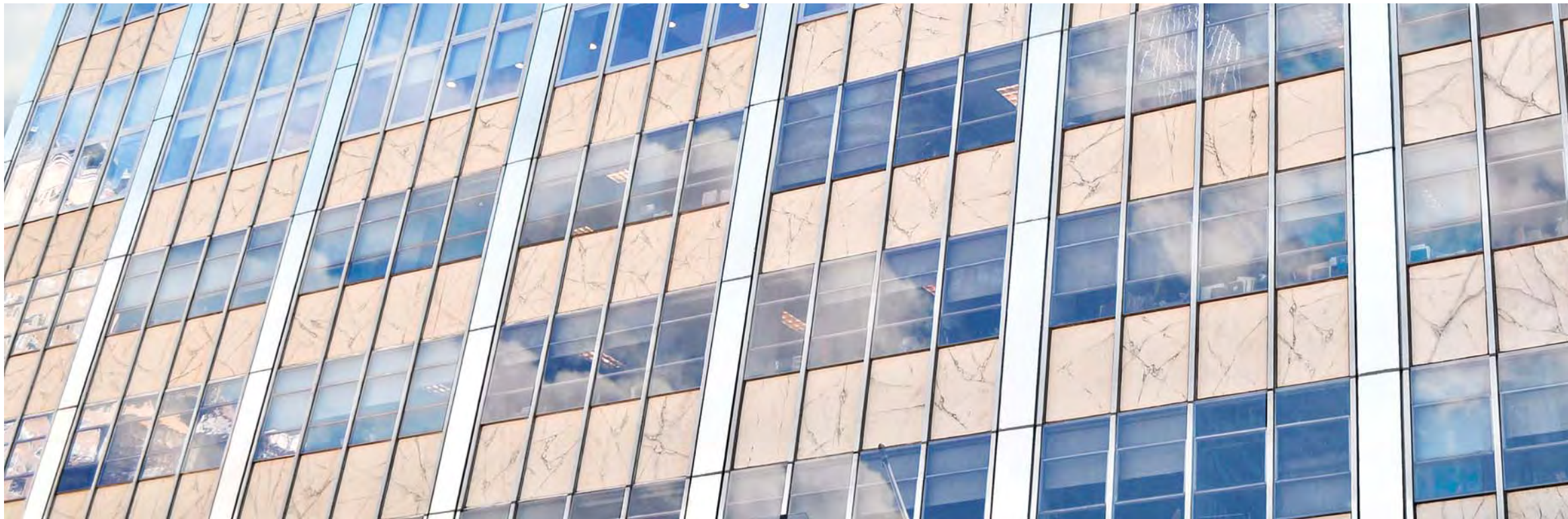


NEW YORK CITY LAW DEPARTMENT
2010 ANNUAL REPORT

Rising to Modern Challenges



Dedication to—and excellence in—public service are enduring values that have sustained the Office of the Corporation Counsel from its early roots, 400 years ago, through the present day. In recent years, the office has expanded these tenets into a mission: to be the finest public law office, providing the highest-quality representation for the City of New York. Each day, we strive to achieve this mission with a supportive work environment that fosters diversity, integrity, professionalism, and teamwork. We rise to the challenges presented by today's complex, ever-changing legal arena—and we continually evolve our craft as we work toward the City of tomorrow.

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Message from the Mayor



As a longstanding bustling metropolis, New York is heavily reliant on the hard work and dedication of our municipal force. Perhaps no office embodies this better than the New York City Law Department. Since its official establishment in 1849, the Law Department has consistently heeded the ever-changing challenges of legally representing our City on a broad array of issues and policy initiatives.

The Law Department is committed to providing our City with the highest caliber of legal representation. Whether safeguarding public money, defending the City's interests in court, or fighting to maintain a high quality of life for our City's more than eight million residents, its work is vital to the development and growth of New York. And with a team of innovative, engaging, and civic-minded employees, the Law Department is able to offer solutions to even the most challenging and unique urban issues.

The 2010 Annual Report is a terrific representation of the Law Department's many accomplishments over the past year. On behalf of the City of New York, I commend Corporation Counsel Michael A. Cardozo and the Law Department's attorneys, administrators, operations staff, and Information Technology Division for a job well-done. Best wishes for much continued success.

Michael R. Bloomberg
Michael R. Bloomberg
 Mayor

About the Law Department



EXECUTIVE STAFF

Standing from left to right:

- MANAGING ATTORNEY
G. Foster Mills
- CHIEF LITIGATING ASSISTANT
CORP. COUNSEL
Lawrence Kahn
- EXECUTIVE ASSISTANT CORP. COUNSEL
Paul Rephen
- CHIEF ASSISTANT CORP. COUNSEL
Leonard Koerner

Seated from left to right:

- EQUAL EMPLOYMENT
OPPORTUNITY OFFICER
Muriel Goode-Trufant
- FIRST ASSISTANT CORP. COUNSEL
Jeffrey Friedlander
- CORP. COUNSEL
Michael Cardozo
- EXECUTIVE ASSISTANT CORP. COUNSEL
FOR PUBLIC SAFETY
Celeste Koeleveld

Introduction from the Corporation Counsel

I am pleased to present the New York City Law Department's 2010 Annual Report. Besides serving as the City's lawyers, our office is engaged in a multitude of projects that span every City agency and virtually every aspect of the law.

We continually strive to deliver excellence in all that we do. We also look with pride on our major accomplishments during 2010.

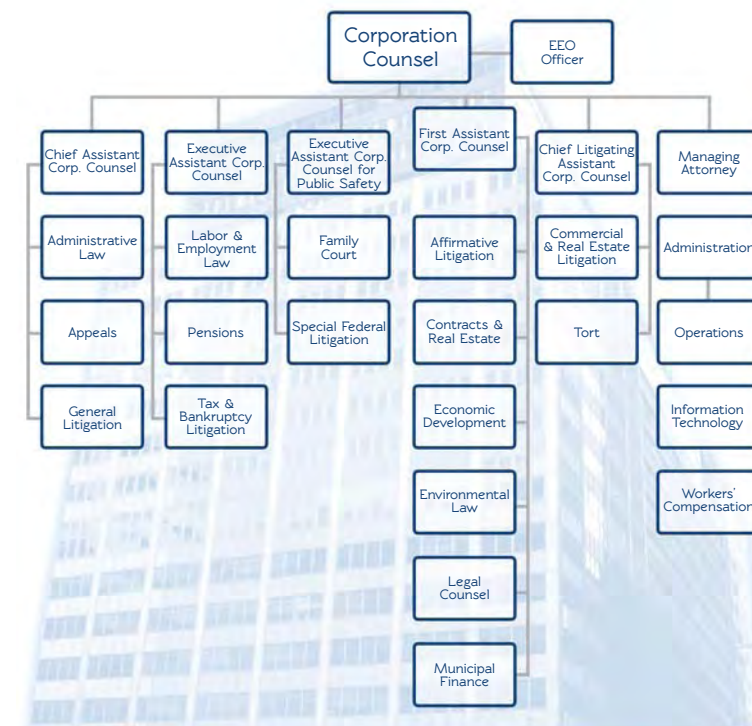
This report chronicles those achievements, which include the landmark settlement of 10,000 World Trade Center claims resulting from efforts to clean-up Ground Zero after 9/11, extensive and creative efforts on the City's major development projects, aggressive steps to collect money owed to the City, diligent efforts to defend the City's fisc, and crucial initiatives to protect the health and quality of life for City residents.

My colleagues and I never forget that our work has a direct impact on the lives of millions of New Yorkers, and we approach each task with the highest sense of privilege. I could not ask for better colleagues with whom to celebrate today's achievements and tackle tomorrow's challenges.

Michael A. Cardozo
Michael A. Cardozo
 Corporation Counsel



ORGANIZATIONAL CHART



The New York City Law Department is responsible for all of the legal affairs of New York City. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City, and its agencies. Attorneys represent New York City on affirmative and defensive civil litigation, legislative and legal issues, the criminal prosecution of juveniles in Family Court, and Administrative Code enforcement proceedings brought in Criminal Court.

With offices in all five boroughs and Kingston, New York, the Law Department handles an active caseload of over 90,000 lawsuits and legal matters each year. In addition to litigation, attorneys draft and review local and state legislation; approve leases, contracts, and financial instruments for the sale of municipal bonds; and negotiate and structure business transactions. Law Department attorneys also provide legal counsel to City officials on a wide range of issues such as immigration, education, judicial selection reform, and environmental policy.



In the News

The Law Department is frequently highlighted by major news outlets such as *The New York Times*, *The Associated Press*, and local and national television stations. In addition, it publishes a bi-monthly column, "Municipal Affairs," that is featured in the *New York Law Journal*. Work with the press is coordinated by the Law Department's Media & Communications Office. Below are some issues that made headlines in 2010:

AP Associated Press

NYC Sues Nigeria for Up to \$16 Million in Unpaid Real Estate Taxes on Manhattan Building
January 12, 2010

Appeals Court: New York City Can Limit Billboards
February 3, 2010

District Judge Sides with City in Bike Ride Controversy
February 16, 2010

DAILY NEWS

City Keeps Rights to Tavern on the Green
March 10, 2010

Suit Against Countrywide Nets \$624 Million for Pensions
May 8, 2010

Gov. Paterson Signs Law Making It Easier for City to Shut Illegal Hotels
July 24, 2010

The New York Times

Hands Off the Watershed
January 2, 2010

Bloomberg Seeking Election Law Changes to Increase Voter Turnout
December 7, 2010

New York City Sues State Over the Cost of Housing Juveniles in Prisons
December 10, 2010

DNAinfo

Governors Island Will Be Completely Owned by New York City
April 12, 2010

Court Upholds Cathie Black's Appointment as Schools Chancellor
December 30, 2010

New York Law Journal

City Proved Adult Stores Attempted to Circumvent Zoning Laws by Sham Conversions, Court Finds
March 31, 2010

City Wins Recovery of Costs To Move Amtrak Facilities
April 27, 2010

City Can Tax Online Travel Companies, Judge Rules
October 29, 2010

World Trade Center Settlement Gets Backing Needed to Take Effect
November 22, 2010



E-Waste Bill Passes In State Senate
May 28, 2010

THE WALL STREET JOURNAL

Coney Island: Strides Amid Rides
June 10, 2010

City in Pact to Expedite Cleanup of 'Brownfield' Sites
August 6, 2010

Smoking Ban Plan Extends to Parks
September 15, 2010

NEW YORK POST

Judge Upholds Arrests of GOP Convention Protesters
October 2, 2010

City Goes Coast to Coast in Cig-Tax Smokeout
December 15, 2010

Legal Divisions



Administrative Law
Affirmative Litigation
Appeals
Commercial & Real Estate Litigation
Contracts & Real Estate
Economic Development
Environmental Law
Family Court
General Litigation
Labor & Employment Law
Legal Counsel
Municipal Finance
Pensions
Special Federal Litigation
Tax & Bankruptcy Litigation
Tort
Workers' Compensation



ADMINISTRATIVE LAW

CHIEF Gabriel Taussig DEPUTY Robin Binder

The Administrative Law Division litigates on behalf of the City in challenges related to laws and regulations that were adopted to promote public health and safety, protect consumers, and enhance New York City's quality of life. Attorneys also bring civil actions to obtain compliance with laws and regulations and prosecute violators in Criminal Court.

Enforcing Zoning for Adult Establishments

Division attorneys successfully defended the City in two significant, years-long cases brought by a number of adult establishments in an effort to circumvent the City's strict zoning laws governing where they can operate. In these cases, the court affirmed the City's ability to regulate topless bars and video stores that have an adult focus. Assuming the rulings are affirmed on appeal, the City will be able to seek enforcement of zoning provisions that require such establishments to be located in non-residential neighborhoods and more than 500 feet from any school or place of worship.

