public works projects, roads, and bridges projects, and other activities of its client agencies. Our attorneys continue 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 section assists these agencies in complying with the requirement 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 natural resources of the state. In this regard, the Infrastructure Section has advised DOT regarding several permitting issues necessary at DEEP for road improvement projects. The section has also investigated and resolved three referrals made from the State Historic Preservation Office (“SHPO”) and the Historic Preservation Council regarding historic buildings slated for destruction. In each case, the section worked in ensure compliance with federal and state laws while assisting

stakeholders in negotiating reasonable and feasible alternatives to destruction when possible.

## **Conclusion**

As a result of the size and complexity of the state agencies that the Infrastructure Section represents, the section remains busy as it continues to address and resolve a broad scope of complex legal issues; playing an integral role in the smooth operation of our state government and stewardship of public resources.

## **PRIVACY SECTION**

The Privacy Section handles matters related to the protection of Connecticut residents' personal information and data. The Section advises the Attorney General regarding the enforcement of state and federal privacy laws. These laws include Connecticut's breach notification statute, Connecticut's safeguards law, the Connecticut Unfair Trade Practices Act (CUTPA), the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), the federal Children's Online Privacy Protection Act (COPPA), and the federal Fair Credit Reporting Act (FCRA). In addition, the Section provides the Attorney General with advice on proposed legislation and other matters regarding privacy and data security and engages in extensive outreach to citizens and businesses.

### **Legislation**

The Section monitors federal and state privacy and data security initiatives and provides the Attorney General with counsel on proposed Connecticut legislation. In particular, over the past several years, our office carefully reviewed consumer data privacy bills raised in the state as well as across the country. We prepared testimony in support of consumer data rights while working with legislators to address issues impacting our Office's enforcement authority. We also engaged in numerous meetings with legislators and stakeholders as we advocated for stronger protections.

As a result of these efforts, Connecticut recently became just the fifth state—joining California, Colorado, Utah, and Virginia—with a comprehensive consumer data privacy law. The law took effect on July 1, 2023. Our Office is tasked with heavy responsibilities under the law, and our Section has spent a significant amount of time preparing for implementation. Most recently, throughout the Fall of 2022 and into early 2023, we participated in a formal Task Force that discussed potential changes to the CTDPA as well as future privacy protections in crucial areas like reproductive health privacy and children's privacy.

### **Data Breaches**

The Section reviews all data breaches reported to the Office under Connecticut's breach notification statute. The number of notices received by our Office has increased dramatically over the years—we received 811 notices in FY 2019-20, 1,598 notices in FY 2020-21 and 1,481 in FY 2021-22. We review each notification for compliance with our breach notification and data security laws. That includes a review of the privacy protections offered to affected residents, the safeguards in place at the time of the breach and the post-breach measures taken to improve data security. The Section conducts all necessary follow-up, including requests for further information about the incident itself, copies of consumer notice letters and/or requests for extended protection services where warranted.

## **Investigations**

The Section also conducts investigations into data breaches involving violations of state consumer protection and privacy laws and/or federal laws protecting personal information. The Section has led or assisted with numerous multistate investigations of large-scale data breaches and other high-profile privacy matters. Recent settlements of note are as follows:

### **Carnival**

As mentioned in last year's Annual Report, in June 2022, our office announced a \$1.25 million multistate settlement with Florida-based Carnival Cruise Line ("Carnival") stemming from a 2019 data breach. We co-led — with Washington and Florida — a 46-state investigation of the breach, which spanned from April to July 2019 and involved the compromise of 124 employee e-mail accounts. Carnival first detected the breach in May 2019 and completed its investigation that September but did not notify consumers or the states until early March 2020. The breach exposed personal information of Carnival employees and customers, including passport numbers, driver's license numbers, financial information, health-related information, and a low number of Social Security numbers. Across the participating states, 114,000 individuals were impacted, 3.5% of whom had SSNs potentially compromised. In Connecticut, approximately 1,200 residents were impacted, none of whom had SSNs exposed. To address our concerns over Carnival's email security practices and its compliance with state breach notification timeframes, we negotiated an Assurance of Voluntary Compliance that incorporates injunctive terms and requires a \$1.25 million payment to the states given the low impact. As a lead state, Connecticut's share was \$67,505.86. While the case resolved last fiscal year, Carnival remitted payment this fiscal year, on August 15, 2022.

