

Public Service Provided by the Office of the Attorney General

The Office of the Attorney General is divided into 14 departments, each designated to represent agencies which provide particular categories of service to State residents. The Attorney General also participates in the legislative process, maintains an active communication with citizens and investigates, in conjunction with the State Auditors, Whistleblower complaints. The overall work completed by this office in fiscal year 2008-2009 is summarized as follows:

Court cases completed	15,133
Court cases pending	36,495
Legal documents examined	6,868
Administrative Proceedings	2,494
Appeals completed	161
Appeals pending	221
Formal opinions issued	16

Legislation

The Attorney General successfully advocated for a prohibition on advance fees and a licensure requirement for foreclosure rescue and loan modification companies. He also supported a ban on private ownership of wild animals, broad protection for consumers who purchase pets that may be sick and the establishment of a trust for the care of pets. As urged by the Attorney General, the General Assembly established a Connecticut – New York commission to coordinate protection of Long Island Sound and increased civil penalties for violations of Connecticut's antitrust laws.

The Attorney General also sought to enhance oversight of nursing home finances, the establishment of an electric power authority to reduce the high cost of electricity and a false claims act to help uncover wrongdoing and waste of taxpayer dollars by state contractors and agencies.

Health Care Fraud/Whistleblower

The Healthcare Fraud/Whistleblower/Health Insurance Advocacy Department had an extremely busy, important and successful year.

The Health Care Fraud Unit recovered more than \$10.7 million dollars during this fiscal year, bringing the Unit's total recoveries to almost \$79 million in twelve years. The majority of the dollars recovered this year came from settlements involving the pharmaceutical industry.

The Health Care Fraud Unit achieved an outstanding result in its case to exclude from the Medicaid program an oxygen company, Goldstar Medical Services, and its owner for overcharging state the Medicaid program. The Connecticut Supreme Court not only upheld the exclusion of the company and its owner, and an order of restitution, but also decided important underlying questions in favor of the taxpayers.

Another important case involved the civil prosecution of Roy Katz and RG Pharmacy, Inc. for overcharging the state. The Commissioner of the Department of Social Services excluded RG Pharmacy and Roy Katz for seven years from all the Connecticut Medical Assistance Programs and we continue to recover money owed to state taxpayers.

The Department also continued to prosecute suits against other medical providers who were illegally billing Medicaid and commercially insured patients.

The Attorney General and Child Advocate issued a report arising from their joint investigation concerning Lake Grove at Durham, a residential treatment center for children with intellectual disabilities, many of whom also suffered from mental health problems related to the trauma of abuse and neglect. The report also examined DCF's oversight of the facility. The report concluded that there were serious problems with the delivery of health care to children, widespread deficiencies in the program, and dismal performance by DCF of its oversight responsibilities. Lake Grove at Durham closed during the course of the investigation. The report includes recommendations for improvements of DCF oversight of such facilities.

Another joint investigation by the Attorney General and Child Advocate concerning the Connecticut Court Appointed Special Advocates ("CASA) found that although the program was critical to the safety, well-being and permanency of Connecticut's abused and neglected children, it was being under utilized by the Juvenile Courts. The report included recommendations for improvement of the program's operations including the revision of the applicable state statutes.

The Health Care Advocacy Unit ("HCAU") has continued to assist patients and their doctors by resolving disputes with managed care companies. In addition to obtaining coverage for treatments for cancer, pulmonary diseases, gastrointestinal disorders, and infectious diseases, the HCAU also helped citizens resolve disputes with health care providers. During fiscal year 2009, HCAU was instrumental in compelling the withdrawal of a number of private collections suits by providers when it appeared that illegal balance billing was occurring. The HCAU helped consumers during fiscal year 2009 recover approximately \$740,000, primarily from illegally billed services and improperly denied claims.

HCAU continues, in conjunction with the Antitrust Department, to oversee the implementation of a settlement and "Action Plan" that defines the manner in which the Infectious Diseases Society of America (IDSA) must review its existing 2006 guidelines on Lyme disease. The HCAU also participated in the drafting of various health insurance reform bills, designed to improve the internal and external appeals processes, as well as to require certain disclosures to patients contemplating whether to undergo genetic cancer screening.

Assistance for senior citizens who are having trouble with their Medicare benefits continues to be an area of focus for the HCAU, as well. In the later portion of fiscal year 2009, the HCAU assisted consumers in obtaining the significant premium offsets that were due them under the recently passed American Recovery and Reinvestment Act of 2009 (ARRA). To do so, the HCAU worked with congressional offices, state and federal agencies, insurers, employers and third party administrators to ensure a consistent and proper application of ARRA under the various factual circumstances presented in consumer complaints. In addition, the HCAU continues to work with the Child Advocate to ensure that children in this state receive the healthcare they require.

This Department also collected an additional \$4.675 million for CRRA and its member town as a result of the failed Enron deal. Total recoveries from this litigation now exceed \$160 million.

Antitrust

The Antitrust Department's primary responsibility is to administer and enforce the Connecticut Antitrust Act, and has authority to enforce major provisions of the federal antitrust laws as well. The Department also relies on other state laws, including the Connecticut Unfair Trade Practices Act, to ensure the Attorney General's overall responsibility to maintain open and competitive markets in Connecticut. Utilizing these statutes, the Department investigates and prosecutes antitrust and other competition-related actions on behalf of consumers, businesses and governmental units. In addition, this Department provides advice and counsel on proposed legislation and various issues regarding competition policy. In the past, the Attorney General served as the Chair of the Antitrust Committee of the National Association of Attorneys General and remains active within that organization.

During the past year the Department continued to build on the successes it has achieved in industries that are vitally important to consumers. In that regard the Department has conducted investigations, commenced legal action and obtained settlements in the insurance, credit rating, college lending and pharmaceutical industries, among others. All told, the Department secured significant restitution for injured consumers, including state agencies and programs, small businesses and individuals, and collected and obtained large civil penalties for violations of Connecticut laws.

The Department continued its emphasis on investigating and prosecuting anticompetitive and illegal practices engaged in by insurance carriers and brokers. The practices at issue: bid rigging, steering of business to preferred insurers in return for lucrative undisclosed compensation, and other anticompetitive and illegal behavior, have cost Connecticut citizens - - both individuals and corporations, as well as Connecticut municipalities and state agencies - - higher premiums for their insurance. The work of the Attorney General's Antitrust Department in the past year resulted in significant restitution to the State of Connecticut, its consumers and significant civil penalties collected for willful violations of Connecticut law.

On May 6, 2009, the Attorney General entered into a \$2.4 million settlement with Marsh & McLennan Companies ("Marsh"), one of the largest insurance brokers in the United States. The Attorney General sued Marsh alleging it orchestrated a wide-ranging bid rigging and insurance steering scheme among some of the largest insurance companies in the United States. The restitution from the settlement will go to the state's general fund.

In March, 2009, the Attorney General settled with USI Consulting Group, Inc. ("USI"), another case in his long-running investigation into illegal kickbacks paid by insurance companies to brokers as part of the sale of single premium group annuities ("SPGA"), which are used to fund pension obligations for employer-sponsored pension plans. The \$470,000 settlement with USI resolves allegations that it accepted concealed compensation from insurers in exchange for providing competitive information and "last look" bidding opportunities not provided to insurers that refused to pay the secret compensation. In addition to the monetary settlement, which went to the state's general fund, USI agreed to significant business reforms, including a first-ever ban on an SPGA broker's receipt of such contingent compensation. The settlement with USI, in addition to previous settlements with the insurance companies who made the secret payments -- The Hartford Insurance Company, The Principal Financial Services Group, Inc. and Mutual of Omaha Insurance Company -- have resulted in restitution to consumers and civil penalties totaling over \$27 million.

The past two years have brought unprecedented turmoil in the financial markets and allegations of suspect business practices engaged in by mortgage lenders, investment banks and others involved in the financial services industry. In part due to concerns raised by these issues, the Attorney General launched an investigation of the three major U.S. credit rating agencies: Moody's Corporation ("Moody's"), Standard & Poors ("S&P") and Fitch, Inc. ("Fitch") over their respective practices in providing credit ratings for debt instruments --collateralized debt obligations, municipal bonds, and other structured securities which are at the core of the financial crisis.

As a result of this investigation, on July 30, 2008 the Attorney General initiated the first court-action in the country against Moody's, S&P and Fitch, for their alleged role in a systematic scheme to deceptively and unfairly underrate tax free debt issued by the state of Connecticut and its municipalities. The impact of the alleged scheme resulted in the state and its municipalities having to pay millions of taxpayer dollars to purchase unnecessary bond insurance to improve their bond rating, or pay higher interest costs on their lower rated bonds.

The Attorney General's investigations of Moody's, S&P and Fitch with respect to their credit ratings practices for other structured securities, i.e., collateralized debt obligations, residential mortgage backed securities and structured investment vehicles, is continuing.