Defending Regulations That Promote Health and Quality of Life

The Division has both weighed in on and defended a range of laws and regulations involving health, safety, and quality-of-life issues. Examples include Parks Department rules to regulate the number of artists allowed in park locations (currently in litigation); legislation to help the City take better enforcement action against illegal hotels; plans to extend the City's smoking ban to public parks and beaches; revised rules for issuing press passes to the media; and a City law banning the sale of flavored chewing tobacco, which is often used by younger smokers (currently in litigation).

Taking Action Against Neglectful Property Owners

The Division initiated a number of demolition-by-neglect lawsuits against City property owners who had allowed their landmarked properties to fall into disrepair. Division attorneys represent the City's Landmarks Preservation Commission in such enforcement actions, where the Commission has previously attempted to compel property owners to make needed repairs, and further legal action must be taken to protect the City's dedicated landmarked buildings.

Expanding the City's Disabled Parking Program to Non-City Residents

The Division reached a settlement that expands the City's Disabled Parking Program to allow non-City residents who do not work or go to school full-time in the City to apply on the same basis as residents. The new policy stems from the settlement of a lawsuit. The plaintiff, a disabled New Jersey resident, had sought expanded parking access. This development will further open New York City to disabled individuals who wish to visit.

Practice Spotlight

Defending the NYPD's Authority to Keep Streets Safe and Orderly

The Division prevailed in a major federal constitutional challenge to the New York City Police Department's policing of monthly rides conducted by a cycling group called Critical Mass. The court also denied a request by the bicyclists and a bicycle club to halt the NYPD from requiring bike groups of 50 or more to obtain "parade" permits before riding together on the public streets. The decision upheld the City's argument that the NYPD needs information on the date, time, and route of large bicycle group rides to facilitate the flow of traffic and protect the safety of others on the street. In a later ruling, the court directed that the plaintiffs pay \$16,000 in litigation costs to the City, noting that they had exhibited "unwarranted persistence" in pursuing a meritless case.



AFFIRMATIVE LITIGATION

CHIEF Gail Rubin DEPUTY Eric Proshansky

The Affirmative Litigation Division represents the City as plaintiff on a wide range of issues, including civil racketeering, fraud, nuisance, restitution, antitrust, products liability, breach of contract, insurance, and state and federal funding for government benefits and other programs. Its goal is to protect the City's interests and to advance the City's agenda by instituting claims and recovering monies owed to the City.

Pursuing Lost Tax Dollars from Illegal Cigarette Sales

As part of New York City's efforts to end illegal cigarette sales, Division attorneys filed a federal lawsuit against Washington State-based tobacco manufacturer King Mountain Tobacco Company and its owners for illegally selling and distributing untaxed cigarettes in New York in violation of three federal statutes. Sales of untaxed cigarettes undercut public health measures and cost the City and State millions each year in lost tax revenue. In addition, in the City's ongoing case against Native American retailers of untaxed cigarettes, a federal appeals court affirmed aspects of the injunction obtained by the City, and the District Court found three defendants in the case to be in civil contempt for violating an order barring them from selling tax-free cigarettes. The City continues its aggressive efforts to halt all instances of illegal cigarette sales.

Pursuing Unpaid Real Estate Taxes from Foreign Nations

Following the U.S. Supreme Court's 2007 ruling that federal courts have jurisdiction to hear the City's property tax lien cases against foreign governments, the District Court awarded summary judgment to the City, validating tax liens against India and Mongolia for portions of the property used as residences for mission and consular staff. In 2009, the U.S. State Department issued a notice purporting to exempt all diplomatic and consular staff housing from taxation. The Second Circuit Court of Appeals subsequently upheld the validity of that notice. The City has petitioned the U.S. Supreme Court to ask that it hear the case. The Division also took successful legal action to recover over \$11 million in unpaid real estate taxes and fees from Nigeria for commercial offices and other non-tax exempt space in the 22-story building it owns in Manhattan.

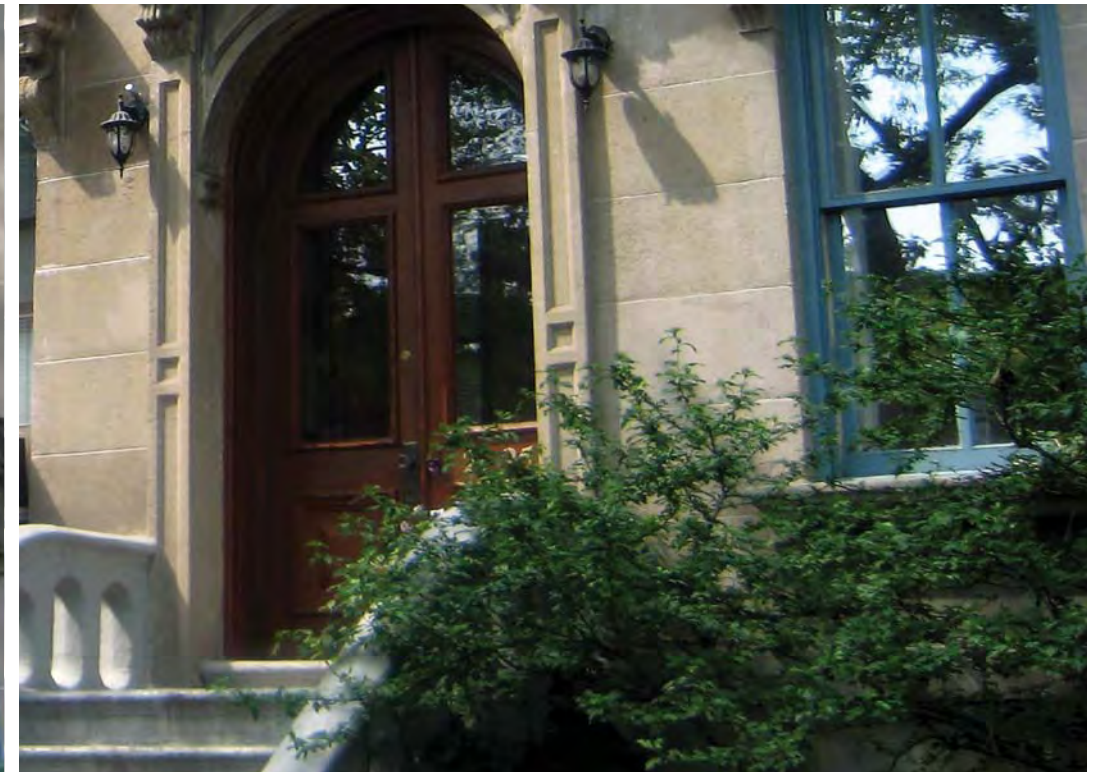
Seeking State Reimbursement When Appropriate

Division attorneys challenged the State's interpretation of the Federal Stimulus Legislation—which would have deprived the City of nearly \$1 billion in Medicaid funds—and obtained a clarification of the statutory language and a favorable administrative interpretation. In addition, in a case handled by the Division, the New York State Court of Claims required the State to reimburse the City over \$8 million for wrongfully charged Medicaid payments erroneously made by the State on behalf of ineligible people as a result of a "glitch" in the State's computer system. The Division has also sued the State over the exorbitant rates charged for City youth sent to the State's juvenile justice facilities, because those rates are arguably impermissibly inflated and based on costs for idle staff, empty beds, and dormant facilities. The Division's suit against the State Department of Health challenging a \$26-million audit of public health expenditures resulted in a decision by a state court upholding the City's capacity to sue the State on similar State-funded programs.

Practice Spotlight

Defending the City's Right to A Legendary Trademark

The Division prevailed in the District Court on the City's claim to the renowned "Tavern on the Green" name, ending a trademark dispute with the former restaurant's previous operators—the LeRoy family—over rights to the name. The City operated the famed Central Park restaurant by a series of different concessionaires, including the LeRois, under the "Tavern" name, beginning in 1934. The court decision invalidated Warner LeRoy's registration of the name as a trademark on grounds of fraud, affirming the City's right to continue to use the storied title, and directing the assignment of the registration to the City. Currently, Tavern on the Green is run by the City Parks Department as a public visitor center with food concessions.



APPEALS

CHIEF Leonard Koerner DEPUTIES Francis Caputo, Stephen McGrath

The Appeals Division is responsible for nearly all appeals in matters litigated by the Law Department in state and federal court, and its cases involve virtually every area of substantive law—even including some criminal law issues. Attorneys file approximately 700 appellate briefs annually and appear in approximately 15 percent of the New York Court of Appeals' (the State's highest court) civil docket. Last year in that Court, the City prevailed in 11 of the 17 cases in which it participated.

Defending the Firefighter's Rule

The Division achieved two major wins in cases challenging the validity of the "firefighter's rule"—which states that firefighters and police officers cannot sue their employers for common-law negligence relating to the heightened risks associated with their employment. In *Wadler v. City*, involving a police officer injured when another officer accidentally triggered a car entrance barrier, and *Ferrero v. City*, involving a police officer accidentally shot and injured by a fellow officer, state appellate courts (including the Court of Appeals, in *Wadler*) held that the rule applied.

Defending Child Removal Procedures

The Division won three of four cases relating to the actions of child protective workers for the Administration for Children's Services (ACS). The cases examined defenses for ACS employees who had participated in emergency child removal efforts. Each action was filed by a family member who alleged that his or her rights had been violated by the removal.

Cases Addressing Criminal Justice Issues

The Division won appeals in cases relating to the "three-strikes" rule regarding frivolous legal actions brought by prisoners; the right of the Department of Probation to search the homes of people on probation without a warrant; the immunity of police officers who had to make a split-second decision during a shooting and inadvertently injured an unseen bystander; and prisoners' lack of a constitutional right to access evidence for post-conviction DNA testing.

Safety and Regulatory Wins

Division attorneys prevailed in a concrete testing company's challenge over the Department of Buildings' refusal to renew its license during a major criminal investigation alleging that the company was falsifying testing results. The Division also won a challenge to the City's regulation of billboards to ensure traffic safety and promote neighborhood aesthetics for local residents. Additionally, attorneys scored a win in a case involving the Department of Building's ability to enforce a statute barring engineers who make false filings from making future filings.

Recovering Funds Owed by Amtrak

A federal appeals court upheld previous decisions ordering Amtrak to pay \$9.4 million to the City as a reimbursement for the cost of relocating Amtrak's electrical facilities at the Sunnyside Yard in Queens.

Amicus Briefs

In 2010, the Division submitted *amicus* or "friend-of-the-court" briefs in a number of cases, including a case before the Appellate Division, First Department, involving whether out-of-state same-sex marriages are recognized by New York in cases of administering a decedent's will and a U.S. Supreme Court case involving the statute of limitations on civil service exam challenges. The City also acted as intervenor in a matter concerning the requirement that people convicted of certain weapons crimes must register under the City's Gun Offender Registration Act.

Practice Spotlight

Landmark Designation Challenges

Division attorneys successfully defended the City from challenges relating to the policies of the Landmarks Preservation Commission (LPC). An action filed by the Citizens Emergency Committee to Preserve Preservation (CECPP) challenged the Commission's internal procedures regarding how a property is brought forward for calendaring and consideration for landmark designation. The First Department reversed a lower court finding, determining that the CECPP did not have standing to sue and that there was no statutory requirement in determining whether to consider a property for designation. The City also prevailed in an appeal challenging LPC's designation of two buildings on York Avenue on the Upper East Side by a property owner who wanted to redevelop the space and had already altered the physical façade of the buildings. The buildings are part of only two full-block, "light-court tenements" left in the country, intended to serve as alternatives to the dark, poorly ventilated tenements of the time.



COMMERCIAL & REAL ESTATE LITIGATION

CHIEF Eric Rundbaken DEPUTIES Jonathan Becker, Nancy Brodie

The Commercial & Real Estate Litigation Division represents the City and related entities in litigation involving diverse contract and real estate matters, ranging from contracts with private companies to build the City's infrastructure to leases of important public properties. Many of these disputes are highly visible, with millions of dollars at stake.

Bronx County Hall of Justice Litigation

This massive ongoing action involves 37 construction companies, subcontractors, and consultants with claims of over \$300 million based on project delays, disputed extra work, and defective work in connection with the construction of a new courthouse in the Bronx. It is among the largest cases ever handled by the Division.