### **Experian & TMobile (2015 Experian Data Breach)**

On November 7, 2022, we announced a total \$15 million resolution with Experian and TMobile stemming from a 2015 data breach experienced by Experian that compromised the personal information of more than 15 million individuals who submitted credit applications with T-Mobile between September 2013 and September 2015. Our office co-led the 40-state investigation of the breach, which involved the personal information of over 15 million consumers nationwide, including 142,789 Connecticut residents. Under the respective settlements, Experian agreed to make significant improvements to its due diligence and data security practices and pay \$12.67 million to the states. T-Mobile agreed to enhance its vendor management practices, and while Experian would bear the bulk of the penalty, T-Mobile paid \$2.4 million to reflect its role. As a lead state, Connecticut received \$710,794.56 from Experian and \$138,713.89 from TMobile.

### **Experian Court Ventures**

Concurrently with the above settlements, also on November 7, 2022, Experian agreed to pay an additional \$1 million to resolve a separate multistate investigation into another Experian-owned company—Experian Data Corp's ("EDC")— in connection with EDC's failure to prevent or provide notice of a data breach that occurred between October 2010 and November 2012, when an identity thief posing as a private investigator was given access to sensitive personal information stored in EDC's in commercial databases. We served on the EC of the multistate investigation. Under that resolution, joined by a separate group of 40 states, EDC agreed to strengthen its vetting and oversight of third parties that it provides personal information, investigate and report data security incidents to the Attorneys General, and maintain a "Red Flags" program to detect and respond to potential identity

theft. As an EC state, Connecticut received \$36,666.67 from the EDC settlement.

### **Google Location Tracking**

On November 14, 2022, we announced a \$391.5 million multistate settlement with Google over its location tracking practices. The settlement resolved an investigation focused on alleged misrepresentations by Google concerning its ability to track the location of its users. In particular, Google told users via a user webpage that when Location History was disabled, the Company did not continue to store the user’s location. But, in fact, Google continued to store location data from users under the separate “Web & App Activity” setting that was defaulted “on” for all Google Accounts and that users would not have expected had any relation to location. Under the settlement, Google agreed to, among other things, make significant enhancements to its disclosures regarding location data collection, retention, and use, including unavoidable disclosures at key user interaction points, and to limit its retention and use of such data. As a working group state, Connecticut’s share was \$6,528,280.78.

### **Premom**

In May 2023, our office announced a settlement with Easy Healthcare Corp., a company that offers a fertility application (“app”) called Premom. In August 2020, the International Digital Accountability Council raised concerns that Easy Healthcare shared sensitive user data with third parties— through SDKs— without properly disclosing that fact to Premom users or obtaining their consent. We conducted a joint inquiry into this matter with the Oregon and D.C. After a comprehensive investigation, the small group of states negotiated a settlement with Easy Healthcare through an Assurance of Voluntary Compliance. The Assurance requires Easy Healthcare to improve its privacy practices and make a \$100,000 payment to the states. We coordinated with the FTC towards separate, parallel resolutions—FTC staff is similarly resolving this matter through a proposed Order and its own \$100,000 payment. Connecticut’s share was \$33,333.34. We expect the payment to be remitted next fiscal year, no later than September 2023, as the Assurance’s Effective Date is dependent on the pending entry of the FTC’s separate order.

### **NAAG Privacy Working Groups & Internet Safety Committee**

The Section participates in various National Association of Attorneys General working groups involving data security and privacy. In particular, the Section leads the NAAG Medical Privacy Group, through which we host quarterly calls between the states, with participation from the U.S. Section of Health and Human Services’ Office for Civil Rights, to share information and encourage coordination in investigating breaches and other matters impacting medical privacy.

We also participate in a broader NAAG Privacy Working Group and a separate working group focused on tech platforms. Out of the Privacy Working Group, we formed and lead a subgroup dedicated to discussion of state privacy legislation. Finally, we are assisting the Attorney General in his role as co-chair of the NAAG Privacy/ Internet Safety Committee, through which we have helped plan several privacy-focused webinars and researched resources for crypto-currency investigations.