In the Spring of 2007 the Attorney General initiated a wide-ranging investigation of lending practices in the lucrative student lending industry. The investigation resulted in settlements with three Connecticut colleges: Fairfield University, Trinity College and Sacred Heart University, relating to undisclosed financial arrangements each had with student lender The College Board. On December 8, 2008, the office closed the loop on its student lending investigation by announcing a settlement with The College Board that requires the company to invest \$675,000 into educational and financial aid resources, accessible on the internet -- and free of charge until September 2010 -- to assist colleges in their selection of approved student lenders; and students and their families with resources and user-friendly tools to better assess and compare competing loan offers.

Merger enforcement has long-been a high priority within the Attorney General's antitrust enforcement regime and this year was no exception. In February 2009, the office began working with its state and federal counterparts on a review of Ticketmaster and Live Nation's plan to merge their businesses. Among the merger-related issues the Attorney General is reviewing are: (a) Ticketmaster's market dominance in concert and event ticket sales; (b) the implications of combining Ticketmaster's control of ticket sales with Live Nation's power as a concert promoter, which may lead to a lessening of competition in both markets, resulting in less consumer choice and higher prices; (c) the ramifications of the merger on independent concert promotion and; (d) the impact on secondary ticket services that offer the potential for greater rivalry in the ticketing market.

In March, 2009, in conjunction with the Federal Trade Commission, the office initiated a review of Dow Chemical's proposed sale of Morton Salt to Germany's K+S AG, which owns International Salt. The proposed sale would make K+S the largest road salt supplier in the United States. International Salt and Morton Salt are currently one of a handful of road salt suppliers for the State of Connecticut and the Attorney General is investigating the proposed sale to determine whether the combination of the two companies will substantially lessen competition and possibly lead to higher prices in Connecticut.

In the summer of 2004 the Antitrust Department initiated several investigations of drug manufacturers suspected of marketing their drugs for off-label uses. While physicians may prescribe a drug for an off-label use, it is illegal for a drug company to market a drug for a use not approved by the Food and Drug Administration. Off-label marketing can lead to government health plans, employee plans and individual consumers paying higher prices for health care if the unapproved use results in unintended health consequences or if the drug has a less than efficacious effect. Among the companies the Attorney General investigated was Cephalon, Inc., a global biopharmaceutical company located in Frazer, Pennsylvania, which manufactures a number of innovative pharmaceuticals including Actiq, Provigil and Gabitril.

As a result of the investigation, on September 29, 2008, the Attorney General entered into a settlement \$6.15 million with Cephalon for its illegal scheme to promote Actiq, Provigil and Gabitril for off-label uses in Connecticut. The settlement requires Cephalon to comply with a comprehensive corporate integrity agreement to ensure its adherence to state and federal law, as well as payments to the state's general fund, the prescription monitoring program and the Connecticut Cancer Initiative.

Consumer Protection Department

The focus of this Department is consumer protection through counsel and representation of the Department of Consumer Protection, consumer education and complaint mediation, consumer protection investigations, appearances before state and federal agencies on consumer matters, and litigation under various state and federal laws with a major reliance on the Connecticut Unfair Trade Practices Act (CUTPA).

Consumer Education and Mediation

As part of his core mission, the Attorney General continues his efforts to 1) educate consumers on how to avoid scams and 2) to mediate disputes between consumers and those who sell or who offer to sell consumers goods or services. This Department assists the Attorney General in issuing consumer alerts about scams and consumer products, and actively participating in consumer education forums. This fiscal year, the Attorney General hosted the 7th Annual Connecticut Triad Conference, the topic of which was "To Catch an ID Thief" and which featured presentations from Chris Hansen (a correspondent for NBC News' "Dateline NBC"), the Office of Victim Advocate, and the Department of Emergency Management & Homeland Security. The Conference focused on how consumers could protect themselves from identity theft and informed attendees about "KOPS" – the Keeping Older Persons Safe program.

Furthermore, as part of the Attorney General's focus on consumer mediation, our Department, which consists of attorneys, volunteer advocates and other staff, responded to 4,373 consumer complaints during this fiscal year. Over \$899,338.68 was refunded or credited to Connecticut consumers due to the mediation efforts of the Department.

Enforcement of the Connecticut Unfair Trade Practices Act

Multi-State/Cases

Our office along with thirty-three other Attorneys General offices reached a settlement with Pfizer, Inc., resolving allegations that the company deceptively promoted the prescription painkillers Celebrex and Bextra. Connecticut received a payment of \$1,797,257 from this

settlement. Pfizer allegedly marketed Celebrex, a COX-2 inhibitor, as a safer and more effective alternative to less expensive, generically available, and traditional non-steroidal anti-inflammatory drugs (NSAIDS), such as ibuprofen, when, in fact, the states alleged that little scientific evidence has shown COX-2 drugs to be more effective in relieving pain than traditional NSAIDS.

In addition, Connecticut and twenty-seven other states reached a settlement with Florida-based Airborne Health, Inc. resolving allegations that the company made unsubstantiated and unlawful marketing claims about its products, including claims that its products could prevent colds, protect against germs, reduce the severity or duration of colds, or protect against colds, sickness, or infection in crowded places. The State of Connecticut received \$150,000 from this settlement.

The Attorney General and twenty-seven Attorneys General reached a settlement with Coca-Cola, Inc., Nestle, Inc., and Beverage Partnership Worldwide, resolving allegations that the companies deceptively marketed the tea beverage Enviga, claiming that drinking three cans a day would burn 60 to 100 calories. The companies agreed to stop these marketing practices and paid Connecticut \$101,000.

Connecticut together with the state of Washington, led a multistate group of 34 states in investigating Dell, Inc. and its subsidiary, Dell Financial Services, LLC. A settlement resolved allegations that Dell failed to distribute consumers' rebates as promised, failed to provide technical support, raised interest rates, and did not honor repair policies. In addition to injunctive relief resolving these issues, the settlement resulted in a civil penalty of \$1.85 million and restitution to consumers in the amount of \$1.5 million.

Mortgage Relief for Homeowners

Connecticut sued Countrywide Financial Corp., alleging that the company pushed consumers into deceptive, unaffordable loans and workouts, and charged homeowners in default unjustified and excessive legal fees. In October 2008, Connecticut and several other states announced a settlement with Countrywide Financial Corp. which had been acquired by Bank of America. The mortgage giant agreed to provide relief to as many as 4,500 Connecticut homeowners by reducing interest rates, writing down principal and waiving fees.

Pursuit of Other Unfair and Deceptive Trade Practices

We along with the State's Attorney's office announced the arrests and sentencing of former Newtown Oil operators William A. Trudeau Jr. and Heather Bliss, following allegations they entered into fraudulent prepaid home heating oil contracts with consumers. As part of the sentencing, they were ordered to make restitution of approximately \$130,000 in addition to the \$250,000 obtained in the State's civil litigation.

Connecticut sued New England Pellet, LLC of Enfield and co-owners Stephen Zaczynski and Jason Tynan, alleging the company accepted consumer payments for thousands of tons of wood pellet orders that it knew were impossible to fulfill.

We filed a lawsuit against Christensen Cemetery Maintenance LLC and its operator Randy Guevin, alleging the company failed to maintain accurate records of burial plot placements, neglected to file legally necessary documents with the Registrar of Vital Statistics, and failed to maintain cemetery grounds. The lawsuit also alleged that Guevin, who personally

owns a plot at Hamden Plains, improperly worked for the cemetery association while he served on its board of directors.

We settled a lawsuit against the owners of the Crystal Mall, Simon Property Group, LLC and SPGGC, LLC. The suit had alleged that from August 2003 to January 2005, the Crystal Mall had charged inactivity fees on the gift cards it sold, in violation of state law. The settlement set aside \$258,736 as a fund to reimburse consumers who were assessed the fees during the relevant time period and provides the State with an additional \$50,000 for its investigative and litigation costs.

Our office also filed a lawsuit against Classic Images, alleging the company left 18 brides-to-be with unfulfilled bridal gown orders.

Together with other state Attorney General offices, Connecticut negotiated an agreement whereby Tweeter, a consumer electronics store chain, continued to redeem gift cards through all its store closing sales. Additionally, Connecticut was able to protect consumers who purchased items during the store closing sales but who did not receive the items from the store before the debtor locked all of its doors. Connecticut argued in Delaware bankruptcy court that consumers must be permitted to pick up merchandise for which they already paid in full. The Court agreed with Connecticut and ordered Tweeter to give consumers 48 hours notice before the store would be cleared out during which time consumers were allowed to pick up their merchandise.

Connecticut along with fifteen other states entered into a stipulated judgment with J.K. Harris & Company, LLC and Professional Fee Financing Associates, LLC, as part of a multistate working group. The working group had been investigating the tax relief services and financial services of JK Harris and related companies including claims of misrepresentations that consumers' tax debt can be resolved for pennies on the dollar, that consumers were eligible for the IRS' Offer In Compromise (OIC) program when the majority of their clients were not, and billing for services that they did not perform. As Connecticut's share of the multistate settlement, we obtained about \$34,000 in restitution for consumers and an additional \$25,000 forfeiture to the State. In addition, we obtained injunctive relief that prohibits the companies from making representations without prior substantiation, from failing to perform contractual services and from billing for services not performed. Lastly, the injunctive relieve requires extensive written disclosures in the defendants' contracts including all material terms and conditions. The defendants also must implement a series of policies and procedures to ensure the timely processing and response to consumer applications, complaints and refund requests.