Defending a Challenge to Project Labor Agreements

The Division is defending against a challenge to the City's use of Project Labor Agreements (PLAs) and the associated decision not to award construction contracts for each project to multiple contractors, as State law requires absent a PLA. A victory would allow for significant savings to the City on many construction projects; a loss would mean that future projects would be subject to numerous bidder requirements—imposing upon the City approximately \$180 million in contracting costs through Fiscal Year 2014.

Newtown Creek Water Pollution Control Plant Case

The Division is defending the City against claims for damages related to the reconstruction and renovation of the Newtown Creek Water Pollution Control Plant. The general contractor and the plumbing contractor have asserted claims in excess of \$160 million against the City, alleging that the project has been delayed by the acts or omissions of the City and its consultants.

Recovering the Cost of Repairs Along the F.D.R. Drive

The Division is representing the City on a \$37-million claim to recover the cost of required emergency work on the understructures of two residential cooperatives located above the F.D.R. Drive.

Affirmative Construction Claim Regarding Medical Center Complex

Division attorneys are handling a large affirmative lawsuit seeking damages of up to \$40 million for defective design and construction of a new building in the Bellevue Medical Center complex. The City alleges that improper design and construction methods caused subsurface stresses, resulting in the movement of neighboring buildings and necessitating a significant redesign of the project, as well as remedial work.

Practice Spotlight

Defeating a Challenge to School Bus Contract Extensions

The Division successfully opposed a motion for an injunction by school bus contractors seeking to prevent the Department of Education from entering into critically needed extensions of expiring contracts with competing companies. This victory facilitated the extension of contracts needed to continue school bus service throughout the City.



CONTRACTS & REAL ESTATE

CHIEF Steven Stein Cushman DEPUTY Howard Friedman

The Contracts & Real Estate Division counsels City agencies on transactional matters, such as leases and contracts, and acts as transactional counsel on special projects at the request of the Mayor's Office and City agencies. Attorneys not only negotiate and draft contracts, but also approve City transactional documents and advise on processes that must be followed to enter into such agreements.

Transactional Work on Energy Initiatives

Division attorneys contributed input on a number of projects relating to City clean-energy and energy-saving initiatives.

NYC Cool Roofs – In collaboration with NYC Service and the Mayor's Fund to Advance New York City, Division attorneys helped draft an agreement for, and have advised on issues arising from, NYC Cool Roofs, a project to encourage building owners to reduce energy costs, greenhouse gas emissions, and local temperatures by applying a white, reflective coating to their roofs.

Newtown Creek Gas Rights Concession – Division attorneys have assisted the City's Department of Environmental Protection, in conjunction with several other divisions, in drafting an agreement to provide National Grid with digester gas produced by the City's Newtown Creek Waste Water Treatment Plant and for National Grid to build a plant to treat the digester gas.

Retrofits – The Division is advising the Department of Citywide Administrative Services on the procurement of various energy services for City-owned buildings, including energy audits and the design and installation of energy-efficient equipment.

Tavern on the Green Transition

Prior to its closure, Tavern on the Green was operated as a restaurant concession. During the past year, in conjunction with the Affirmative Litigation, Legal Counsel, and Tax & Bankruptcy Litigation divisions, Division attorneys worked closely with the Parks Department on issues arising from the bankruptcy filing by the prior concessionaire and the conversion of the site, at least temporarily, for use as a public visitor center and gift shop with food concessions. Division attorneys also provided input on litigation regarding ownership of the Tavern on the Green trademark.

Practice Spotlight

Cost Reduction Negotiations

In conjunction with the Mayor's Office, Division attorneys are helping to negotiate cost reductions with the hundred vendors that have the largest volume of business with the City. In addition, the attorneys helped negotiate a contract with Accenture, the consulting company assisting the City on this project. The goal is to obtain price concessions from the vendors on existing contracts, resulting in immediate savings for the City.

Governors Island and Brooklyn Bridge Park

In conjunction with the Economic Development Division and the Legal Counsel Division, Division attorneys worked on the transfer of Governors Island and Brooklyn Bridge Park to City control by drafting contracts between the City and the respective not-for-profits formed to operate the island and park. In addition, Division attorneys advised on projects arising at the two sites, such as the drafting of an official request for proposals for a restaurant on Pier 6 of Brooklyn Bridge Park.

DNA Testing Agreements

Division attorneys, in conjunction with the Legal Counsel Division, drafted form agreements for the Office of the Chief Medical Examiner to allow jurisdictions nationwide to use the City's cutting-edge DNA testing technology in support of their law-enforcement efforts. The Division is also involved in drafting a similar agreement to assist other New York State localities in identifying missing persons and human remains by providing the necessary DNA and anthropological services.

Request for Proposals in Bike Share Program

Division attorneys assisted the Department of Transportation in drafting a request for proposals that seeks an operator for a bike share program. The program would provide for approximately 10,000 bicycles throughout parts of Manhattan and Brooklyn. Program users could pick up bicycles at one location and return them to a different location.



ECONOMIC DEVELOPMENT

CHIEF James McSpirtt DEPUTY Ellen Duskow

The Economic Development Division serves as transactional counsel for the City on real estate development, commercial, land-use, and other projects intended to reinforce the City's economic base and create jobs, office space, housing, and public open space amenities. The Division's work promotes the City's economy and landscape while reimagining it for the 21st Century. Division attorneys work closely with City Hall, the NYC Economic Development Corporation (NYCEDC), and many other City agencies on all aspects of the transactions, from inception to closing, as well as on post-closing administration.

Reimagining a Historic Theatre

Division attorneys represented the City in a complex transaction regarding the rehabilitation of the Loew's Kings Theatre on Flatbush Avenue in Brooklyn. The theatre, which opened in 1929 but has been vacant since 1978, will be restored to its original French Renaissance style architecture and expanded to accommodate a range of modern live performances. Construction on the \$70-million project is expected to commence during the next two years.

Midtown West Development

Division attorneys have been working on a massive \$2.1 billion westward expansion of the Number 7 train and, in tandem, the transformation of Hudson Yards, the far west side of Midtown Manhattan. Much of the neighborhood consists of former warehouses, factories, and empty lots, but plans are in place to transform it into a vibrant mix of commercial, residential, retail, and open space. The Division has also been involved in plans to transform Midtown West's Farley Post Office to provide a grand entrance and expanded facilities for one of the City's major passenger train stations, Penn Station. Over \$83 million in federal funds has been awarded in support of this effort.

Key Agreement with Two Major Cable Companies

The Division worked closely with the City's Department of Information Technology & Telecommunications on agreements related to key terms of cable television franchise renewal contracts with Time Warner and Cablevision, the City's two largest cable providers. Significant features of these agreements include numerous customer service protection provisions, a financial commitment to construct a very low-cost or free wireless internet service across 32 City parks, the installation of 40 public Internet access facilities in not-for-profit community centers around the City, and payments to the City in excess of \$100 million annually.

Practice Spotlight

Transferring Two Parks to City Control

Marking a major achievement for the City, the Division helped to structure, negotiate, and document the terms under which control of the Brooklyn Bridge Park Project and Governors Island was transferred from State to City-controlled entities. The transfer will accelerate the build-out pace of these important public open spaces and potential development sites.

Major Ongoing Development Projects

The Division continues work on numerous major ongoing development projects throughout the five boroughs. These projects often span years. Some representative examples are:

- World Trade Center Redevelopment: The current focus is on restructuring business arrangements and facilitating construction.
- Times Square Redevelopment: The latest phase concerns reversion of certain State-controlled properties to City ownership.
- Highline: The elevated, public open space is being expanded to 30th Street, and the City is acquiring title up to 34th Street.
- Battery Maritime Building Project: A landmarked building at the foot of Manhattan is being redeveloped into a mixed-use project, including upgraded ferry facilities for Governors Island.
- Flushing Commons: An \$80 million mixed-use project with a new YMCA is planned, to be built on four square blocks now used as a municipal parking garage.
- Hunters Point South: This Long Island City project will result in 5,000 new housing units and a substantial waterfront esplanade.
- Atlantic Yards: The current focus is on securing additional funding.
- Columbia University: In connection with Columbia's multi-billion dollar expansion, the City is transferring certain properties.
- Coney Island Transformation: Plans include upgraded amusements, housing, and retail.
- Brooklyn Academy of Music Cultural District: A commitment of \$100 million has been secured for new cultural facilities around BAM, including construction of two new theaters.
- Lincoln Center Redevelopment: Significant redesign and new facilities are already completed, with some portions still to be constructed.
- Citypoint: Construction is underway on the first 1.5 million square feet of commercial development in this downtown Brooklyn project.



ENVIRONMENTAL LAW

CHIEF Susan Amron DEPUTY Hilary Meltzer

The Environmental Law Division represents and advises the City on environmental and land-use matters involving the drinking water supply, wastewater and stormwater management, solid waste management, energy sources, hazardous waste remediation, natural resources, environmental review of City initiatives and private development projects, climate change planning, and implementation of PlaNYC (the Mayor's environmental initiative).

Defending the City's Environmental Review of Projects

The Division regularly defends environmental challenges to rezoning and economic development projects. Division attorneys successfully defended the City in challenges to major rezonings of the East Village / Lower East Side and Sunset Park in Brooklyn, as well as to the Harlem-East Harlem Urban Renewal Project, which will bring job opportunities, retail, and affordable housing to a three-block area in East Harlem. In addition, Division attorneys prevailed in a high-profile legal challenge to the construction of a much-needed, multi-district sanitation garage on Spring Street in Manhattan. The petitioners, including a number of vocal celebrities, argued that the garage would unfairly burden the community. The court rejected this argument, determining that the City had acted reasonably in planning for and siting the garage.

Protecting the City's Water Supply

The Division worked with the Mayor's Office and the Department of Environmental Protection to advocate for a well-supported position on the risks associated with natural gas drilling in the City's upstate watershed. The City believes that drilling would pose a substantial threat to its unfiltered water supply. The Division also negotiated an agreement concerning the continuation of the watershed land acquisition program, a key component of the City's watershed protection program. The agreement settled a lawsuit and resulted in a new permit authorizing the continuation of the program until 2025.

E-Waste Recycling

Division attorneys defended local laws requiring manufacturers to take back discarded electronic equipment to reduce the amount that ends up in landfills and incinerators, since electronics can contain toxic materials. Electronics manufacturers sued the City, arguing that the laws would create excessive costs and burdens. Following the City's lead, the State subsequently passed its own E-Waste legislation, which pre-empted the City's measures.

Practice Spotlight

Defending a Challenge to Coney Island's Revitalization Plan

In 2010, the Division prevailed in litigation concerning the adequacy of the environmental review for the Coney Island revitalization plan. The Court found that the review was proper and that the plan itself was "reasonably related to the (undisputed) legitimate governmental purpose of revitalizing the Coney Island economy, while restoring Coney Island to its iconic status as a world-renowned amusement center and destination for visitors both near and far."

Controlling Stormwater and Cleaning Up Polluted Lands and Waterways

Division attorneys are working closely with the Department of Environmental Protection to develop a new, sustainable approach to managing stormwater runoff, a major source of water pollution, particularly in areas of the City where stormwater is combined with sanitary sewage. The Division is advocating for the City's "Green Infrastructure Plan," an alternative approach to improving water quality that integrates "green" solutions such as plantings and green roofs with traditional "gray" infrastructure such as pipes and tanks.

In 2010, the U.S. Environmental Protection Agency designated both the Gowanus Canal and Newtown Creek as Superfund sites, initiating a federally supervised clean-up process. The Division is working with City Hall and numerous agencies to ensure that the investigation of conditions in these water bodies is thorough, that remediation plans for both are effective, and that there is a fair allocation of clean-up costs. The Division also assisted with the City and State's landmark agreement for the City to operate its own brownfield clean-up program. Brownfields are vacant or underutilized properties for which environmental contamination complicates re-use, and which can lower property values and impact quality of life for nearby residents. The program is the first municipally run brownfield cleanup program in the nation.