## **Education & Outreach**

Finally, the Section engages in extensive outreach to constituents, community groups and businesses. For example, we have participated in events hosted by the Connecticut Bar Association, our local chapter of the International Association of Privacy Professionals, and the Practicing Law Institute's Cybersecurity Seminars. The Section also participated in a series of outreach events for local Chambers of Commerce chapters with the Attorney General, including to raise awareness about the growing threat of ransomware. We have expanded these efforts to include outreach and education for both Connecticut businesses and consumers on Connecticut's new consumer data privacy act.

## **PUBLIC SAFETY SECTION**

The Public Safety Section represents the Department of Correction; the Department of Emergency Services and Public Protection, including the Division of State Police, the Division of Emergency Management and Homeland Security; the Military Department; the State Marshal's Commission and the Department of Consumer Protection Liquor Control Division. The Section also provides legal services and representation to a number of associated boards, commissions and agencies, including the Division of Criminal Justice, the Division of Public Defender Services, the Office of Adult Probation, the Governor's Office (Interstate Extradition), the Statewide Emergency 9-1-1 Commission, the State Police Special Licensing and Firearms Unit, the Board of Firearms Permit Examiners, the Commission on Fire Prevention and Control, the Board of Pardons and Paroles and the Police Officer Standards and Training Council. Within the last year, attorneys in the Section have also represented several units within the Judicial Branch in various litigation matters.

### **The Department of Correction**

The Department of Correction ("DOC") is the Section's largest client agency. With over 6,000 employees, approximately 10,000 inmates and another 2,500 offenders supervised in community placements, all of the attorneys in the Section devote most of their time to representation of the DOC. Much of this work is done in defense of the agency and its employees in lawsuits brought by and on behalf of prisoners. The Section continues to defend a large number of lawsuits in state and federal court challenging conditions of confinement in state correctional facilities and the administration of community programs. The pending corrections cases in the U.S. District Court alone continue to represent over 20% 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 Section'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 manage an extremely difficult prison population safely and securely free of costly and onerous court oversight as has been the experience in other states. Significant areas of litigation in the last year include: litigation relating to the impact of COVID-19 on the prison population, continued defense of the DOC's classification of former death row inmates; defense of various challenges to limitations on access to courts by inmates; accommodation of rights to observe religious practices while incarcerated; defense of policy restrictions on the ability of restrictive housing inmates to move out of cell without restraints; litigation challenging DOC's classification of sex offenders and limitations on inmate access to gang materials; class action environmental claims arising from exposure to Radon, PCBs and other hazardous conditions at several correctional facilities; litigation brought by



certain violent groups that seek to be recognized as religious organizations; and, inmates challenging their classification as members of security risk groups.

Because the inmate population continues to age and presents exceptionally challenging medical and mental health issues, we continue to see a considerable increase in the number of complex medical cases involving issues such as: suicides; the alleged misdiagnosis of cancer and other serious chronic illnesses; viral infections allegedly resulting in blindness; loss of organ function; medical claims of individuals impacted by the opioid epidemic and other addictions; and the adequacy of dental care and specialty care in prisons. Additionally, we continue to initiate emergency proceedings to allow for extraordinary measures to reverse the physical effects of inmates actively engaged in hunger strikes or other acts of self-harm. This Section continues to work with the Department of Correction, the University of Connecticut Health Center, and outside medical and mental health experts not only to defend litigation, but also to develop policies addressing inmate patient care to avoid systemic issues that may lead to unfavorable patient outcomes 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 petitions. Thus, the Section continues to defend inmate challenges to prison conditions and sentence calculations. Over the course of several legislative sessions, statutory changes have altered the manner in which jail credit, awarded for time incarcerated prior to a sentence, is applied. After an inmate is sentenced, the DOC awards Risk Reduction Earned Credit ("RREC") for good behavior and participation in designated inmate programming. Inmates who challenge the manner in which either jail credit or RREC is awarded or applied to their sentence litigate these claims by means of habeas corpus cases. This has resulted in a significant increase in sentence calculation habeas petitions. The legislature implemented numerous changes to parole and pardon eligibility, which has increased the number of parole eligibility cases defended by the attorneys in this Section. We also continue to see an increase in medical claims in habeas court.