Our office along with forty-four Attorneys General reached a settlement with MoneyGram Payment Systems, Inc. Under the terms of the Assurance of Voluntary Compliance, MoneyGram will implement more prominent consumer warnings in its retail locations, institute a program allowing consumers to stop questionable transfers before they are completed, and launch a \$1.1 million national consumer awareness program on how to avoid fraud-induced transfers.

Connecticut and thirty-seven other states reached a settlement with New Jersey-based Educational Research Center of American, Inc. (ERCA), resolving allegations that it failed to disclose to educators that accepting gift cards in return for enticing junior high and high school students to complete ERCA surveys may violate state laws relating to gifts to public officials and compensation to public educators. Under the terms of the settlement, ERCA must clearly disclose how students or parents of students under 18 can opt out of completing the survey, and also must not offer anything of monetary value to educators relating to the collection of personal information from students.

We and thirty-eight Attorneys General offices reached a settlement with Mattel, Inc. and its subsidiary Fisher-Price, Inc., resolving a 16-month investigation into events that resulted in a voluntary recall of Mattel toys found to have excessive levels of lead paint. The agreement requires Mattel to pay the participating states \$12 million and to implement stricter standards in testing toys for lead.

Our office and twelve other states reached a settlement with MillerCoors to stop producing its pre-mixed, alcoholic energy drink, Sparks. As part of the agreement, MillerCoors agreed not to produce any caffeinated alcoholic beverages in the future. MillerCoors also has agreed to stop using images in its marketing that imply energy or power, to cease particular marketing themes that appeal to underage youth, and to not renew its contract with William Ocean, an air guitarist who does a back flip onto an opened can of Sparks at all of his shows.

Connecticut together with twenty-six other Attorneys General offices reached a settlement with Bayer, resolving allegations that the company falsely claimed YAZ was effective for alleviating premenstrual syndrome and acne. As part of the settlement, Bayer must conduct a \$20 million corrective ad campaign to remedy misinformation from the misleading YAZ advertisements.

Connecticut Attorney General Richard Blumenthal and the Department of Consumer Protection Commissioner Jerry Farrell, Jr. reached an agreement with Arizona-based THE company, an operator of a children's talent competition, resolving allegations that the company's contracts with consumers were defective. The agreement provided for changes in THE's business practices and required the company to grant full refunds to consumers who sought to terminate their relationship with THE.

Protection of Confidential Personal Information from Identity Thieves

With our Department's assistance, Connecticut and the Bank of America (which purchased Countrywide Financial Corp.) entered into an AVC after we conducted an investigation into a data breach at Countrywide that affected 29,000 Connecticut residents. The breach involved a former Countrywide employee who downloaded sensitive personal information of Countrywide customers onto a removable storage device and sold that information for profit. The AVC required Bank of America to institute and maintain strict security protocols regarding the storage of sensitive information. Additionally, Bank of America paid a \$350,000 civil penalty and established a restitution fund of \$10,000 to reimburse consumers who paid to place a security freeze on his or her credit file.

Prosecution of Unscrupulous Home Improvement Contactors

This Office remains active in criminally prosecuting unscrupulous home improvement contractors and unlicensed real estate brokers and agents, accepting 141 cases this year for prosecution which yielded \$944,377.25 in court-ordered restitution to victims.

We brought an action in September of 2008, alleging that Bowden Development, TLI, LLC and Lloyd Bowden violated CUTPA by, among other things, making various misrepresentations to induce consumers to contract for the construction of modular homes, failing to comply with statutory requirements for new home construction contracts, and unconscionably and egregiously breaching new home construction contracts. The defendant built modular homes

but allegedly cut corners and allegedly caused severe defects. Eleven consumer victims claim damages of over \$750,000.

We obtained a judgment against CT Developers, LLC, Inner-City Developers, Inc., and Eddy Morales in August of 2008. Under the terms of the judgment, the defendants' new home construction businesses and their principal must restate consumers \$294,668.33, pay civil penalties to the State of \$60,000 and reimburse the State for attorneys' fees and costs. The defendants were alleged to have engaged in the business of new home construction without a registration from the Department of Consumer Protection. They are also alleged to have made misrepresentations to consumers, to have refused to return deposits for work they did not perform, and to have cut corners in the construction of new homes, leaving consumers with unsafe and uninhabitable homes.

Lowering Public Utility Rates and Improving Customer Service

The Attorney General opposed the United Illuminating Company's request for a \$81 million rate increase for 2009 and 2010. The Department of Public Utility Control rejected the Company's request, granting a rate increase of only \$7 million in 2009.

Our office fought for and won a \$15.5 million interim rate decrease for the Southern Connecticut Gas Company and the Connecticut Natural Gas Company. Both rate decreases were triggered by the companies' earning far in excess of their authorized returns on equity levels set by the Department of Public Utility Control.

Upon the request of the Attorney General, the Department of Public Utility Control required every regulated utility company in Connecticut to disclose all executive compensation annually. This office has also fought to improve the customer service operations of several major Connecticut utility companies and has helped resolve numerous individual consumer complaints related to billing and service.

Child Protection Department

The Child Protection Department of the Attorney General's Office is responsible for representing the Connecticut Department of Children and Families (DCF) in state and federal court proceedings brought on behalf of abused and neglected children. The Child Protection Department handles one of the largest caseloads in the office and appears regularly in all sixteen juvenile courts around the state, as well as in federal court and before the state appellate courts. In addition, the Child Protection Department defends DCF in all administrative appeals to the superior court.

This Department is also responsible for a significant number of cases in the courts of appeals, successfully representing the Department of Children and Families in numerous appeals before the Appellate and Supreme Court.

Of particular note were several wins at the Supreme Court, involving important issues concerning children. In *In re Melody M.*, the mother and several of her children appealed a decision terminating parental rights. The Supreme Court found the children had standing to appeal but also concluded that the trial court had an ample basis to find the mother had failed to rehabilitate and that termination was in the children's best interest. The children had challenged

the trial court's reliance on a court-appointed evaluator, but the Supreme Court concluded that the evaluator's testimony was proper.

Another important appeal resolved by the Supreme Court this past year was *Hogan v. DCF*, 290 Conn. 545 (2009). That case, which challenged the constitutionality of the child abuse registry, was an administrative appeal from a hearing officer's ruling finding that an employee's misconduct at a juvenile detention center warranted including him on the registry. The Supreme Court upheld the ruling based on the employee's chronic behavior fostering violence between children at the center as a means of punishing them. The Court pointed out that the employee repeatedly failed to accept responsibility for the incidents, demonstrating the risk that the abuse would continue and supporting inclusion on the registry.

The employee had also claimed the registry was unconstitutional but the Supreme Court rejected these claims finding the statutory scheme was not an improper delegation of power to the executive branch because the statutes established sufficiently clear standards, with a stated purpose to prevent or discover abuse. Nor was the statutory scheme overly broad or vague and gave fair notice to avoid due process concerns.

Of particular note at the Appellate Court, was the Court's ruling in *Taylor F.*, 111 Conn. App. 28 (2008), that trial courts were not to make children testify in juvenile court proceedings and their statements could be admitted through other witnesses, provided there was an adequate basis to find they would be harmed by testifying. That case is now on appeal to the Supreme Court.

Another important victory was the Appellate Court's ruling in *In re Stephen M.*, 109 Conn. App. 644 (2008). There the Court considered whether res judicata applied in a termination of parental rights case – specifically, whether a trial court hearing a termination case may question the basis for the original adjudication of neglect and commitment of the child. The Appellate Court found that the prior rulings, unless appealed, are binding and cannot be challenged either by a parent or by a court in a subsequent proceeding. Because the earlier proceedings are the predicate for subsequent termination cases where the parents have failed to rehabilitate, this ruling clarified that the State is not required to retry the earlier neglect case in order to terminate a parent's rights.

In *in re Francisco R.*, 111 Conn. App. 529 (2008), the Appellate Court elaborated on the concept of predictive neglect. In that case, the child had not been injured; however, the father had been accused of sexually abusing siblings. Although he had moved out of the home, the mother was found to be a victim of domestic violence and very dependent on the father, and nothing prevented the father from returning. Because it is state policy to prevent harm, rather than wait for harm to happen, the Appellate Court affirmed the trial court's finding that the child was neglected.