Hybrid Taxis

The Division defended challenges in federal and state court against Taxi & Limousine Commission (TLC) rules designed to encourage use of hybrid vehicles in taxi fleets. The U.S. Supreme Court recently denied the City's petition for a *writ of certiorari*, leaving in place lower court decisions holding that the rules are preempted by the Clean Air Act and the Energy Policy and Conservation Act. In the State litigation, the lower courts found that the rules are not arbitrary and capricious; the matter is now before the New York Court of Appeals.



FAMILY COURT

CHIEF Angela Albertus DEPUTY Kelley Dunn

The Family Court Division is divided into two subunits—Interstate Child Support and Juvenile Crime Prosecution. The Interstate Child Support Unit represents out-of-state petitioners seeking child support from New York City residents. The Juvenile Crime Prosecution Unit, which houses the Major Case Unit and the Sex Crimes Prosecution Unit, prosecutes juveniles accused of committing crimes. In cases where the Family Court finds guilt, attorneys then seek dispositions that balance juveniles' needs and best interests with public safety concerns. Attorneys handle a wide variety of cases, including assaults, robberies, weapons possession, drug offenses, sex offenses, and homicides.

Successful Juvenile Prosecutions

The following cases illustrate the range of serious offenses the Division prosecutes:

Sex Attack at a School - The Sex Crimes Prosecution Unit prosecuted Niquel M., a 13-year-old boy, who attacked a younger schoolmate in a public school and forced him to perform sexual acts. Niquel M. was placed on probation for two years (the maximum term of probation permitted under the law) upon the condition that he complete a sex offender treatment program. A final order of protection was issued on the victim's behalf.

Gunpoint Robbery Involving Toddler - Shy-kym S., age 12, was arrested after he robbed a Brooklyn woman, with her toddler present, at gunpoint. This was Shy-kym S.'s second arrest on robbery charges within two-and-a-half weeks. Following a trial, he was found guilty of second-degree Robbery, a class C felony, and was sentenced to up to 18 months in a juvenile facility, the maximum sentence permitted for this offense.

Fatal Arson Fire - Darshawn S. was arrested on arson charges after lighting a mattress on fire in his brownstone apartment building. The fire spread quickly, killing one tenant and injuring others. The teen pled guilty to criminally negligent homicide. Following lengthy legal proceedings and over the Division's strenuous objection, Darshawn S. was placed on a 24-month term of probation conditioned upon his cooperation with a community-based program.

Success With Alternative Sentencing Initiative

When delinquent youth are not a significant risk to public safety, the Division works to identify and access appropriate services from available community-based alternatives. Such was the case with D'onna B., age 15, who was placed in the care of social services. The teen had a history of truancy and running away from home. She also attacked and injured her caseworker and later became pregnant. Division social workers explored a number of community-based programs, eventually securing her a place in a

specialized intensive home-based program with a treatment plan tailored for her mental and emotional needs. D'onna B. had a healthy baby girl six weeks after being granted probation with the involved treatment and continues to receive family therapy and other supportive services.

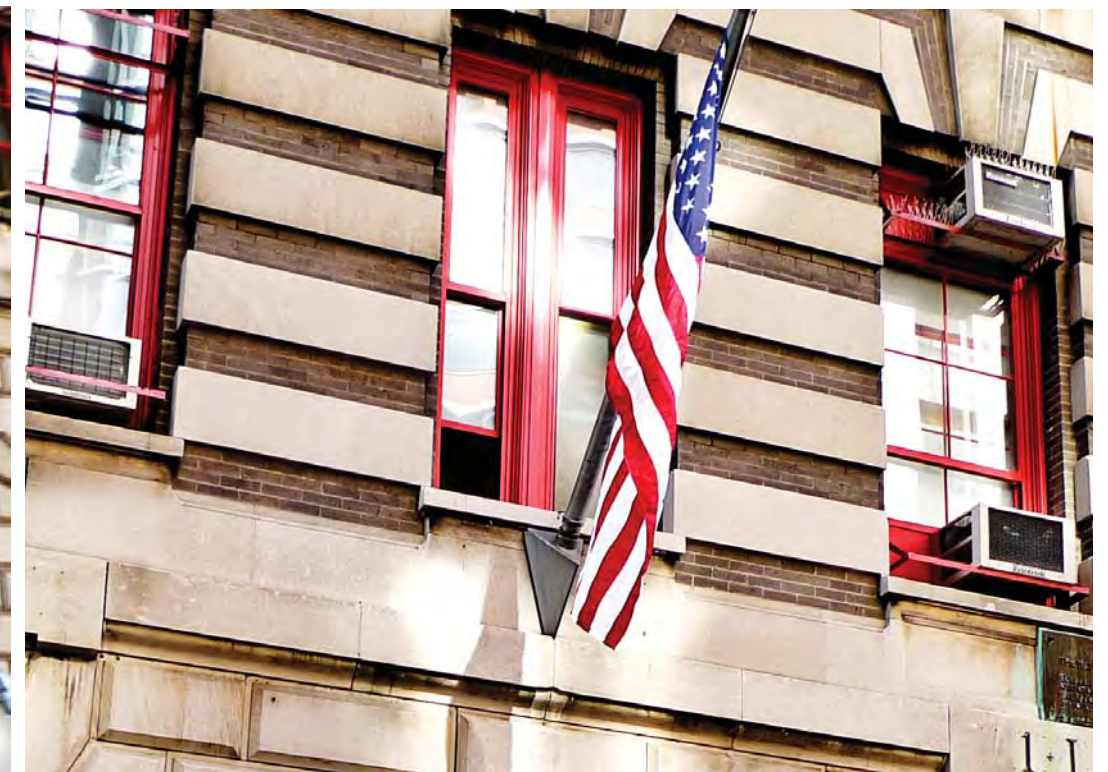
Interstate Child Support Unit

During 2010, the Unit received over 5,661 new cases, secured 1,367 final orders of child support, and established paternity in 567 cases. On enforcement proceedings, the Unit successfully recovered money on behalf of custodial parents totaling over \$116,000. Unit attorneys defended against 1,768 petitions from non-custodial parents to reduce support. Of custodial parents who sought court relief, 77 percent were granted it. On behalf of the City, the Unit filed 162 cases in 28 other states, the District of Columbia, and various foreign countries. Recently, the Unit recovered over \$73,000 on behalf of a California mother seeking child support payments owed since 2003 for one child. The father, although a resident of Florida, is an attorney licensed to practice law in New York and maintains a Wall Street law office address.

Practice Spotlight

New Diversion Initiatives Aimed at Youths

The Division developed two new collaborations to divert low-level delinquency cases from an overburdened Family Court while preventing further delinquency through meaningful intervention. The first program is aimed at youths arrested for low-level crimes and explains the ramifications of having a criminal record. The second, currently being piloted in Manhattan, is a program created to educate juveniles previously arrested for shoplifting. In each case, youth who successfully complete the program have their cases "declined" (not prosecuted) by the Division. It is hoped that both initiatives will be expanded throughout the City in 2011.



GENERAL LITIGATION

CHIEF Thomas Crane DEPUTIES Jonathan Pines, Marilyn Richter

The General Litigation Division defends the City and its agencies in lawsuits challenging policies and practices concerning important programs in such varied fields as education, health care, public assistance benefits, prison conditions, foster care, and election law. Many of these cases are brought as class actions in federal court and present significant and often novel issues of statutory and constitutional interpretation.

Defending the Appointment of Incoming Schools Chancellor Cathleen Black

Division attorneys successfully defended the City in three lawsuits that sought to prevent Cathleen Black's appointment to the role of Schools Chancellor. The lawsuits challenged a waiver—approved by the State Education Commissioner—permitting Ms. Black to assume the helm of the Department of Education. The State Supreme Court in Albany County upheld the rationale for the appointment and dismissed the lawsuits.

Terminating a 2003 Settlement Agreement Involving Post-Incarceration Services for Mentally Ill Ex-Inmates

In early 2003, the City entered into a settlement agreement in a class action concerning post-discharge medical treatment and housing assistance for inmates who received mental health treatment while in a City jail. The agreement was set to terminate in May 2009. After termination, the City would be free to create new programs and procedures designed to provide services in a more efficient and effective manner. The plaintiffs moved to extend this agreement, but the City claimed they were too late and that the agreement had already expired. Working closely with the Appeals Division, Division attorneys prevailed in the Appellate Division, First Department. The plaintiffs have appealed to the Court of Appeals, the State's highest court.

Defending the Decision to Discontinue Middle School Bus Transportation

The Division is handling a challenge to the Department of Education's decision to end longstanding, costly yellow school bus transportation for 7th and 8th grade students in Staten Island and on the Rockaway Peninsula in Queens. Elsewhere in the City, middle school students living similar distances from school are provided with free or half-fare Metrocards to use public transportation. The City contends that in fiscally difficult times, the first priority for resources must be the classrooms. While the Supreme Court in Staten Island ordered the restoration of the yellow school bus service, Division attorneys, working with the Appeals Division, succeeded in invoking a stay of the lower court decision while an appellate court weighs the issues. The appeal is ongoing.

Settling a Case Concerning Discharge of Foster Children from Psychiatric Hospitals

This action alleged that the Administration for Children's Services (ACS) was allowing foster children to remain in acute care psychiatric hospitals long after they were medically ready for discharge, in violation of the Americans with Disabilities Act. Division attorneys worked quickly to reach a settlement that incorporated a new policy ACS had already created and was planning to implement.

Ending Court Oversight of Hospital-Based Medical and Psychiatric Treatment for Inmates

Division attorneys successfully terminated an open-ended August 1990 settlement agreement that imposed detailed, burdensome requirements on the administration of hospital-based medical and psychiatric treatment services for inmates. The plaintiffs are inmates taken to City hospitals for more intensive treatment than is available at jail clinics. They challenged the adequacy of treatment and the conditions of confinement at the hospitals. After extensive discovery concerning current conditions, and lengthy negotiations, a new agreement was entered that contains much less onerous requirements and a termination date of May 2013.

Practice Spotlight

Working to End the Antiquated Street Fire Alarm Box System

This long-running case concerns the Fire Department's plan to remove the street fire alarm box system that has been rendered unnecessary by the advent of cell phones, caller ID on public payphones, and a special tapping protocol that allows the deaf and hard-of-hearing to communicate with Police, Fire, and Emergency Medical Services. Use of the street alarm boxes results in many false alarms and has plunged 90 percent from the early 1990s. The boxes are also costly to maintain. The City was barred from removing the boxes by a 1996 federal court decision, and Division attorneys are now seeking to have that injunction vacated or modified.



LABOR & EMPLOYMENT LAW

CHIEF Georgia Pestana DEPUTY Paul Marks

The Labor & Employment Law Division represents the City as employer of over a quarter-million workers. The Division handles a variety of matters including First Amendment retaliation; gender, race, age, and disability discrimination; and civil service law issues. Attorneys have successfully litigated cases brought against every City agency, as well as lawsuits brought against high-ranking City officials.

Defending FDNY Hiring Practices

Division attorneys continue to handle an ongoing, high-profile lawsuit brought by the U.S. Department of Justice and a group of firefighters who claim that civil service tests had a discriminatory impact on Black and Hispanic applicants for firefighter positions. However, the tests in question were last administered in 1999 and 2002, and the FDNY implemented a recruitment campaign in 2006 that attracted a record number of minority applicants. The City has maintained its strong conviction that quotas are not a suitable hiring practice, and has defended the FDNY's efforts to continue expanding the diversity of its ranks without engaging in quota-hiring.

Keeping Teachers' Personal Politics Out of Schools

Division attorneys prevailed in *Weingarten*, a case challenging the Chancellor's regulation prohibiting teachers from wearing political campaign buttons in school buildings. The United Federation of Teachers (UFT) sought a preliminary injunction against the regulation on First Amendment grounds a few weeks before the 2008 presidential election. The UFT argued that the teachers had a free-speech right to wear the buttons and that students would "spontaneously understand" that these buttons were not part of the teaching curriculum. In contrast, the Department of Education argued that political displays were "inconsistent" with its educational mandate.