With the various waves of the Covid-19 pandemic, inmates have brought a number of new cases, and filed numerous emergency motions in pending cases, challenging DOC's response to Sars-CoV-2 and seeking remedies ranging from money damages to emergency release from custody. Thus far, none of the cases we have defended has resulted in a court-ordered release of an inmate or an award of money damages.

In the last year, Public Safety attorneys have participated in negotiations with the U.S. Department of Justice to address concerns arising from investigations into the provision of mental health and education services to the youth population as well as policies governing the accommodation of religious practices throughout the agency.

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

academy program, and in turn DOC staff provide training to the Section's attorneys on correctional practices.

The Section also continues to monitor compliance with agreements resolving litigation that arose from the conditions of confinement in the women's prison and treatment of HIV infected inmates. As the DOC continues to shift its focus to increasing community placements and reducing the number of inmates assigned to restrictive housing settings, the Section works closely with the agency to implement policies governing these new initiatives that comport with statutory and constitutional mandates. These obligations will continue to challenge the Department as retirements and budget constraints take a toll on the correctional system.

### **Board of Pardons and Paroles**

The Section 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 and revoking of paroles, as well as parole eligibility and changes to the parole statutes. More recently, as the standards for the granting of pardons have been relaxed by the legislature, we are seeing an increase in pardon-related litigation in state and federal courts. The Public Safety Section 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**

Section 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 Section caseload of police litigation continues to grow in both number and complexity. The cases include false arrest and excessive force cases, wrongful death claims arising from police shootings, Second Amendment challenges to DESPP's practices relating to issuance of handgun permits, administrative proceedings before the Commission on Human Rights and Opportunities arising from racial profiling of persons stopped and/or arrested by the Connecticut State Police, and contract claims arising from the agency's relationships with outside service providers. In addition to the Section's litigation efforts, Section 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.

Section attorneys also give advice to DESPP staff counsel, and when necessary, appear on behalf of the agency in state and federal court and before the Freedom of Information Commission to address the many different statutory provisions that mandate confidentiality, and even erasure, of police records. Our attorneys also appear on behalf of DESPP in matters before the Commission on Human Rights and Opportunities in matters relating to racial profiling and discrimination based on past criminal history.

With the recent passage of significant police accountability legislation, this Section is seeing a rise in police misconduct litigation in state court, as well as an increase in administrative proceedings regarding the revocation of the credentials of municipal police officers by the Police Officers' Standards and Training Council ("POSTC"). We regularly advise POSTC as it conducts hearings to

consider the revocation of police officer certification, when defending appeals and other legal challenges to its decisions.

### **Board of Firearms Permit Examiners**

During the past year, the Section provided legal advice and representation to the Board of Firearms Permit Examiners on a number of issues, including appeals from denials of permits based on mental health and medicinal marijuana use. The Section 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 Section 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 Section continues to work with the Board to enforce the firearms laws of the State of Connecticut.

### **Liquor Control Division**

During the past year, the Section has handled administrative appeals involving permits and licenses that are within the purview of the Liquor Control Division. In addition, Section 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 Section continued to provide legal advice to the State Marshal Commission ("SMC") on several matters, particularly with respect to the duties of state marshals and the removal of state marshals. This Section also represented the Commission in actions where individual state marshals challenged disciplinary actions taken against them. In addition, attorneys in the Section continue to review operations policies submitted to us by the SMC.

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

The Section continues to defend numerous cases involving the Division of Criminal Justice and the Division of Public Defender Services. These cases often raise constitutional questions involving governmental immunity and relate to the core duties of prosecutors and public defenders throughout the criminal justice process. In addition, the Section works closely with the Office of the Chief State's Attorney and several State's Attorneys in areas of overlapping jurisdiction, such as complex habeas corpus matters in state and federal courts. In addition, we serve on the DNA Oversight Committee, which is responsible for overseeing policies governing the state's DNA databank. Finally, the Section oversees the contract between the Office of the Chief State's Attorney and outside labor counsel.