Environmental Department

This past year, we carried on our litigation against out-of-state power plants whose air pollution travels to Connecticut and harms our citizens' health and environment. We continued our suit against Allegheny Energy for Clean Air Act violations from its coal-fired power plants in Pennsylvania. Along with the states of New Jersey, New York, and Pennsylvania, we allege that Allegheny Energy illegally emits tons of pollution that harms our citizens, and our environment. We joined New Jersey in a suit against Reliant Energy Mid-Atlantic Power Holdings LLC of

Pennsylvania for its violations of the Clean Air Act. In our case against Cinergy Corp and its affiliates, the court ordered a new trial which was completed this past year. More violations were found by the jury. A remedy trial will take place in the fall of 2009.

We continue to combat global warming. After we and other states sued the United States Environmental Protection Agency (“EPA”) for denying California’s request to regulate greenhouse gases from automobiles, the EPA reconsidered its denial of California’s ability to control greenhouse gases from cars. The EPA has now granted California’s request and permitted Connecticut’s regulations, which are identical to California’s, to become effective.

Our appeal of the dismissal of our lawsuit against the five largest emitters of greenhouse gases is pending. We alleged in *Connecticut v. AEP* that the largest power producers in the United States were causing a public nuisance by their emissions of greenhouse gases. Although the district court dismissed the case, we appealed the dismissal to the Second Circuit Court of Appeals.

We achieved great success in our continued efforts to protect Long Island Sound. In the *Islander East* case, after the Second Circuit denied Islander East’s appeal of DEP’s decision prohibiting construction of a gas pipeline through the Thimble Island area, Islander East asked the Supreme Court to review the case. The Supreme Court denied Islander East’s request to hear the case, thereby finally ending the litigation and the serious threat to Long Island Sound posed by the pipeline’s construction. In addition, we successfully opposed the Broadwater floating LNG facility on behalf of the Commissioner of Environmental Protection, preventing another potential disaster to the Sound’s fragile ecology.

This past year we achieved a significant and unprecedented victory which will permit us to pierce a corporate shield and reach defendants who seek to avoid their environmental responsibilities by hiding assets. In the case of *McCarthy v. State Five Industrial Park, Inc and Jean Farricielli*, we sought to enforce a judgment against State Five Industrial Park, Inc. and Jean Farricielli for their role in assisting Joseph Farricielli in hiding assets to avoid his obligations under a 2001 judgment against Farricielli. The court agreed with our position and held the defendants responsible for the 2001 judgment entered against Joseph Farricielli and others.

In the matter of United States and Connecticut v. Sandry and Hoechst, we negotiated a groundbreaking settlement which will remediate the superfund site known as the former Solvents Recovery Services by using state-of-the-art technology. The settlement also requires the responsible parties to pay \$2.625 million in natural resource damages for the loss of groundwater due to contamination emanating from the site.

This year we sought and obtained a temporary injunction against Joseph S. Marcel and Stratford Self Storage LLC to prevent excavation of soils contaminated with waste buried from the former Raymark site. Mr. Marcel was excavating soils that contained asbestos waste, endangering neighbors and the environment. We obtained an immediate injunction preventing further excavation, and addressing the emergency.

We continued our effort to protect The Preserve in Old Saybrook, a unique and pristine 1000-acre parcel along the Connecticut shoreline. In our continuing effort to assist in protecting wetlands and watercourses, we participated in appealing a decision of the court allowing a golf course to be constructed on The Preserve.

In our representation of the Department of Agriculture (“DOA”), we continued to take legal action to save abused or neglected animals, including live stock as well as domestic animals. We successfully negotiated agreements to take ownership of nearly 300 neglected animals, including dogs and horses, thereby permitting them to be rehabilitated and adopted when possible.

We maintain our Animal Abuse Hotline, providing the public with a way to report instances of actual or suspected animal abuse and dog fighting. All of the calls to the Hotline were immediately directed to the appropriate authorities for investigation.

We continued to protect the development rights acquired by DOA through its Farmland Preservation Program. This past year, we assisted the DOA in preserving hundreds of acres of farmland by acquiring the development rights to the land. In addition, we successfully defended against a proposal at the Connecticut Siting Council to install a cell tower on farmland on which the development rights had already been sold to the state for its Farmland Preservation program. In an application brought by SBA Towers II, LLC, to build a cell tower on the Tanner Farm in Warren, we represented the Department of Agriculture which owns the development rights to the farm in opposing the construction of the cell tower. The applicant ultimately withdrew its application.

In the area of enforcement of the solid waste laws, the office continued its successful efforts in prosecuting vehicle forfeiture cases where vehicles used in the illegal dumping of solid waste are seized by municipal police departments. This year we seized three vehicles from polluters caught illegally dumping solid waste, including a truck from a repeat offender. The towns in which the vehicles were seized received the penalties or the seized vehicles.

Our representation of DEP in bankruptcy proceedings continues to prevent polluters from avoiding their environmental liability by attempting to abandon polluted property through the Bankruptcy Court.

In addition, we continue to provide a full range of legal services to both DEP and DOA, including contract review, opinions, the defense of Claims Commissioner matters, legal advice, and counsel.

Finance and Public Utilities Department

The Finance and Public Utilities Department provides legal services to state agencies that regulate insurance, banking, securities, and public utilities, as well as the Department of Economic and Community Development, the Department of Revenue Services, the Division of Special Revenue and the Office of Policy and Management. Legal issues involving state regulation of the finance services industries form a major part of this department’s work.

Predatory lending and illegal lending practices in the mortgage market have been of particular concern to this Department. In a largely unregulated environment, serious abuses and deceptive practices arose in the mortgage lending industry. The Attorney General continues to combat predatory lending practices, in which consumers were often unknowingly enticed into high cost loans that they later could not repay or refinance. In particular, this office sued Countrywide Financial, a major subprime mortgage lender now owned by Bank of America, for unfair and deceptive lending practices, alleging that Countrywide encouraged borrowers to take out mortgage loans it knew they could not afford, improperly inflated borrowers’ incomes to

qualify them for loans, and pressured consumers into taking inappropriate adjustable rate or interest only loans with promises to refinance the loans later. In conjunction with other states, a settlement was reached with Countrywide that required it to offer loan modifications and interest rate reductions to subprime borrowers with adjustable rate mortgages as well as compensation to Countrywide borrowers who had been subject to foreclosure.

With the recent crisis in the financial markets and the general economic decline of the past year, increasing numbers of Connecticut homeowners have faced the threat of foreclosure. A substantial portion of the Finance Department's resources over the past year have been devoted to assisting individual consumers with complaints against banks and mortgage companies or who may be facing foreclosure. The Department's attorneys attempt to mediate informally a resolution of payment disputes, to assist in obtaining loan modifications and offer other help to distressed homeowners. This has become a particularly pressing area as borrowers, enticed by initial low "teaser" interest rates, have seen their adjustable rate mortgages increase sharply, often forcing them into foreclosure. The downturn in the economy has also put many homeowners at risk of losing their homes either because they are unable to refinance because home prices have declined or because of the loss of income. This Department attempts to assist these borrowers at a time when they are under serious financial stress and lack the ability to obtain private legal assistance.

In addition to assisting homeowners with issues involving their mortgages and foreclosure, the Department also assists consumers in a wide range of complaints involving financial services. Such complaints include banking issues such as inadequately disclosed fees or account charges, claims of securities fraud or broker misconduct, and insurance complaints about claims handling and premium increases. Department attorneys assist complainants in dealing with state or federal agencies with jurisdiction over the particular issues or work directly with the bank or company to resolve complaints.

This Department works closely with the agencies it represents in investigating and prosecuting unfair and illegal practices in other areas as well. In particular, this Department has been involved in several significant joint investigations with the Insurance Department, including shutting down an illegal insurance business that offered hole-in-one golf event insurance but failed to make good on claim payments.

Attorneys in this Department also assist the Department of Economic and Community Development, pursuing persons and companies that have defaulted on economic development loans and grants. This Department represents the Department of Revenue Services in appeals to the state appellate and supreme courts. It also provides representation and advice to the Division of Special Revenue in regulating charitable gaming, licensing of lottery agents, and administering the Gaming Compacts with the Mashantucket Pequot and Mohegan Tribes, among other matters.

This Department is responsible for enforcement of the master settlement agreement between the states, including Connecticut, and various participating tobacco product manufacturers and related tobacco issues. In addition to ensuring that Connecticut receives the monetary payments it is owed by tobacco manufacturers, department staff has taken legal actions against tobacco companies that market their products to youth or engage in other unfair advertising practices.

This Department also represents the Department of Public Utility Control and the Connecticut Siting Council in all legal matters at the state and federal level, including

representing the State's interests in matters before the Federal Energy Regulatory Commission that have a great impact on the rates paid by Connecticut consumers.

Child Support & Collections

The Collections/Child Support Department is dedicated to the expeditious recovery of monies due to the State and the establishment of orders for the support of children. Its major client agencies are the Department of Administrative Services/Financial Services Center in matters involving the recovery of reimbursable public assistance benefits and other state aid and care, and the Bureau of Child Support Enforcement within the Department of Social Services in the establishment of child support orders. Additionally, the Department provides legal services in connection with the enforcement of child support orders at the request of the Support Enforcement Services division of the Judicial Branch. Department staff also provide a full range of litigation services for the collection of debts, other than child support, owed to the Departments of Social Services, Revenue Services, Correction, 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 Secretary of the State, the State Elections Enforcement Commission and various other state agencies, boards and commissions on a case-by-case basis.