Representing the City in a High-Profile Bridge Painters Case

The Division represented the City and the Department of Transportation (DOT) in an action commenced by the U.S. Attorney's Office for the Southern District of New York. The lawsuit alleged violations of federal law in connection with gender discrimination complaints filed with the Equal Employment Opportunity Commission (EEOC) by four unsuccessful female applicants for City bridge painter jobs. According to the complaint, the DOT engaged in a pattern or practice of discrimination against women with respect to hiring for the physically taxing position. The four unsuccessful female applicants received right-to-sue letters from the EEOC and, with their local union, intervened in the lawsuit. The court dismissed the claims of the individual plaintiff-intervenors but found that the federal government had met its burden to show a discriminatory hiring pattern and practice by the City and DOT. The Department has hired one of the women (the only one who still wanted to be a bridge painter) and subsequently reached a settlement with all four.

Practice Spotlight

Allowing DOE to Reassign or Discipline Teachers Who Perform Poorly

Although public schoolteachers are afforded significant job protections, the Division works to ensure that when they perform badly or engage in misconduct, the DOE can take action to respond appropriately, including job termination. As an example, Division attorneys won a defendant's verdict in a 2007 case, *Saunders*, brought by a former teacher who claimed she was harassed and disciplined by her supervisors for discriminatory reasons. The plaintiff was a photography teacher who taught at the High School of Graphic Communication Arts in Manhattan. In 2004, she was assigned to the Absent Teacher Reserve pool after the course she had been teaching was discontinued due to lack of student interest. There she exhibited poor teaching, insubordination, and attendance issues. After she was disciplined, the plaintiff filed a false police report claiming assault by her superior. Other issues arose until she was removed and reassigned, at which point she further disagreed with the DOE over a requested and denied half-day accommodation. In her lawsuit, the plaintiff claimed that ageism and racism were behind her charges, reassignment, and the refused accommodation. However the jury disagreed, finding that the DOE had acted appropriately.



LEGAL COUNSEL

CHIEF Stephen Louis DEPUTY Martha Mann Alfaro

The Legal Counsel Division advises the Mayor, other elected officials, and City agencies on a wide range of municipal law issues, and drafts and reviews city, state, and federal legislation. Recent efforts have focused on mandate relief to ease burdens on local government, as well as civil service, pension, procurement, and regulatory reform.

Charter Revision Commission

In March, the Mayor appointed a new Charter Revision Commission. Division attorneys assisted the Commission on several initiatives, including term limits changes and other election and campaign finance-related matters, as well as a proposal authorizing consolidation of most tribunals and agency adjudications into the Office of Administrative Trials and Hearings. Division attorneys also worked with Commission staff on the Final Report of the Commission and related materials. City voters approved the Commission's proposals in November. Subsequently, Division attorneys obtained requisite Voting Rights Act Section 5 Preclearance from the Justice Department to allow for these changes to be implemented.

Workforce Reform Task Force

Attorneys from the Division, along with the Labor & Employment Law Division, participated in a task force convened by the Mayor's Office, and including the Department of Citywide Administrative Services and the Office of Labor Relations. The task force prepared legislative and policy recommendations to improve the City's civil service system. Focuses included the following areas:

- Hiring Flexibility: Enabling agencies to consider broader pools of candidates while maintaining merit and fitness standards.
- Performance Management: Giving agencies greater operational flexibility with layoffs, discipline, and moving employees across functions to accomplish the agencies' missions.
- Employee Empowerment: Establishing new ways to encourage and reward high performance.
- Meaningful Managerial Roles: Establishing clear roles and responsibilities for managers to shape and implement public policy and ensure accountability.
- Governance: Expanding the City's discretionary powers to manage its civil service system independent of the State.

Practice Spotlight

Restrictions on Smoking in Parks and at Beaches

Division attorneys worked with the Department of Parks and Recreation, the Department of Health and Mental Hygiene, the Department of Transportation (DOT), and the City Council to draft a local law that would prohibit smoking in all property under the jurisdiction of the Parks Department, as well as in pedestrian plazas under DOT's jurisdiction. The law passed the City Council and was signed by the Mayor in early 2011.

Proposed Changes to State Voting Law to Increase Voter Turnout

The Division worked on a number of proposed reforms to the State's voting laws to make voting more convenient and flexible for all New Yorkers. Currently, the State has the most restrictive election policies in the country and decades of declining voter turnout. The Mayor issued four key recommendations for New York State election law: (1) creating an early voting period; (2) allowing New Yorkers to fill out their ballots at home and bring them to a polling site; (3) modernizing the registration process and extending the registration deadline from 25 days to 10 days before Election Day; and (4) simplifying the ballot design with plain-language instructions.

School Utilization

The 2009 legislation extending Mayoral control of the schools established new procedural requirements for Panel for Educational Policy decisions regarding "significant changes in school utilization," including phase-outs, grade reconfigurations, re-sitings, and co-locations of schools. Division attorneys have been advising the Department of Education (DOE) about whether and how these new requirements apply to a range of decisions. Division attorneys also counseled DOE with respect to mandated public hearings, leading to the Panel's approval of school closings and other significant changes in utilization.

Legislation Requiring Greater Consideration of City Rules

The Law Department and the Mayor's Office of Operations collaborated with the Mayor's Regulatory Review Panel and the City Council to draft a local law providing for an increased analysis of proposed City agency rules. This will ensure that such rules do not impose undue burdens on those being regulated and the general population. This legislation requires agency rules to be reviewed by the Law Department and the Office of Operations to ensure that the rules are designed along well-established customer service principles and do not stifle the City's small business sector with unnecessary costs and burdens.



MUNICIPAL FINANCE

CHIEF Albert Moncure, Jr. DEPUTY Olivia O'Neill

The Municipal Finance Division serves as counsel to the City on all bond transactions. New York City is one of the largest issuers of municipal bonds in the country. The proceeds of its debt issuances finance capital projects that impact virtually every aspect of City life. The City issues debt through its general obligation bonds and through authorities and local development corporations. Additionally, debt is issued by State agencies on behalf of the City. Each year, the Division oversees billions of dollars in financial transactions.

Bonds for Education

While proceeds from City general obligation bond offerings are used to help finance school construction, in 2010 the Division also participated in certain issuances focusing particularly on education.

New York City Educational Construction Fund Revenue Bonds, 2010 Series A (ECF Bonds) - The City's Educational Construction Fund (ECF) was established to facilitate the construction of public school buildings in combination with private construction projects. Nearly \$54 million of ECF Bonds was issued as federally taxable Build America Bonds, pursuant to the American Recovery and Reinvestment Act of 2009 (ARRA). The bonds will fund the development of a combined structure housing new facilities for the High School for Art and Design and Public School 59, as well as a private commercial and residential facility. For a portion of the bonds, rent payments by the City will function as debt service.

Building Aid Revenue Bonds (BARBs) - The New York City Transitional Finance Authority (TFA) issued \$350 million of Building Aid Revenue Bonds in 2010. Unlike other TFA bonds, which are issued for the same capital purposes as City bonds and are backed by State income and sales taxes, BARBs are issued exclusively for school construction purposes and are backed by State education aid to the City.

Qualified School Construction Bonds (QSCBs) - See Practice Spotlight for details.

Funding Construction Work for Crucial Health Care Facilities

The Division participated in the issuance of bonds by the Dormitory Authority of the State of New York in connection with the Primary Care Development Corporation's (PCDC's) Municipal Health Facilities Improvement Program. The PCDC finances construction of, and improvements to, health care facilities in medically underserved neighborhoods of the City. The bonds refunded certain outstanding series of bonds, the proceeds of which had been used to finance health care facilities. This effectively decreased the debt owed by PCDC and those health care facilities. The Division oversaw document drafting and modification to further secure the City in relation to City payments made pursuant to the lease structure set up to provide for payment of the bonds.

Accessing Federal Funding for City Housing

The Division joined forces with other divisions and City Hall on efforts to enable the New York City Housing Authority (NYCHA) to access up to \$100 million in new federal funds to preserve, maintain, and modernize NYCHA developments.

Navigating the North General Hospital Bankruptcy

The Division, together with the Economic Development and Tax & Bankruptcy Litigation Divisions, participated in the ongoing reorganization process following North General Hospital's bankruptcy filing. As part of that process, the hospital's major secured creditor, the Dormitory Authority of the State of New York (DASNY), will realize on its collateral and take ownership of the hospital's main building. DASNY will lease the main building to New York City Health and Hospitals Corporation (HHC). The Law Department, among other duties, developed the lease to run between DASNY and HHC, and continues to advise HHC with respect to that lease and HHC's subsequent purchase of the main building.

Practice Spotlight

Qualified School Construction Bonds (QSCBs)

The TFA issued approximately \$400 million of QSCBs to finance school construction projects. QSCBs are taxable bonds that can be issued only for school construction purposes in accordance with the ARRA. The issuer receives a subsidy from the federal government for these bonds.



PENSIONS

CHIEF Inga Van Eysden DEPUTY Carolyn Wolpert

The Pensions Division represents the City's five pension funds in litigation challenging individual and class-wide benefit determinations, and provides pension-related counseling and advice to City agencies. With close to 600,000 active and retired members and approximately \$100 billion in assets, the City funds are cumulatively one of the country's largest public pension funds. Division attorneys draft and comment on proposed legislation, assist in the implementation of new laws, and in conjunction with outside counsel, represent the City funds in securities fraud cases.

Fighting Securities Fraud

With the assistance of outside counsel, Division attorneys investigate and prosecute securities fraud actions seeking to recover losses that the funds have sustained while investing assets in various companies.

Juniper Case Settlement - The City pension funds, represented by the Division, reached a settlement in the securities fraud class action involving Juniper Networks, an information technology company based in Silicon Valley. Charged with federal securities law violations in which executives backdated stock option grants to enrich corporate insiders and employees, Juniper was ultimately required to modify its financial statements to record \$900 million in compensation expenses associated with the grant of concealed "in-the-money" options. This was the third-largest settlement in a class action involving stock options backdating.

\$624 Million Settlement with Countrywide Financial Corporation - See Practice Spotlight for details.

Fighting Pension Fraud and Seeking Pension Reforms

The Division handles all pension legislative matters and defends determinations of the pension funds.

Pension and Disability Litigation - Attorneys represent the City and its pension funds in legal matters challenging pension benefit and disability retirement determinations. Recently, the Division has provided counsel to pension funds seeking to re-evaluate retirees receiving disability retirement benefits, when it appears that the retiree is no longer disabled.

Legislative Efforts - Division attorneys regularly analyze and interpret statutory provisions applicable to City pension members, and routinely draft and provide comments to proposed legislation affecting City pensions. In support of the Mayor's attempt to curb recent increasing municipal pension costs, the Division has provided counsel and drafted proposed pension reform legislation.

Practice Spotlight

\$624 Million Settlement with Countrywide Financial Corporation

Representing the New York City pension funds in their capacity as lead plaintiff with the New York State Common Retirement System, Division attorneys settled a major class-action lawsuit for \$624 million against Countrywide Financial Corporation—formerly the largest mortgage lender in the United States—for claims of securities law violations and fraud that led to significant losses for Countrywide shareholders. Moreover, as a result of a recent settlement reached by the SEC in a civil enforcement action brought against Angelo Mozilo, the former CEO and founder of Countrywide, the pension funds have been given the task of distributing an additional \$48 million dollars to certain class members in the action.



SPECIAL FEDERAL LITIGATION

CHIEF Muriel Goode-Trufant DEPUTIES Heidi Grossman, Frances Sands

The Special Federal Litigation Division defends the City and its employees in civil rights cases brought in federal court against law enforcement officials, including police officers, correction officers, and prosecutors. Claims often challenge a judgment made by an individual police or correction officer in performing his or her duties, Police Department policies as to how best to secure public safety, or Department of Correction policies regarding the care and custody of individuals detained by the criminal justice system. Pending cases include a wide range of factual circumstances, from the policing of large-scale public events to the justification for an individual arrest. The legal principles which govern case outcomes are part of an ever-evolving body of constitutional law set forth in decisions by the U. S. Supreme Court and other federal courts.