### **Military Department**

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

## **Prosecution of Home Improvement Contractors**

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

## **Wrongful Incarceration Claims**

The Section continues to represent the State in claims for wrongful incarceration brought in the Claims Commission pursuant to Conn. Gen. Stat. § 54-102uu and in the state and federal courts. Since the legislature created this remedy, more than 50 individuals have filed claims seeking millions of dollars in damages for being wrongfully convicted of, and incarcerated for, crimes they did not commit. This Section 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 Section contested the claim in litigation before the Claims Commissioner. Defense of these claims usually requires lengthy discovery and administrative proceedings before the Commissioner.

## **Contracts**

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

AAGs in the Section advises the agencies in the negotiation of problematic contractual provisions to ensure agency policies and practices are effectuated, as well as educating and training its agency staff in contract law.

## **Appeals**

This Section has a substantial appellate practice in state and federal courts. The issues on appeal range from Second Circuit appeals raising complex constitutional issues to State Appellate and Supreme Court cases arising from habeas court and the regular session of the Superior Court. Our attorneys work closely with the Solicitor General on these appeals

## **SPECIAL LITIGATION & CHARITIES SECTION**

The Special Litigation Section represents the Governor, the 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 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 the Child Advocate, and the Office of the Victim Advocate. In addition, through its Public Charities Unit, the Section protects the public interest in public land, 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. The Section also leads the Office's efforts to protect and defend Reproductive Health Care rights through the leadership of two newly appointed, June 2023, Special Counsels for Reproductive Rights.

The Section plays a role in the preparation of appeals and opinions in the Office. It 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 Section's resources is committed to defending the State's interests in self-represented litigation against judges and other state officials.

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

### ***Constitutional Litigation and Other Matters***

- Special Litigation continued in its role of assisting the Attorney General in his efforts to fight to expand and defend reproductive rights and access to reproductive healthcare for all of Connecticut's residents. The Section works to lead and facilitate Connecticut's national role to protect and preserve those rights. In particular, the Section works closely with other jurisdictions to bring and defend litigation in this area and also to discuss and develop policy initiatives to expand reproductive health and access to safe and private reproductive health care for men and women. The Section also participates in discussions with federal officials regarding how the federal government can assist states in better serving the reproductive health needs of their residents.

Of particular significance this year, in June 2023, the Attorney General appointed two Special Litigation Assistant Attorneys General to the newly established role of Special Counsel for Reproductive Rights. These two first-ever Connecticut Special Counsel for Reproductive Rights will further enhance and refine the work of the Section and the OAG in the fight for reproductive justice in Connecticut and nationally.

- The Section continued its representation of the Secretary of the State in election-related litigation and matters. The Section successfully defended constitutional challenges to Connecticut's major party ballot access laws in both state court and the Second Circuit Court of Appeals. The Section also successfully defended a state constitutional challenge to the newly enacted early voting constitutional referendum that voters adopted in 2022.

- The Section continued its defense of the State Elections Enforcement Commission in its efforts to uphold and enforce important campaign finance regulations related to Connecticut’s landmark public financing program, the Citizen’s Election Program.
- The Section also defended several important First Amendment speech cases. In particular, the Section successfully defended a First Amendment free speech challenge to the constitutionality of the State’s laws prohibiting deceptive advertising by pregnancy support centers that advertise to pregnant women and then may fail to fully apprise them of the full range of reproductive health care options available to them. The Section also successfully defended a constitutional challenge to regulations that prohibit non-architects from holding themselves out to consumers as offering architectural services. The Section defended newly enacted statutes that protect employees from being forced to listen to their employer’s political rhetoric and religious views. The Section assisted in the defense of a newly adopted rule of professional conduct that regulates attorneys who engage in discrimination and harassment in their practice of law.
- The Section successfully defended a First Amendment free exercise challenge to the General Assembly’s recent repeal of certain religious exemptions to vaccination requirements for school children.
- The Section, in conjunction with the Child Support and Collections Section, defended a putative 30,000 plaintiff class action, challenging the constitutionality, under the Eighth Amendment, of Connecticut’s ability to recover some of the “costs of incarceration” incurred by taxpayers as a result of plaintiffs’ incarceration.
- The Section defended and assisted in defending several Second Amendment challenges to Connecticut’s firearm statutes and regulations. The Section successfully defended a preliminary injunction action seeking to enjoin the State’s long-standing prohibition on the carrying of firearms in state parks and forests. It also defended a challenge to Connecticut’s pistol permitting process, and is working in conjunction with the Public Safety Section to assist in the defense of the State’s large capacity magazine ban, assault weapon ban and the newly adopted prohibition on the open carry of firearms.
- The Section defended the Judicial Branch’s constitutional powers to regulate the conduct of Connecticut barred attorneys and to impose appropriate attorney discipline without undue encroachment from other state agencies.
- The Section assisted in defending statutory and constitutional challenges to the school mask mandate imposed during the COVID-19 pandemic.