In fiscal year 2008-2009 Department attorneys recovered cash payments on debts owed to the state of more than eleven million dollars.

Child support establishment activities traditionally produce large caseloads. In fiscal year 2008-2009 just under 11,000 cases were opened in all categories and over 8,343 files were closed during the period. These cases occurred in both the Superior Court and the Family Support Magistrate division and involved the establishment of orders for support of children wherever they or the non-custodial parent may be. Department attorneys actively argued cases on behalf of children who resided not only in the State of Connecticut, but also on behalf of children who resided in other states and countries, pursuant to the Uniform Interstate Family Support Act. In addition to its functions establishing support orders for children, the Department's attorneys participated in probate and superior court proceedings to protect the support rights of children against parents seeking to terminate their parental rights to avoid their support obligations.

Department attorneys were engaged in a wide variety of litigation activities and recovered significant sums on behalf of state agencies during the fiscal year. In addition to the Department prevailing in two (2) cases decided by the Connecticut Appellate Court, an attorney of the Department collaborated with a member of the Special Litigation Department in the matter of *Heffernan vs. Connecticut*, Civil Action No. 09-1438, U.S. Court of Appeals for the Third Circuit, wherein the Attorney General prevailed in the appeal of a U.S. District Court decision that the state had the right to seek criminal prosecution of a former officer responsible for the bankrupt corporation's failure to pay employee wages. In a case of first impression wherein the Bankruptcy Court requested the state to intervene, a Department attorney successfully argued that Connecticut's homestead exemption was not pre-empted by a provision of the Bankruptcy Code and, therefore, the Code did not permit the avoidance of liens that were perfected prior to October 1, 1993. *The Cadle Co. v. Banner, (In re Banner)*, 394 B.R. 292 (Bankr. D. Conn. 2008). In *Kraiza v. Commissioner of Revenue Services*, Superior Court Tax Session, 2009 Conn. Super. LEXIS 136, (February 2, 2009), an attorney of the Department successfully defended a taxpayer's appeal of a state income tax assessment in excess of \$100,000.00, wherein the court upheld the state's position that tax assessments are not final while an appeal of the assessment is pending

and, therefore, the taxpayer's taxes were not discharged under relevant Bankruptcy Code provisions.

Continuing with an initiative commenced two years ago, a Department attorney assisted the Office of the Secretary of the State in recovering payment of fees, penalties and interest due from foreign corporations doing business in Connecticut that had failed to comply with the statutory registration requirements and pay the required fees. More than \$1,200,000.00 in such fees, penalties and interest were collected during the 2008-2009 fiscal year.

In *Estate of Newell* a member of the Department recovered \$334,752.24 upon the termination of a Special Needs Trust and in *Trust FBO Peter Maschi* the Department recovered \$398,799.339 upon the termination of that trust. In *Estate of Mongeau* the Department successfully recovered \$481,088.12 in accident-related Medicaid and other public assistance benefits. A Department attorney prevailed after trial in establishing the state's claim for unpaid sales taxes and collected \$211,061.95 owed by A-Plus Auto Wholesalers, *In re A-Plus Auto Wholesalers*, (Bankr. D. of Connecticut). In *In re Marathon Heath Care Group*, (Bankr. D. of Connecticut), the Department successfully established the priority of the Department of Revenue Services' secured claim over other creditors and recovered in excess of \$900,000.00 on account of unpaid provider taxes. A member of the Department also prevailed in a challenge to a Department of Revenue Services' tax audit and collected \$196,000.00 in unpaid taxes from Linens & Things, *In re Linens Holding Company*, (Bankr. D. of Delaware). A total of \$573,950.70 in state institutional care, accident-related Medicaid and other public assistance was successfully recovered in *Estate of Davis*. A member of the Department also recovered \$300,000.00 in Medicaid public assistance benefits upon the termination of the trust in *Trust FBO Goodsteine*.

Employment Rights

This department defends state agencies and state officials in employment related litigation and administrative complaints and provides legal advice and guidance to state agencies on employment issues. We are currently defending the state in approximately 180 employment cases in the state and federal courts, as well as more than 200 complaints before the Connecticut Commission on Human Rights and Opportunities and the Equal Employment Opportunities Commission.

During the past year, the department successfully defended state agencies in several significant cases. We are continuing to defend the Department of Correction in a lawsuit in which unsuccessful applicants for correction officer positions are challenging the validity of the physical fitness test administered to candidates for that position. We were also involved in a case in which the Connecticut Supreme Court clarified the applicability of the doctrine of sovereign immunity to discrimination cases brought against state agencies at the Connecticut Commission on Human Rights and Opportunities. In another case, we successfully defended the Department of Education in a lawsuit filed by a former high school teacher whose contract was not renewed after he had been found to have repeatedly engaged in inappropriate conversations with students via a MySpace account. The court recognized that the disruption caused by such conduct justified the Department's actions.

In addition, we prevailed in numerous other cases in the state and federal courts. Significantly, we were able to obtain favorable rulings on 23 summary judgment motions that were filed, eliminating the need for trials in those cases. We also obtained partial summary judgment rulings in 7 other cases and filed an additional 10 such motions, which are pending.

We obtained verdicts in favor of state agencies in 3 cases that were tried in the Office of Public Hearings at the Commission on Human Rights and Opportunities. In several other cases, we were able to achieve settlements on terms that were favorable to the state, saving the state millions of dollars. We routinely appear on behalf of state agencies before the Commission on Human Rights and Opportunities at fact-finding sessions and public hearings.

We also successfully defended several appeals during the past year. We obtained favorable rulings from the Court of Appeals for the Second Circuit in six such appeals. In addition, we are awaiting rulings in 7 other cases that we argued in the state and federal appellate courts. One of those appeals involves lawsuits that were brought by state employees against co-workers who had reported misconduct and/or participated in internal investigations that were conducted by state agencies. In these cases, we are arguing that workers who come forward to report misconduct or incidents of violence or threatened violence in the workplace are entitled to absolute immunity from suit. These cases are significant because of the chilling effect that such lawsuits have on the willingness of employees to report such incidents or to cooperate in investigations being conducted by the employer.

The department successfully concluded a lawsuit brought against the Department of Correction by several female correction officers who alleged that they were subject to sexual harassment at work. We assisted the DOC in implementing the terms of a stipulated agreement that make improvements in the manner in which DOC deals with sexual harassment complaints made by its employees. In addition, after extensive negotiations, we were able to reach an agreement that resolved all of the monetary claims of the female employees in that case. The agreement was approved by the Connecticut General Assembly in May 2009.

The department regularly provides legal advice and counsel to state agencies on a variety of employment matters, as employment law is a rapidly evolving area of the law. During the past year we participated in several training sessions and seminars for state employees on employment related issues. For example, we assisted the Permanent Commission on the Status of Women in training employees who have been designated to represent their agencies in discrimination complaints filed with the Commission on Human Rights and Opportunities and the Equal Employment Opportunities Commission. In addition, we provided training to new state managers through a program provided by the Department of Administrative Services.

Special Litigation & Charities

This Department represents the Governor, the Judicial Branch, the General Assembly, 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 State Properties Review Board, the Judicial Review Council, the Judicial Selection Commission, the Office of Protection and Advocacy for Handicapped and Developmentally Disabled Persons, the Accountancy Board, the Office of the Child Advocate, the Office of the Victims Advocate, the Commission on Children, the Latino and Puerto Rican Affairs Commission and the Office of the Chief Child Protection Attorney. In addition, through its Public Charities Unit, the Department protects the public interest in gifts, bequests and devises for charitable purposes; and in cooperation with the Department of Consumer Protection, administers and enforces state laws regulating charities and professional fundraisers who solicit from the public.

In the area of charitable trusts and gifts, the Department conducted investigations and brought actions against several entities to ensure that charitable gifts were being used for the purposes for which they were given. In the area of charitable solicitations, the Public Charities Unit initiated and/or settled a number of significant cases involving misuse of funds solicited from the public.

The Department continues to monitor solicitations by charitable organizations, and provides information to members of the public to assist them in making informed decisions on charitable giving. Currently, 10,516 charities, and 72 professional fundraisers are registered with the State. Registration information includes contact information for the charities, lists of current officers and directors, and the charities' most recent fiscal year's financials. From this information, individuals can learn the percentage of a charity's income that is spent on its charitable program expenses, as compared to its administrative and fundraising costs. The Department makes this information available to the public so individuals can make informed decisions on contributing to charities.

The Department also represents the interests of the people of the State in appeals by Indian groups from denials of tribal recognition by the Bureau of Indian Affairs ("BIA") in the United States Department of the Interior and in litigation involving land claims brought by groups claiming Indian ancestry. The Department also provides advice and counsel to numerous state agencies regarding issues of Indian law.