Progress in Demonstration Cases

Division attorneys continue to handle close to 80 cases related to demonstrations, many of which stem from protests occurring during the 2004 Republican National Convention (RNC). In 2010, the City prevailed in the first decision addressing the merits of the arrests made during the RNC. In another major development, the Second Circuit Court of Appeals upheld the City's right to withhold sensitive materials from plaintiffs about arrests made during the 2004 RNC—including details on the identities of undercover officers. The court determined that the City's public safety concerns outweighed the plaintiffs' right to access the information.

Handling Complex Litigation

The Division is responsible for varied complex litigation, including several class actions relating to stop-and-frisk activities by police, arrest charges, interrogations, grand jury proceedings, disclosure of exculpatory evidence, use of DNA evidence, searches of arrestees and detainees, and training and discipline of City personnel, among other issues. In 2010, the Division settled a long-standing class-action case involving routine strip searches at Rikers Island and other City jails for people arrested for misdemeanor drug and weapons charges.

Other legal developments:

Jovanovic Case - The court dismissed Dr. Oliver Jovanovic's claims that his civil rights were violated by the City, a police detective, and an assistant district attorney. The high-profile, longstanding matter involved the 1996 arrest and subsequent conviction of Jovanovic, who was at the time a Ph. D student at Columbia University, for kidnapping and assaulting a student he met on the Internet.

Gorman Drunk Driving Case - In a case won by the Division—involving a drunk driver's allegations that he was illegally stopped by police—the plaintiff's lawyer ultimately paid the City for costs incurred. Plaintiff Robert Gorman was pulled over by highway patrol for driving erratically at over 80 miles per hour and had a blood alcohol level of almost three times the legal limit. Division attorneys litigated the case aggressively and established that Gorman's claims of an illegal stop were wholly unsubstantiated.

Sean Bell Settlement - Division attorneys settled claims with Joseph Guzman, Trent Benefield, and the estate of Sean Bell resulting from a high-profile Queens shooting. The complex, well-publicized case highlighted the challenges police officers must face each day.

Practice Spotlight

Creative Settlement in Excessive Force Case

In an example of creative legal strategy, Division attorneys skillfully resolved remaining claims in a longtime litigation resulting from the shooting of an emotionally disturbed man. He had lunged towards officers with a weapon and was tragically killed. Most of the claims against the officers were dismissed in court. However, on behalf of two officers remaining in the lawsuit, the City agreed to meet with the mother of the deceased man and NYPD officials. The sides shared a constructive discussion about what happened during the incident and how officers respond to emotionally disturbed persons.



TAX & BANKRUPTCY LITIGATION

CHIEF Rita Dumain DEPUTIES Lisa Bova-Hiatt, Vincent D’Orazio

The Tax & Bankruptcy Litigation Division plays a vital role in protecting the City’s fiscal health by defending court challenges to real property tax assessments and by advancing initiatives to modernize the City’s infrastructure and enhance the quality of life for City residents. The Division actively acquires property for a variety of projects such as completing the City’s Third Water Tunnel, creating parks, constructing libraries, and building affordable housing. Additionally, the Division litigates various tax issues and matters related to property acquisition, and defends the City’s interests in bankruptcy proceedings.

American Airlines Hotel Tax Exemption Case

In an action brought against the City, American Airlines sought a refund for hotel room occupancy taxes it paid during 2002 and 2003. This tax contains an exemption for personal residents, or occupants of a hotel room or rooms for at least 180 consecutive days. Airlines often reserve many rooms in a hotel for their crew, and American Airlines claimed it should be exempt from taxes it pays on all rooms (including ones used less than 180 days per year) because a given member of its staff is always staying in at least one of its rooms. A mid-level appeals court upheld the City’s position, refusing to give the airline a refund for any occupancy of less than 180 day duration, a large portion of its tax bill. This affirmed a 2009 decision by the New York City Tax Appeals Tribunal.

Defending An Eminent Domain Challenge to Urban Renewal in Harlem

Division attorneys prevailed in a proceeding commenced by property owners who challenged a Determination and Findings issued by the Department of Housing and Preservation (HPD) for the proposed acquisition of properties via eminent domain to support the City’s Harlem-East Harlem Urban Renewal Plan. The petitioners, owners of property that was to be included in the project, alleged that there was not an adequate public purpose and that the environmental review for the project was insufficient. The Appellate Division, First Department rejected these assertions, holding that HPD had complied with the law. The project will revitalize the surrounding area and build affordable housing and jobs.

Affirming the City’s Right to Tax Online Travel Companies

In the ongoing case *Expedia et al vs. City*, the New York County Supreme Court upheld the City’s right to impose a hotel room occupancy tax on the full amount charged to a customer for a hotel room, regardless of whether the charge was imposed through an online travel company or directly by a hotel. The plaintiffs are online room remarketers, among them Priceline, Hotwire, Travelocity, and Orbitz, who claimed that the tax was unconstitutional. The decision marks a major victory in the City’s overall case. Various states and municipalities around the nation are currently involved in similar lawsuits.

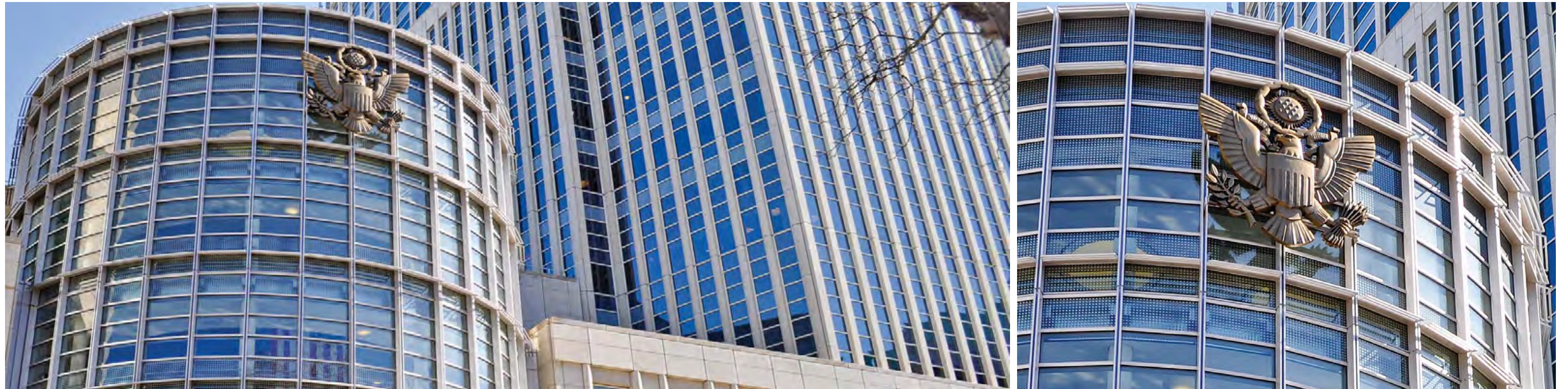
Supporting the Effort to Expand Columbia University

The Court of Appeals—New York State’s highest court—ruled that the State can use eminent domain to acquire additional property to expand the West Harlem / Manhattanville campus of Columbia University. Division attorneys worked on an *amicus* (“friend-of-the-court”) brief in the case, in support of the State’s position. The proposed campus expansion is to extend from 125th Street to 133rd Street on the West Side of Manhattan; plans include the construction of up to 16 new state-of-the-art buildings, publicly available open space, and a retail market.

Practice Spotlight

City Wins Circle Line Tax Case

Division attorneys successfully prevailed in a case involving the taxability of payments by the Circle Line Statue of Liberty Ferry to the Parks Department for an exclusive license of certain landing slips located at Battery Park. The company claimed that their payments were not subject to the commercial rent or occupancy tax under an exemption afforded to certain payments of rent for “piers” used in interstate commerce. Division attorneys successfully argued that the landing slips licensed by Circle Line were not “piers” at all, but rather “landing slips” and therefore not entitled to the exemption. The court determined that Circle Line owes the City approximately \$330,000 in commercial-rent taxes, penalties, and interest.



TORT

CHIEF Fay Leoussis DEPUTIES Steven Levi, Ellen Lombardi, David Santoro

With 200 attorneys and 200 support staff, the office's largest division defends the City against over 6,000 new personal injury and property damage cases annually. The Tort Division maintains offices in all five boroughs and has special subunits that focus on specific issues such as risk management, catastrophic injuries, and toxic torts. The Division's cases span a wide range of issues, including complex questions of governmental and qualified immunity; matters testing the boundaries of duty and foreseeability; interpretation and application of federal and state civil laws; the extent of property interests and the scope of recovery for violation of those interests; and straightforward negligence cases, such as trip-and-falls, accidents in City-owned buildings, and injuries sustained from car accidents.

Managing Risk for City Initiatives

The Division's Risk Management Unit takes a proactive role to circumscribe the City's indemnity costs and prevent similar future accidents or incidents. During 2010, the Unit was involved in the risk management aspects of launching a groundbreaking City pilot program aimed at saving lives by making it possible to obtain organs from deceased donors who die in their homes. The new program will be tested by Bellevue Hospital, the NYPD, and the FDNY.

Amassing Verdicts for the City

In 2010, 115 of the Division's cases progressed to verdict, and 77 were won, demonstrating an impressive win rate of 67 percent. Of particular mention, the Manhattan Unit of the Division boasts a 100-percent win rate for the first six months of this Fiscal Year.

Success With Proactive Motions

The Division's proactive approach with regard to pre-trial motions to dismiss saves both time and money while continuing to generate favorable outcomes. During 2010, Division attorneys made 2,300 affirmative motions and achieved a 75-percent win rate.

Success in Defending Complex Liability Claims from Flood

The Division prevailed in over 100 claims arising from the April 2005 flooding of the Neversink Dam, a source of the City's water supply. The plaintiffs sued the City after their properties, located downstream from the dam, were flooded following a major rainstorm. However, the court determined that the dam's existence actually ameliorated the flooding of the plaintiffs' property, and held that the City's actions in repairing the dam structures are immune from suit under the governmental immunity doctrine. The decision also reaffirmed the standard of care applicable to dam owners. The Environmental Law Division worked on a separate aspect of this case as well.

Practice Spotlight

Landmark Settlement of 9/11 Litigation

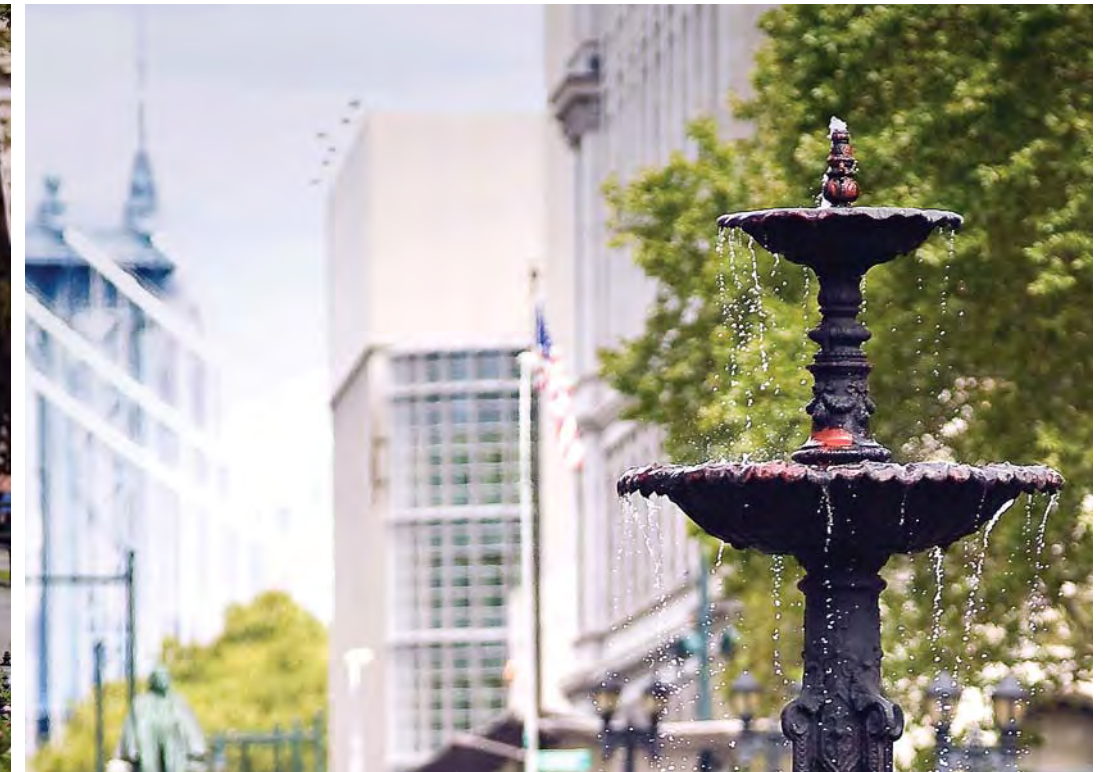
The Division's World Trade Center Unit worked on a historic settlement of 10,000 longstanding personal injury claims brought by first responders and others who performed rescue and clean-up work at Ground Zero. Worth at least \$625 million, the settlement had a required 95-percent opt-in rate in order to take effect. It provided significant closure to this divisive litigation, spanning nearly a decade.