### ***Tribal Matters***

The Section continued its long-standing role of representing the interests of the State in tribal matters. Each year the Section provides advice to the Governor, legislative leaders, state agencies, and other OAG Sections regarding Indian issues and tribal matters. The Section often advises on issues related to Connecticut’s two federally acknowledged Indian tribes—the Mohegan and Mashantucket Pequot tribes—with a frequent focus on the tribes’ authority over tribal lands, casino operations, and gaming generally.

- The Section continued to provide advice regarding the federally acknowledged tribes’—the Mohegan and Mashantucket Pequot tribes—production of cannabis, taxation of tribal cannabis and its sale. The Section also continued to advise on existing and proposed gaming within the State, including sports betting and online gaming.
- The Section assisted the Environment Section in successfully defending the Schaghticoke Tribal Nation’s (STN) claim that the State breached its duties to the historic Schaghticoke tribe since the early 1800s.
- The Section represented the State’s interests before the federal agency responsible for overseeing tribal matters—the Bureau of Indian Affairs (BIA). In July 2022, the Section filed an opposition to the Schaghticoke Indian Tribe’s (SIT) petition seeking full federal tribal acknowledgement of their group.
- The Section also filed comments supporting the BIA’s proposed rule to clarify the prohibition on groups, who have been previously denied federal acknowledgement through a full and fair process with the BIA, from attempting to re-petition for acknowledgment. The Section worked with other stakeholders in the State with an interest in tribal matters to encourage the BIA to adhere to its long practice of barring re-petitioning by previously denied groups.

### ***Intra-Agency Matters***

The Section represents the interests of its clients in intra-agency matters every year. In the past year, the Section represented the State’s interests in a number of important intra-agency matters, including:

- advising and representing the Governor, Secretary of the State and legislators before the Freedom of Information Commission (FOIC);
- training and advising OAG attorneys and support staff on issues related to the Freedom of Information Act and the Freedom of Information Commission;
- training and advising OAG attorneys on issues related to ethics and professional responsibility;
- assisting agencies on issues related to unclaimed property;
- reviewing and approval of state contracts related to goods and services and legal representation;
- reviewing and approval of agency regulations;
- assisting in preparation of OAG appeals at the Connecticut Appellate Court, Connecticut Supreme Court and the Second Circuit Court of Appeals;
- assisting the Office of Policy and Management (OPM) in developing the legal framework for data sharing both between state agencies and between the State and private institutions, including the creation of data sharing agreement and memorandums of understanding templates.

### ***Public Land Use and Charitable Matters***

The Section's Public Charities Unit 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. The Charities Unit also protects the public's interest in access to public lands. This past year in particular, the Public Charities Unit had a number of notable accomplishments.