The Department has participated in litigation and various regulatory proceedings to prevent harm to Long Island Sound posed by a number of energy projects, including the Broadwater Gas Terminal. The Department's efforts in the Broadwater case resulted in an historic victory before the U.S. Department of Commerce, effectively ending the project in its current form. Additionally, the Department continues to be involved in several court and administrative proceedings related to nuclear safety issues at the Indian Point Nuclear Facility located in Buchanan, New York, which is within eleven miles of Fairfield County. Furthermore, the Department has been active in representing the interests of the State in regard to major regional energy projects such as the proposed Iroquois Market Access and Northeast 2008/2009 Pipeline and compressor station projects.

The Department has represented the State's interest in a number of important cases including: (1) Led eight States in bringing an action to enjoin the federal Department of Health and Human Services from implementing "midnight" regulations of the Bush Administration, commonly known as the "Provider Conscience Rule," that would have seriously impaired women's health and threatened billions of dollars in federal funds to Connecticut and other states. The lawsuit resulted in the Obama Administration taking steps to rescind the new rule, by issuing new proposed regulations. (2) Successfully prosecuted a for-profit clothing bin operator for the deceptive use of charities' emblems on its bins. The emblems created the impression that the donations of used clothing benefited the identified charity, but they only benefited the for-profit owner of the bins. The court awarded injunctive relief and civil penalties. (3) Successfully defended a constitutional challenge to recent amendments to the State's "Bottle Bill" laws that sought a temporary injunction prohibiting the State from enforcing those new laws and collecting millions of dollars in bottle deposits. (4) Defended an action challenging the constitutionality of the Campaign Finance Law in federal court. (5) The Department continues to prosecute a first of its kind lawsuit in federal court on behalf of the State of Connecticut and the Legislature against the United States Secretary of the Department of Education to enforce express mandates of the No Child Left Behind Act which prohibit the Secretary from imposing education requirements on the State without providing adequate funding to pay for them. (6) Defended the State's interests

in an appeal to the Connecticut Supreme Court involving state constitutional requirements related to education. (7) Continue to prosecute a declaratory judgment action against the Mashantucket Pequot Tribal Nation, owners of the Foxwoods Casino, seeking to require the Tribe to include the value of coupons used in slot machines for promotional purposes in its calculation of monies owed to the State. (8) Continues to prosecute an action against Accenture, Inc. to recover damages to the State for breach of contract resulting from Accenture's actions in improperly releasing certain confidential information including taxpayers' social security numbers and State bank accounts. (9) The Department is also representing the interests of the State in litigation in the District of Columbia Circuit Court regarding the Federal Aviation Administration's mammoth airspace redesign project.

The Department plays a leading role in the preparation of appeals throughout the office. This year, the Department's attorneys briefed and argued a number of significant cases in the State Appellate Court, and the State Supreme Court, the United States Supreme Court and the Second Circuit Court of Appeals, and other appellate courts. The Department also operates a Moot Court program for attorneys in the Office, and plays an important role in the Office's participation as amicus curiae in cases before the United States and Connecticut Supreme Courts.

Public Safety & Special Revenue

This department represents the Department of Public Safety, including the Division of State Police, the Division of Fire, Emergency and Building Services; the Military Department; the Department of Correction; the Department of Emergency Management and Homeland Security, the Division of Special Revenue and the Department of Consumer Protection Liquor Control Division. It also provides legal services and representation to a number of associated boards, commissions and agencies, including the Division of Criminal Justice, the Division of Public Defender Services, the Office of Adult Probation, the Governor's Office (Interstate Extradition), the Statewide Emergency 9-1-1 Commission, the State Codes and Standards Committee, the Crane Operator's Examining Board, the Board of Firearms Permit Examiners, the Commission on Fire Prevention and Control, the Board of Pardons and Paroles, the Police Officer Standards and Training Council, the State Marshal Commission and Office of Victim Services.

Department of Correction

Although we provide legal services to and represent a variety of state functions in the area of public safety and criminal justice, a substantial portion of our work is in defense of the state in lawsuits brought by and on behalf of prisoners. We continue to defend a large number of lawsuits challenging conditions of confinement in state correctional facilities and the administration of community programs. 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. Our efforts in defense of these cases save the State of Connecticut millions of dollars in claimed damages, and preserve the state's authority in administering a growing prison population. In addition, this department has assisted in the collection of thousands of dollars in costs of incarceration.

We continue to defend numerous challenges involving conditions of confinement and the application of the "good time" statutes to multiple sentences. We handled numerous appeals in the Connecticut Supreme and Appellate Courts involving the issue of "time calculation." Our department is currently handling the case of *Lantz v. Coleman*. This case involves an inmate who

has been on an extended hunger strike to protest what he claims to be a corrupt judicial system. The court, following an evidentiary hearing, granted the Commissioner of Correction a temporary injunction to force feed the inmate to preserve his life. The inmate continued with his hunger strike and he has been forced fed a number of times. A trial was held and the court is expected to issue its decision later this year.

Board of Pardons and Paroles

We have been defending a number of cases involving the Board of Pardons and Paroles. These cases involve challenges to the Board's authority relative to granting, rescission and revocation of paroles. In addition, we have been assisting the Board in developing and adopting regulations necessary for the functioning of the Board. In particular, we have helped the Board draft appropriate regulations for an administrative pardons process and for revocation and rescission of parole. Lastly, we have provided the Board with training on legal issues involving its hearing procedures.

Department of Public Safety

We have the responsibility for the defense and representation of almost all the lawsuits involving the State Police seeking money damages. Our caseload of police litigation continues to grow. In the past year, we successfully litigated a number of cases in federal court and received favorable decisions in many of those cases.

We successfully obtained an injunction against the fireworks industry preventing it from selling dangerous and illegal fireworks in the State of Connecticut. That case represents one of many such cases where the Office of the Attorney General has gone to court to protect consumers from the dangerous consequences of illegal fireworks. We continue to represent the Department of Public Safety in administrative appeals involving the State Building Code and Fire Safety Code. We also routinely appear on behalf of the department before the Freedom of Information Commission. Lastly, we review contracts and regulations for the department.

Board of Firearms Permit Examiners

During the past year, we provided legal advice and representation to the Board of Firearms Permit Examiners on a number of issues. We have handled several appeals to the Superior Court from the Board's decisions and continue to work with the Board and the Department of Public Safety to enforce the firearms laws of the State of Connecticut.

Liquor Control Division

During the past year, we have handled a number of administrative appeals involving the Liquor Control Division. In addition, we provided the Division with advice on a number of legal issues concerning enforcement of the liquor law.

State Marshal Commission

We have provided legal advice to the State Marshal Commission on several matters during the past year. In addition we have assisted the Commission in responding to complaints regarding state marshals. Lastly, we have collaborated with the Commission in developing legislation to improve the state marshal system.

Division of Criminal Justice & Division of Public Defender Services

We have appeared and defended numerous cases involving the Division of Criminal Justice and the Division of Public Defender Services. These cases often raise constitutional questions and governmental immunity issues.

Health, Education and Human Services Department

The Health, Education and Human Services Department provides legal services and representation to a broad spectrum of state agencies, which includes the University of Connecticut, the Connecticut State University System, the Connecticut Community College System, the State Department of Education and all other state agencies that have an educational function. This Department also represents the Department of Public Health, the Department of Social Services, the Department of Mental Health and Addiction Services, the Office of Health Care Access, the Psychiatric Security Review Board, the Department of Developmental Services, the Department of Veterans' Affairs, the Commission on Medical and Legal Investigations overseeing the Office of the Chief Medical Examiner and the various health licensing boards and commissions.

After the sudden closure and subsequent filing of a bankruptcy petition of the Connecticut School of Broadcasting, the office worked with the owner to present a plan to the Bankruptcy Court to allow the school to complete unfinished classes for all of its students (Connecticut and nationwide) so that these students could receive their degrees. Subsequently, this office was able to announce that the school had been purchased by its former owner, Dick Robinson, and that the two Connecticut locations of the school would reopen during the summer of 2009. Under the agreement, students with outstanding deposits will receive full tuition refunds. In addition, the school will undergo renovations and a technology upgrade. Alumni will have the benefit of job placement services and access to the school's technology for making demo tapes and other marketing ventures.

In addition, the office negotiated a settlement agreement with the United States Department of Justice resolving threatened civil rights litigation against Connecticut Valley Hospital. The settlement agreement will lead to improved operations and services at the hospital and provides for a designated consultant who will monitor compliance with the settlement agreement.

The past fiscal year was very busy in terms of nursing home issues. Our office was heavily involved with respect to the six Connecticut nursing homes that were part of the Marathon Healthcare nursing home chain. Marathon had filed for bankruptcy under Chapter 11 just as our office was preparing to file a state receivership petition. Our office worked extensively with the Department of Social Services and the Department of Public Health to support the sale of the homes to a new operator. When the buyer backed out of the acquisition, this office secured the transition of the six nursing homes to a state court receiver and recently, the sale of the facilities to a new operator. In addition, the office secured a state court receiver for the Crescent Manor nursing home due to the financial failure of the facility. Finally, three of the former Haven nursing homes in receivership were successfully marketed and a buyer has been selected by the court.