Tort Reform Issues

The Division, in conjunction with efforts by the Legal Counsel Division, advocates on the City's behalf for a variety of reform measures to contain tort payouts to reasonable amounts, thereby protecting public funds, while fairly compensating injured plaintiffs.

Measures the Division has emphasized during 2010 include:

- Linking the interest rate the public pays for judgments and accrued claims (today a required rate of 9 percent) to the 52-week U.S. Treasury Bill rate, which is often far below 9 percent. This measure would be consistent with the rate paid for judgments in federal court.
- Barring public compensation for a plaintiff who is equally or primarily responsible for his or her injuries. Most states have already enacted similar laws.
- Preventing the City from having to pay all damages for economic loss (joint and several liability) caused by multiple defendants when the City is 50 percent or less at fault.
- Requiring, with certain specified exceptions, that plaintiffs have at least \$5,000 in medical expenses to qualify for non-economic damages and capping non-economic damages at \$250,000. This proposal would end the "litigation lottery," in which plaintiffs receive awards for difficult-to-quantify, non-economic losses that are disconnected from the severity of their injuries.
- Setting a sliding scale for attorneys' contingency fees in all tort actions, ensuring that plaintiffs receive a greater share of awards and encouraging attorneys to accept reasonable settlements. A sliding fee scale is already used in medical malpractice cases.



WORKERS' COMPENSATION

CHIEF John Sweeney DEPUTY Mindy Roller

The Workers' Compensation Division represents the City and related entities at all hearings, trials, and appeals before the New York State Workers' Compensation Board. Additionally, the Division administers all aspects of claims by covered employees who are injured on the job or incur an occupational disease. The Division strives to provide employees with all the medical and wage replacement benefits to which they are entitled, while objecting to and, if necessary, litigating unwarranted claims.

New York enacted its workers' compensation statute to address the inequities historically existing among employers and employees with regard to workplace injuries. The New York statute operates on the premise of a tradeoff. Employers assume all liability for injuries arising out of, and in the course, of employment—regardless of fault. Workers receive limited wage replacement benefits for lost earning capacity, and are entitled to have all related and necessary medical costs paid. In exchange, employees are prohibited from suing employers for personal injuries.

New York City is a self-insurer of its workers' compensation obligations pertaining to the approximately 200,000 covered City employees. Employees not covered under this statute, but rather by union contracts, include uniformed police officers, firefighters, and uniformed sanitation workers.

Exposure to Medical Issues

Claims involve nearly every conceivable medical condition, including work-related psychiatric diagnoses, respiratory ailments, heart conditions, and orthopedic conditions. Division attorneys thus acquire a broad range of medical knowledge and obtain excellent experience by regularly cross examining medical and lay witnesses.

Diagnostic Testing

In order to reduce costs and provide timely medical attention, the Division recently embarked on a program to provide necessary diagnostic tests. Through the program, employees who need tests such as X-rays and MRIs are provided with contact information for a test coordinator designated by the Division. They are given a list of facilities in their area and can schedule their test at the facility of their choice. Tests can be arranged with a single phone call and take place in the space of a few days. The test results are then sent to the employee's treating doctor. This process has resulted in prompt testing and reduced costs through negotiated test fees.

Bill Processing

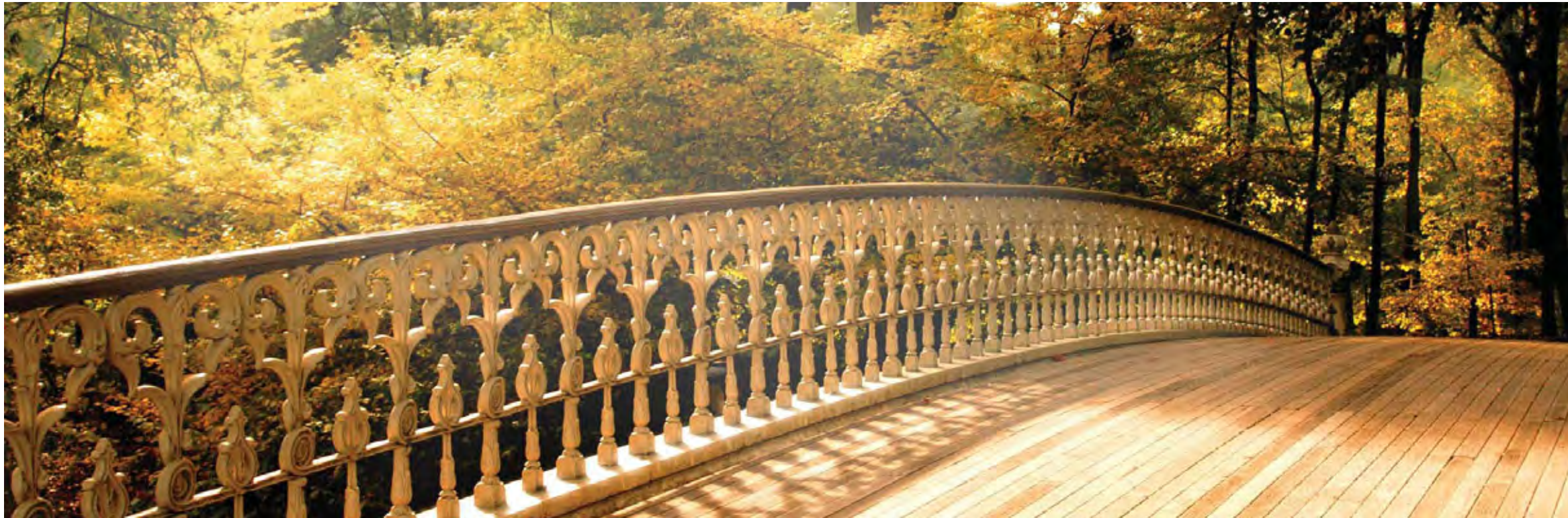
Since medical bill processing is a significant part of the Division's work, it is now using bill review software to partially automate the processing of medical bills. The software automatically reduces any bill in excess of the medical fee schedule. This allows Division employees to concentrate their efforts on determining whether the treatment being billed is related to the case and whether the treatment is consistent with the Workers' Compensation Board's treatment guidelines.

Practice Spotlight

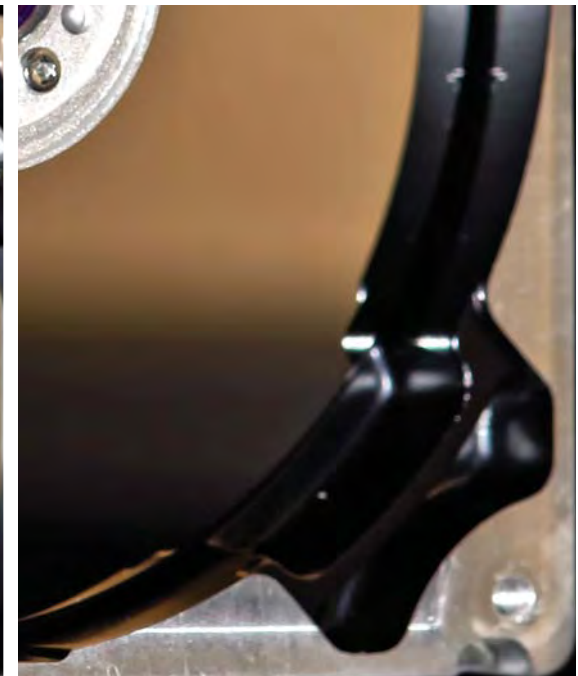
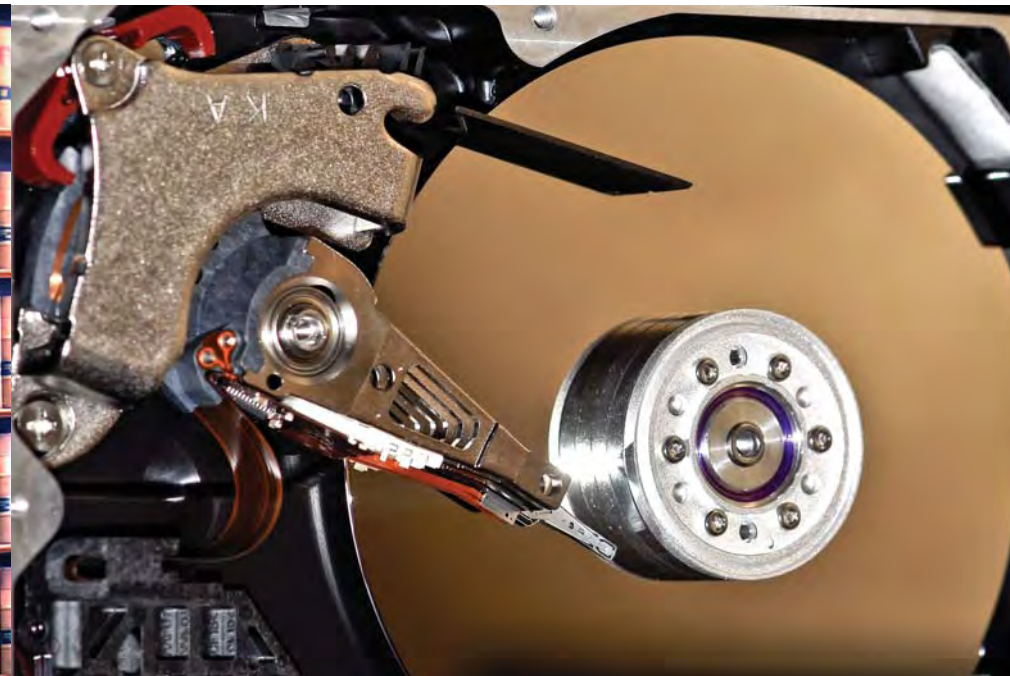
Significant Matters from 2010 Included:

- Receiving and indexing over 15,000 new claims.
- Representing the City at 15,000 hearings, trials, and appeals before the New York State Workers' Compensation Board.
- Paying over \$170 million in wage replacement benefits and medical costs to injured employees.
- Processing over 230,000 medical bills.
- Obtaining revenue recoveries in excess of \$9 million from various sources, including State funds, lien satisfaction, and insurance arbitration.

Support Divisions



Administration
Information Technology
Operations



ADMINISTRATION

CHIEF Malachy Higgins DEPUTY Anthony Johnson

The Administration Division oversees business operations for the Law Department and is responsible for all expenditures of funds, collection of revenue and fees, procurement rules compliance, and personnel processing. Staff also provide general administrative oversight and development of internal policies, rules, and regulations. Finally, the Division currently stores 170,000 boxes containing inactive case files, and is responsible for the physical maintenance of 10 citywide Law Department offices, in addition to the Kingston office, which totals a half-million square feet of space.