- The Charities Unit successfully concluded a multi-year dispute over the ownership of, preservation of, and access to Lebanon's historic town green. The dispute arose when a recent title search revealed that title to and ownership of the Green was clouded and ownership of the Green had been unrecorded for over two centuries. Thereafter, three distinct groups: a historic church on the Green, the Town and a historic preservation organization, commenced litigation to lay claim to ownership of or interest in all or parts of the Green. The Charities Unit led the Office's role in protecting the public's interest in complicated questions of title, fee interest in land, "public use" theory, conservation and preservation restrictions. The parties ultimately mediated and negotiated a resolution by allowing the Church to hold fee title to its "footprint" with restrictions to ensure its preservation. The Town of Lebanon now holds clear title to the remaining 95% of the Green with uniform conservation and preservation restrictions.
- The Charities Unit also defended an action brought by Prospect Medical Holdings (PMH), Inc. seeking to obtain control over \$9.8 million given to a legacy entity of Eastern Connecticut Health Network by the Sonny Damato Estate. The Attorney General successfully intervened to protect the charitable purpose of the Damato Estate gift.
- The Charities Unit also prevented the improper diversion of \$200,000 in charitable assets from Veteran's Base Camp, Inc. to England Homestead, LLC. England Homestead engaged in a real estate transaction that diverted charitable funds to a noncharitable use. The OAG intervened in an action which prompted settlement and England Homestead's disgorgement of the improperly transferred charitable assets.
- The Charities Unit also assisted in the preservation of the charitable intent of Adelmia Simmons, a well-known herbalist and proponent of education in the horticulture field. Due to the work of the Unit, Ms. Simmons legacy will be honored through expenditure of approximately \$300,000 of the decedent's assets toward educational programming, exhibits, and preservation of her scholarly work.
- The Charities Unit also consulted with land trusts, municipalities and private parties seeking to modify conservation and preservation restrictions through nonjudicial and judication actions to ensure proposed modifications are consistent with state law, donor intent and the public interest.
- The Charities Unit continued an ongoing investigation of the use of charitable funds designated for first responders involved in the Sandy Hook shooting.
- The Charities Unit continued the investigation and monitoring of Quinnipiac University's announced closing of Ireland's Great Hunger Museum to ensure the protection of



charitable gifts and the selection of an appropriate future holder of the Museum's art collection.

- The Charities Unit successfully oversaw the sale of the Deer Lake Campground by the Yankee Council of the Boy Scouts.
- The Charities Unit protected the public interest in ensuring that charitable gifts in trusts or estates are not improperly diminished through unreasonably high attorney or administration fees.
- The Charities Unit provided training to the Connecticut Probate Court's judges and staff regarding the OAG's role in protecting charitable interests.
- A Charities Unit attorney serves on five board committees of the National Association of State Charities Officials (NASCO), which is an association of state charities officials charged with preventing the misuse of charitable assets, ensuring that trustees of charitable trusts fulfill their fiduciary duties, and enabling donors to make informed choices about which charitable causes to support.

### **INTERNSHIP & VOLUNTEER PROGRAMS**

The OAG internship program is coordinated by an outstanding team of five volunteers at the OAG and led by Deputy Associate Attorney General / Chief of the Consumer Advocacy Section, Inez Diaz Galloza. In 2022 – 2023, the OAG placed 66 interns during the fall, spring and summer. During the 2023 summer session the OAG onboarded its largest intern class with 47 diverse and talented interns who worked within the various sections of the Office.

Although many interns are law students, the Office utilized numerous undergraduate and high school students as well. The Office saw a significant increase in high school applicants due to a new capstone graduation requirement for high school seniors. We are working to develop a program specifically designed to assist students with meeting this requirement.

During the current session, interns took part in 28 intern events, including two meet & greet sessions with Attorney General Tong, a meeting with Governor Lamont, a presentation by Connecticut's Treasurer, Erick Russell and Connecticut's Comptroller, Sean Scanlon, Lunch & Learn discussions with each of the OAG Sections to enhance their knowledge of the critical work the OAG performs, networking sessions and a law student panel discussion led by OAG's legal interns for the OAG's undergraduate and high school interns. Additional key highlights of the summer included observing a jury trial and motion hearings in federal court argued by Special Litigation and Public Safety attorneys. All of these programs are led by OAG staff and provide the interns with an extensive overview of various legal topics.

Members of OAG's internship program also took part in on-campus career fairs and virtual intern interview events hosted by regional law schools including UConn, Quinnipiac, Yale, and NYU. The events provided OAG staff the opportunity to meet directly with interested students

from varying backgrounds and interests. The goal is to expand our attendance at these events which will hopefully lead to an increase in exposure of our program.

We also hope to participate in additional student events including the Lawyers Collaborative for Diversity and Kids Speak during the year.