We continued to work with the Department of Public Health to further its role as a health regulatory enforcement agency. These activities included, among others, obtaining an injunction in *DPH v. Christina Kelly-Hunter* for practicing marriage and family therapy without a license, an injunction against an unlicensed youth camp in *DPH v. Page*, and achieving the revocation of a day care facility license held by Five Star Day Care in connection with numerous charges, including the failure to report suspected child abuse. We were also successful in defending a number of challenges to the regulatory authority of DPH and the licensing boards, including the granting of a motion to dismiss an injunction action seeking to preclude the Board of Examiners for Nursing from hearing disciplinary charges against a nurse and a challenge to the Board of Veterinary Medicine before the Appellate Court for disciplining a veterinarian for negligent conduct. The office was successful in defending a challenge before the Connecticut Supreme Court by a funeral director who claimed that members of the Board of Examiners of Embalmers and Funeral Directors were biased because professional members of the board were competitors of the disciplined funeral director. The office was also involved in numerous matters involving environmental health, including asbestos, sewage treatment and public water systems.

During the past year, the office has had a number of matters involving the Psychiatric Security Review Board, including a decision in the Connecticut Supreme Court which upheld the authority of the board to determine the appropriate level of secured inpatient facility for persons acquitted of crimes due to mental illness. The office also successfully defended a federal court action challenging the decision of the Board to rescind a grant of temporary leave for an acquittee.

Our office continued to provide a broad array of legal services to the Connecticut State University System during this past year. Some of these services included assisting with the preparation and/or revision of policies of the Board of Trustees, determining whether activities under consideration by the universities complied with applicable laws and regulations, and providing advice and guidance to the Chancellor, System Office senior staff and university presidents on a wide variety of issues.

Our office continues to provide oversight of all University of Connecticut-related legal matters. This responsibility continues to increase as the University grows and higher education matters become more complex. In addition to attendance by members of this office at over 600 meetings with University administrators this past fiscal year, this office continues to provide representation on behalf of the University before administrative agencies such as the Office of the Claims Commissioner, the Freedom of Information Commission and the Commission on Human Rights and Opportunities, as well as in state and federal court.

The University of Connecticut Health Center presents broad and challenging legal issues that arise from the operation of an academic health center with a budget approaching \$800 million. Significant legal advice was given in the areas of human resources, human subjects research, scientific misconduct, medical treatment, HIPAA compliance, medical staff issues, residency program issues and the Health Center's Correctional Managed Care program. In addition, our office appeared regularly at probate hearings relative to the hospital's two locked psychiatric wards, engaged in a broad range of lease and contract negotiations and appeared before various administrative agencies, including the Office of the Claims Commissioner, the Freedom of Information Commission and the Commission on Human Rights and Opportunities. In addition, we have been active in advising the Health Center's rapidly growing Office of Audit, Compliance and Ethics to ensure full compliance with all federal and state laws and regulations. Of note the office is actively involved in advising both the Health Center and General Assembly regarding the proposed clinical integration between the Health Center and Hartford Hospital and

a proposed collaboration which would integrate the research and educational efforts of a number of hospitals in the Hartford area.

The members of the Health and Education Department within the Office of the Attorney General work hard to provide the legal services required by the many agencies we represent and advise. At the end of the 2008 fiscal year, this Department had 140 state and federal court cases pending at the trial or appellate level, as well as 159 administrative proceedings pending before various state agencies. Additionally, more than 3,300 contracts were reviewed within this Department during fiscal year 2009.

Workers' Compensation/Labor Department

The Attorney General's Workers' Compensation and Labor Relations Department represents the Second Injury Fund in Workers' Compensation cases and provides a wide range of legal services to the Connecticut Department of Labor.

In Office of Labor Relations v. New England Health Care Employees Union, District 1199, AFL-CIO, 288 Conn. 223 (2008), the Connecticut Supreme Court held that an arbitration award that applied to all employees covered by a collective bargaining agreement exceeded the submission to arbitration which was limited to grievances of three employees over premium holiday pay. This case of first impression in Connecticut established that an arbitrator, in applying a contract to grievances of individual employees in grievance arbitration, cannot set terms of a contract applicable to all employees in the bargaining unit. The Supreme Court's holding also extends the principle that an arbitration award cannot exceed the scope of the submission.

In Shah v. Administrator, Unemployment Compensation Act, 114 Conn. 170 (2009), the Appellate Court held that a motion to correct the findings of the Employment Security Board of Review is an absolute precondition to challenging those findings in an unemployment compensation appeal. The Court held that a motion to reopen to the Board could not be considered a motion to correct the findings, even where the plaintiff was pursuing the appeal *pro se*.

In Dzienkiewicz v. Department of Correction, 291 Conn. 214 (2009), the central issue concerned a trial commissioner's determination of the admissibility of a decision of the state Medical Examining Board awarding the Claimant a work-related disability pension as a result of suffering a stroke. At trial, the Claimant's attorney argued that the state Medical Examining Board's decision constituted an admission by the state on the question of whether Claimant's stroke was work-related for purposes of the Workers' Compensation Act. The Commissioner sustained the state's objection to the proffered evidence and ultimately found the Claimant's stroke was not compensable under our Workers' Compensation Act. On appeal, the Supreme Court held that the decision of the Medical Examining Board did not constitute a judicial admission and was not binding on the trial commissioner. In its decision, the Supreme Court soundly rejected the argument that a decision by one state agency is binding on another state agency.

In McCann v. DEP, 288 Conn. 203 (2008), the Supreme Court upheld the agency dismissal of a state employee who violated the State's personal computer use policy manual when he repeatedly accessed pornographic websites on a government issued laptop computer.

In *Dauphinais v. Cunningham, et. al.*, a United States District Court judge dismissed a civil RICO case against the state defendants on several grounds, including that government employees, acting in their official capacities, are legally incapable of engaging in RICO conspiracies.

In *Michael Gardner v. State of Connecticut*, (July 2, 2009), a trial judge granted the state's motion to strike a wrongful termination action brought pursuant to Conn. Gen. Stat. Sec. 31-290a on grounds that, in order to sue the state of Connecticut under Conn. Gen. Stat. § 31-290a, the plaintiff must allege *respondeat superior*.

In *McFarland v. Department of Developmental Services, et. al.*, 115 Conn. App. 306 (2009), the Appellate Court held that, although the plaintiff met his burden of establishing his entitlement to workers' compensation benefits for the time period in question, the commissioner improperly ordered payment of temporary total disability benefits without ordering a deduction or offset to prevent a double recovery, the plaintiff having been paid his full wages for the same time period. The Court further held that the commissioner's award of attorney's fees was improper because the commissioner's factual finding underlying the award was not supported by the record. The case was remanded to determine the amount of indemnity benefits to which the plaintiff is entitled.

Torts/Civil Rights

The Torts/Civil Rights Department defends state agencies and employees in tort and tort-like civil rights actions, including high exposure personal injury and wrongful death actions. A substantial number of cases arise from alleged injuries at state educational facilities, such as the vocational high schools and state colleges, and allegations involving children in the care of the Department of Children and Families ("DCF"). The origin of the remainder of cases is spread among many agencies and reflect the varied activities and services in which the state is involved -- from providing direct treatment to those with mental illness or mental disability, to operating schools and colleges, having recreational parks and swimming areas, being a landowner and controlling many buildings and other premises, obtaining custody of abused/neglected children, or holding those arrested by police in Judicial cells. Many of these cases seek large sums in damages from state coffers. Department attorneys have saved the State millions of dollars by obtaining favorable judgments and settlements for the State in the courts and at the Claims Commission.

In the past year, we obtained some important legal decisions:

In *Leone v. Whitford*, the Second Circuit affirmed the district court's grant of the defendant state employees' motion for summary judgment. The plaintiff, a student who did not complete the necessary requirements to obtain a specific degree, alleged a Fifth Amendment Takings Clause violation. The Court agreed that there was no evidence of a promise by anyone in authority to grant her the degree.

In *Barber v. City of Norwich*, the District Court dismissed the plaintiff's ADA and Rehabilitation Act case on the basis of 11th Amendment immunity.

In *Hernandez v. Carbone*, the District Court dismissed a case challenging the constitutionality of Connecticut's bail system. The court held that the "as applied" claims were

moot and that Younger abstention principles prevented the court from deciding the facial challenge to the bail statutes.

In *Tustin v. Jayaraj*, the District Court granted our motion to dismiss an action brought by the estate of a patient at the Veteran's Home and Hospital who allegedly fell (and subsequently died due to complications) while there. The case was brought as a section 1983 case under the Eighth and Fourteenth Amendments but the court agreed that it was a medical malpractice claim disguised as a constitutional challenge.