Each year, the Division handles over 38,000 paychecks, hundreds of personnel actions, thousands of payments for expert witnesses, 4,000 requests for court reporters and depositions, and hundreds of individual procurements. Moreover, it deposits money recovered in lawsuits on the City's behalf. The Division's efforts continue to focus on expansion and renovation of the Law Department's facilities, speedy responses to staff changes, and automation of systems and processes to increase the Department's efficiency. The Division also provides oversight and advice to other Department enterprises, such as information technology initiatives, equipment upgrades, and management evaluations.

2010 Highlights

- Extended video conferencing capabilities to all borough offices.
- Expanded the electronic routing of invoices to the Affirmative Litigation, Commercial & Real Estate Litigation, and Tax & Bankruptcy Litigation Divisions.
- Expanded the role of the Agency Travel Coordinator to include non-employee (i.e. expert witness and consultant) travel arrangements to reduce agency costs and contract funding.
- Upgraded all Blackberry mobile devices to take advantage of improved technology and pricing opportunities.
- Moved into new 73,000-square-foot file storage space at Bush Terminal in Brooklyn. This additional space brought off-site filing space capacity to 131,000 square feet.
- Secured capital funding totaling \$22.5 million to enhance agencywide computer operations and litigation support efforts in the Commercial & Real Estate Litigation Division.
- Received \$72,000 in State grant funding to assist archiving activities and functions.
- Increased workspace capacity at the 350 Jay Street office in Brooklyn by converting library space into workstations.
- Integrated the Department's telephone inventory into the Department of Information Technology & Telecommunication's Citywide Pinnacle System. The system allows for paperless review of telephone usage and improved monitoring by the Facilities Central staff.
- Expanded the 100 Church Street office's server room to accommodate equipment for the agency's new centralized, uninterruptible power supply (UPS).

INFORMATION TECHNOLOGY

CHIEF TECHNOLOGY OFFICER Joseph Merces

The Information Technology (IT) Division is responsible for all aspects of computing and technology use including: network infrastructure, network security, connectivity, data management, information security, application support, database administration, software administration, technical support and much more. The Division's mission is to provide quality IT services and solutions—effectively aligning the agency's business and technology objectives to provide cost-effective, innovative, and quality solutions that facilitate and improve the Law Department's conduct of business.

The IT Division is comprised of four sub-units: Application Services, Network Services, Technical Support, and Information Security. Keeping up with today's fast-paced world of technology is a challenge, but the Law Department is well positioned for the foreseeable future because of the technology investments and IT accomplishments made in 2010.

2010 Highlights

- The Division reached a major milestone in late 2010 with the Law Department's deployment of a new Citrix remote computing platform. The new platform provides users with a state-of-the-art remote computing environment, enabling work from literally any location in the world with Internet access. The platform also represents the advent of virtualization at the Law Department and the ability to tap into its benefits going forward. The platform is physically located in Brooklyn as part of a strategic decision to implement it where the City's Department of Information Technology & Telecommunications houses Internet connectivity and access. The new Citrix platform is not only a complete hardware upgrade, but also a comprehensive software upgrade, incorporating an updated operating system, as well as new Citrix and Microsoft Office applications.
- The Division deployed a new Intranet platform. The new platform not only represents a complete hardware and software upgrade, but is also load-balanced to distribute agency workload evenly across systems. Primary benefits of this change include optimized resource utilization and increased overall reliability.
- The Division also installed a new, centralized, uninterruptible power supply (UPS) at the 100 Church Street office's server room. The new UPS provides short-term battery backup in case of power failure. Overall service reliability and uptime of the agency's IT services have dramatically improved as a result of the UPS' electrical power conditioning. It has eliminated problems like equipment failures and software and data corruption, which can be caused by a problematic outside power supply.
- The Division installed a new CISCO IronPort solution to address the ever-growing problem of e-mail SPAM. The new anti-SPAM technology both quarantines e-mail SPAM and filters e-mail-borne threats and viruses, helping to improve security and protect the Law Department from the latest Internet threats.
- A great number of computer desktop, laptop, security, and software upgrades were made in 2010 and continue to be made in keeping pace with technology.



CLASS OF 2010 ASSISTANT CORPORATION COUNSELS

OPERATIONS

CHIEF Kenneth Majerus DEPUTY Jonathan Pinn

The Division's two fold mission is to provide centralized document production support and improve operational efficiencies for the Law Department. The Operations Division is comprised of six document production and distribution units and an operational analysis unit. The Document Production and Distribution units manage the service of legal process, case docketing, electronic document editing, courier services, composition and duplication of documents, the serving and filing of legal papers, and the creation and maintenance of document assembly templates. The Operational Analysis Unit works to improve the Department's operational efficiencies and plays a major role in producing specialized reports, including data for the Mayor's Management Report and governmental audits.

2010 Highlights

- **CDS** - The Communications and Docketing Services Unit (CDS) handled over 50,000 individual items either delivered by hand or through personal service and opened nearly 33,000 new matters in LawManager, the office's case management system—a 23% increase from 2009. CDS staff also handled and processed nearly 320,000 pieces of U.S. mail, requiring nearly 10,000 production hours.
- **Training Unit** - An expanded Computer Training Unit organized and presented 29 different computer software courses, arranged in recurring monthly schedules. In the last year, 508 employees were trained, an increase of 63% over 2008.
- **DDPC** - The Document and Data Processing Center (DDPC) responded to over 6,000 job requests, which yielded almost a quarter-million pages and records. To complete these requests, Operators logged 50,000 hours, a 23% increase over 2009. DDPC also began the process of digitizing all audio materials submitted for transcription. This has enabled the Division's transcription operators to transcribe tapes while simultaneously permitting legal staff to listen to the content; it also allows for electronic storage of the original content along with the resulting transcript.
- **DFS** - The Duplication and Finishing Services Unit (DFS) produced over 7 million pages in 2010 while responding to approximately 14,000 work orders, a 20% increase from 2009. In July, DFS also initiated a service for reproducing and labeling optical media (like CDs and DVDs)—and since that time has delivered well over 1,500 pieces. DFS Staff, in addition to responding to and resolving almost 1,500 issues reported on copiers and fax machines, used a free software application to monitor computer and printer issues proactively.
- **PCS** - The Process & Courier Services Unit (PCS) handled nearly 35,000 services, filings, deliveries, and pick-ups. The Unit also revamped its method of producing and saving affidavits to produce more legible documents and enable the agency to store them electronically.
- The Division entered into new leasing for 11 "multi-function" devices (i.e. combination print, fax and copy machines) in the agency at a reduced cost of 12% from previous years. During 2010, staff members, using the 87 multi-function devices around the agency, produced over 20 million pages.
- Staff members in the Division Office, DFS, PCS, and CDS collaborated to produce and distribute almost 7,000 documents to enable the Law Department to comply with a federal Medicaid mandate.
- DFS and DDPC updated processes and skill sets to help the agency remain in compliance with updated rules for electronic filing and submissions from the Court of Appeals, the First Department, and the Second Circuit Court of Appeals.



AT CITY HALL
Mayor Bloomberg and Corporation Counsel Michael A. Cardozo, with the 2010 class of Assistant Corporation Counsels and members of the Law Department's executive staff.

The Law Department has long been committed to recruiting, retaining, and promoting a diverse community of professionals. An Equal Opportunity Employer, the Law Department would rank in the top 10 in terms of ethnic diversity when compared to the nation's 100 largest private law firms.

The Law Department's Diversity Committee works to enhance the recruitment and retention of attorneys of all backgrounds, and our Women's Committee focuses on issues of particular importance to the 60 percent of our attorneys who are women. The Law Department also has the largest number of openly gay attorneys among the law offices reporting this information to the National Association of Law Placement.

Diversity is reflected throughout the ranks of the Law Department. Five of our 17 division chiefs are Black, Hispanic, or openly gay or lesbian, and more than half of our division chiefs are women. The New York City Bar Association named Corporation Counsel Michael A. Cardozo a Diversity Champion in recognition of his efforts to promote diversity both within the Law Department and the legal profession.

2010 ANNUAL REPORT



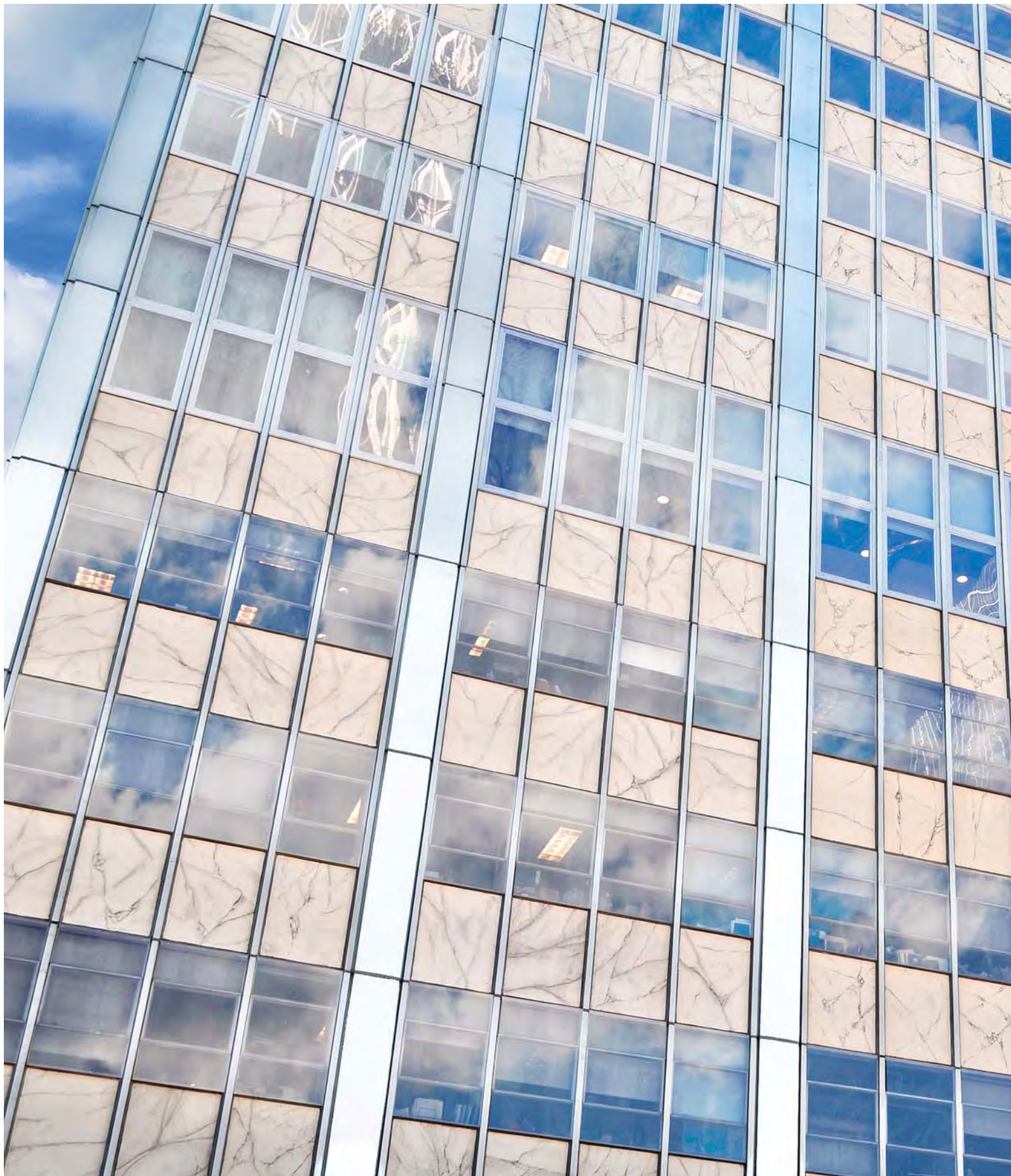
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