In *Barker v. St. Pierre*, the superior court dismissed on the basis of Conn. Gen. Stat. § 4-165 immunity and parental immunity a tort action against a foster family sued by a foster child who had been hurt by an ATV driven by another child on their property.

In *Claim of Boucher*, the Claims Commissioner denied a claim by a home improvement contractor alleging defamation by the Commissioner of Consumer Protection. Seven elderly victims of the claimant contractor testified on behalf of the Commissioner.

Positive settlements were reached in various personal injury cases. In addition, when any dangerous condition or practice is revealed during our representation, the Department advises agencies regarding the need for physical or policy changes to increase safety.

Transportation

The Transportation Department of the Office of the Attorney General provides representation for the following state agencies: Department of Transportation ("DOT"); Department of Public Works ("DPW"); Department of Administrative Services ("DAS"); Department of Motor Vehicles ("DMV"); Department of Information Technology ("DOIT"); Department of Economic and Community Development, Housing Matters ("DECD"); the Department of Environmental Protection ("DEP") real property matters, and the Connecticut Historical Commission. In addition, the Transportation Department provides representation for various occupational licensing boards within the Department of Consumer Protection ("DCP"). The representation of the foregoing state agencies/boards includes, but is not limited to, counseling and advice on legal issues, the prosecution or defense of lawsuits or claims in both federal and Connecticut courts, and before various administrative entities, including the defense of claims filed with the Office of the Claims Commissioner pursuant to Chapter 53 of the Connecticut General Statutes.

As a result of the large number of public works projects undertaken by the State during any given year, and the broad scope and complexity of many of these projects, there is a continuing need for the attorneys in the Transportation Department to provide legal assistance to the DOT, DPW, DAS and all other state agencies including the Joint Committee on Legislative Management ("JCLM"), the administrative arm of the General Assembly, and the State Contracting Standards Board on public contracting issues. Other legal assistance is in the resolution of bid protests, the interpretation of contract language, and other problems that eventually arise during the course of large construction and statewide procurement projects.

This past year has been consumed with the prosecution and defense of several major lawsuits and appeals. Of special note is that the state settled its case, *DOT v. L.G. Defelice*,₂ involving the complete failure of the drainage system constructed by L.G. Defelice in the

reconstruction of I-84 in the Cheshire/Waterbury area. After a sinkhole opened up in the early winter of 2006, DOT discovered that the drainage system was a complete failure and the catch basins, metal beam rails and light poles were installed incorrectly over a 3 ½ mile stretch of highway. The recovery of \$22.1 for the defective work completely compensates taxpayers for the costs of repairing this project.

The Transportation Department is pursuing damages in the following cases: *State of Connecticut v. Lombardo Bros. et al.*, involving the construction failures of the façade and massive leaks at the UCONN Law Library. *State of Connecticut v. Bacon Construction et al.*, involving the construction failures resulting in the massive leaks at many of the buildings at York Women's Prison in Niantic. *State of Connecticut v. MAXIMUS Inc.*, for Maximus' failure to provide the Departments of Information Technology and Public Safety with a working new COLLECT System for law enforcement activities and motor vehicle violations. *State of Connecticut v. Lama*, involving the unauthorized clear cutting of mature trees on DOT's property. *State of Connecticut v. CPC*, for fraudulently concealing CPC's omission of a part required by contract to be included in nearly 10,000 computers purchased by State agencies.

In addition, this Department currently has several appeals pending before the Connecticut Supreme Court which could significantly impact the state, including *State of Connecticut v. Lombardo Bros. et al.*, and *State of Connecticut v. Bacon Construction et al.*, as well as other construction cases, because the issues involve the applicability of statutes of limitation and repose in construction cases, as well as the interpretation of a key term in Connecticut General Statute § 4-61, matters of first impression for the Court.

Procurement issues and responsibility determinations of apparent low bidders on DOT and DPW construction projects and DAS procurement awards continue to be handled by this Department.

Despite the best efforts of all involved, some construction problems simply cannot be resolved to the satisfaction of the parties and thus claims for money damages are made against the State. The attorneys in the Transportation Department assist agency personnel with early analysis and settlement negotiations in an attempt to quickly resolve outstanding disputes and minimize the potential adverse financial impact of such claims on the public treasury. Nevertheless, a certain number of claims, both legal and monetary, end up in court or arbitration.

Among many of the cases this Department handles are all matters involving the Department of Motor Vehicles including all drunk driver cases and cases involving complaints regarding dealers and repairers and the emissions program. The successful defense of these cases helps keep the roads safe from drunk drivers by closing loopholes in our drunk driving statutes and case law.

The Department is also responsible for handling Historic Commission matters and is called upon to seek the court's protection of historic properties facing destruction by owners or developers. See C.G.C. §22a-19a. *In the matter of the Grumman St. John House*, which is part of the Norwalk Inn in Norwalk, this Department succeeded in stopping the owner from destroying the historic property in 2007. Since that ruling, the owner has refused to protect the property from further deterioration which would result in the defacto destruction of the property. Earlier this year, this Department succeeded in getting the court to order the Inn to fix the damage resulting from its purposeful neglect of the house.

The Transportation Department is also responsible for handling housing matters for the DECD as well as all employee housing matters throughout the state and the many foreclosures in which the state has an interest in the property. We have issued Notices to Quit to state employees as well as non employees in order to transition non rent paying employees to rent payers and to evict non employees. Most of these matters have resulted in amicable settlements.

Our DOT representation also covers all matters relating to eminent domain and rights-of-way issues and surplus property divestitures; any issues as to properties and facilities including all I-95 and the Merritt Parkway service plaza facilities; aviation and ports; public transit; rails; the State Traffic Commission; Siting Council issues relating to the use of DOT's rights of way by transmission facilities, and telecommunication facilities; and all environmental matters including permitting, salt shed and maintenance facilities located throughout the State. During the preceding year we, in conjunction with DOT staff, we have assisted in the development of various master contracts for use in all areas of contracting at both the DOT and DPW and contracts covering stimulus monies received by the federal government in the Economic Stimulus Recovery Program. We disposed of 8 eminent domain appeals by trial, 19 eminent domain appeals by stipulated judgment, 2 voucher approvals and 6 administrative settlements, and received 22 new appeals during the last fiscal year. There are currently 70 eminent domain appeals in litigation. We counseled the DOT regarding the divestiture of 53 surplus properties.

The Transportation Department also represents the DEP in property matters. Of particular significance: the provision of legal services to the DEP in connection with the procurement of conservation easements resulting in the dedication of thousands of acres to public recreation; and the provision of legal advice on complex property law issues. The value of the DEP real property transactions totaled \$16,365,280.54. These services included 93 conveyances of real property, 4 leases, 29 open space grant agreements, 41 conservation easements, and a total of 19 easements and other agreements.

Our representation of DPW also consists of construction matters as well as handling a large amount of leasing, property management, and environmental challenges on siting issues. During the past year, we provided legal counsel and review of 21 leases, 27 license agreements, and 85 contracts. This is exclusive of DPW real estate transactions in the form of deeds, easements, and purchase and sale agreements.

In addition to the noted construction contracting matters, the Transportation Department is deeply involved in various environmental matters associated with public works projects, roads and bridges projects, and other activities of our client agencies. A major continuing responsibility is to provide appropriate legal assistance and guidance to these 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, we assist these agencies in their efforts to comply with the requirements of the National Environmental Policy Act ("NEPA"), the Connecticut Environmental Policy Act ("CEPA") and other federal and Connecticut regulations that have been enacted to balance the need to develop our state economy and governmental services with the need to protect the air, water and other natural resources of the state. In this regard, the Department assists the agencies in preparing and obtaining required environmental permits from both Connecticut and federal regulatory agencies -- the Connecticut Department of Environmental Protection and the United States Army Corps of Engineers -- and defends our client agencies in court when environmental challenges are brought.

Affirmative Action

The Office of the Attorney General is firmly committed to equal employment opportunity. Nearly 49% of the full-time attorney workforce consisted of women and minorities. Women and minorities comprised 58% of entry level attorneys and 46% of middle and high level attorneys.

Volunteer Programs

The Office of the Attorney General welcomes volunteers who desire to help and assist the people of Connecticut. In this past fiscal year, volunteers have played a key role in achieving the public service goals of the Attorney General.

Twelve volunteer consumer advocates helped this office assist consumers in resolving problems they encountered when purchasing goods and services and helped them obtain the refunds or bill credits to which they were entitled. In this past fiscal year, these volunteers donated approximately 1000 hours to work for Connecticut consumers.

This office also manages a volunteer intern program for students. While the interns are generally law school students, high school, college and graduate school students also participate. These interns are given an inside view of the state's largest public interest law firm, assist in critical investigations and legal actions undertaken by the Attorney General and help serve the state and its people.

This past fiscal year, 92 interns took part in our volunteer program, each working approximately 8 weeks. The total cost to this office for those two volunteer programs was approximately \$500.00 for incidental expenses.