



New York City Law Department YEAR IN REVIEW 2017

With offices in all five boroughs and Kingston, New York, the New York City Law Department handles over 70,000 active or ongoing legal matters each year. In addition to litigating cases, attorneys draft and review local and State legislation; approve leases, contracts, and financial instruments for the sale of municipal bonds; negotiate and structure business transactions; and provide legal counsel to City officials on a wide range of issues, such as immigration, education, judicial election reform and environmental policy. Listed below are some major issues and matters handled by the various Law Department divisions in 2017.

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For more information, please
visit our website at
www.nyc.gov/law

LEGAL DIVISIONS

ADMINISTRATIVE LAW

Division Chief: Sheryl Neufeld | Deputy Chief: Michelle Goldberg-Cahn

- **Tenant Protection:** Secured more affordable housing for rent-stabilized tenants by defending a zero-percent Rent Guidelines Board increase.
- **Landmarks Preservation:** Preserved Staten Island's Manee-Seguine Homestead, constructed in 1680, by prevailing in a case compelling the owners to upkeep the landmarked property.
- **Affordable Housing:** Resolved long-standing litigation concerning a rezoning in Brooklyn's Broadway Triangle area, permitting the development of more affordable housing.
- **Nightlife and Safety:** Played a key role in updating the City's nightlife regulation; worked on repeal of the Cabaret Law and creation of the Office of Nightlife.
- **Taxis:** Encouraged more choices in the ever-evolving transportation industry; won dismissal of several federal and state cases challenging app-based car services.
- **Crane Safety:** Promoted construction safety by winning dismissal of challenge to regulatory requirements for cranes to be taken down in high winds.

AFFIRMATIVE LITIGATION

Division Chief: Gail Rubin | Deputy Chief: Eric Proshansky

- **Illegal Cigarettes:** Pursued litigation against FedEx for shipping untaxed cigarettes in violation of law and an Assurance of Discontinuance with the State; City and State won post-trial award of \$247 million against another shipper, UPS.
- **False Claims Act Litigation:** Investigated, litigated, and settled whistleblower cases – including claims against owners, developers, and others – for underreporting Department of Building costs and underpaying permit fees.
- **Design and Construction Defects:** Litigated complex cases to remedy construction and design problems, including over a Brooklyn Bridge Park pedestrian bridge, the Governor's Island seawall and lift bridges, water pollution control plants, school buildings and bridges.
- **U.S. Dept. of Defense Suit:** Sued to compel timely entry of disqualifying criminal conviction records for military service members into the FBI's national gun background check system, relied on by the NYPD when issuing gun permits and licenses.

APPEALS

Division Chief: Richard Dearing | Deputy Chiefs: Devin Slack & Claude Platton

- **Health and Animal Welfare:** Successfully defended several health and animal welfare measures, from e-cigarette regs to restaurant sodium warnings to humane-sourcing requirements for local pet shops.
- **Adult Use Zoning:** Prevailed in the Court of Appeals in a more than decade-long challenge to the City's adult use zoning regulations.
- **Temporary Housing:** Strengthened the City's ability to recoup from at-fault landlords the expenses for temporarily housing New Yorkers forced to vacate homes due to unsafe conditions.
- **Amicus Briefs:** Filed amicus briefs in the U.S. Supreme Court and other courts supporting transgender student rights, the validity of antidiscrimination laws, the rights of housing voucher renters not to face discrimination, and the constitutionality of a local law imposing criminal penalties for careless driving.

COMMERCIAL & REAL ESTATE LITIGATION

Division Chief: Nancy Brodie

Deputy Chiefs: Richard Schulsohn & Robert Funkhouser

- **Dismissal of Pension Action:** Upheld the separate nature of a government entity from the private companies with which the government has contracts, by obtaining summary judgment dismissing a Pension Fund's claims seeking to impose more than \$115 million liability on the DOE arising out of private companies' withdrawal from a Pension Fund.
- **Dismissal of Federal Suit:** Upheld the need for a formal contract to bind the City to alleged contract obligations by winning summary judgment dismissing claims for more than \$14 million by a union Welfare Fund seeking reimbursement of health insurance premiums for employees of private contractors.
- **Software Contract Termination Upheld:** Protected Health & Hospital's contract rights by winning dismissal of a federal action by subcontractor alleging that termination was improper and in retaliation for reporting cost overruns and misconduct.
- **Termination of Docking Rights for Public Safety Reasons Upheld:** Upheld DOT's rights to enforce its permits and protect the public, by defeating emergency injunction applications by tour boat operator whose docking rights had been terminated due to safety concerns.
- **Dismissal of Substantial Construction Dispute:** Upheld City's contract terms by winning dismissal of contractor's extra work claims exceeding \$6.5 million arising from High Bridge renovation in the Bronx.

CONTRACTS & REAL ESTATE

Division Chief: Amrita Prabhakar Barth | **Deputy Chief:** Isabel Galis-Menendez

- **On-Call Emergency Contracts Insurance Program:** Worked on documents required to establish an On-Call Emergency Contracts Insurance Program available to contractors that are engaged to provide services in the event of an emergency, such as a hurricane or terrorist attack.
- **Hall of Science Pre-K Facility:** Worked in conjunction with several City agencies and Hall of Science to license, build and create a new Pre-K facility in Flushing Meadows Park, Queens in order to provide Universal Pre-K to an underserved area.
- **HIPPA Security Compliance Services:** Spearheaded a project to obtain security compliance services for City agencies covered by HIPPA.
- **Wildlife Conservation Society (WCS) Subgrant Agreement for the Restoration of the NY Aquarium:** Implemented a subgrant agreement for City reimbursement of WCS for the costs of damage caused by Hurricane Sandy and provided counseling in connection with this project.
- **Project Labor Agreements:** Engaged in negotiation and mediation with Local 1010 union regarding numerous grievances brought by the Local against the Parks Department and successfully avoided arbitration.

ECONOMIC DEVELOPMENT

Division Chief: James McSpirtt | **Deputy Chief:** Betty Woo

- **Lower Concourse North:** Encouraged City development by leasing parcels along the Harlem River waterfront north of the 145th Street Bridge for mixed-use affordable housing adjacent to a new public open space.
- **Moynihan Station Redevelopment:** Promoted transportation initiatives, including the redevelopment of the historic James A. Farley Post Office as a rail/retail/commercial complex.
- **Long Island City:** Activated under-utilized City owned sites through long-term leases for mixed-use development.
- **Downtown Brooklyn:** Worked on Downtown Brooklyn revitalization, including advising agencies on open space and cultural facilities, the new Brooklyn Heights library site, and the mixed-use City Point development's final phase.

ENVIRONMENTAL LAW

Division Chief: Susan Amron | **Deputy Chief:** Hilary Meltzer

- **Air Pollution Control:** Challenged EPA efforts to repeal Clean Power Plan and other regulations designed to reduce greenhouse gas and harmful air emissions through participation in multi-state/municipality litigation and comments submitted to EPA.
- **Water Supply Protection:** Helped reach long-term agreement with NY, NJ, Pennsylvania, and Delaware establishing sustainable management principles for the Delaware River to enable the City to better manage and plan flows from its upstate drinking water reservoirs.
- **Superfund:** Advised City agencies and worked with federal government on investigations of four federal NYC Superfund sites, with the goals of remediating the sites, preserving the City's remaining industrial waterways, and protecting public health.

FAMILY COURT

Division Chief: Angela Albertus | **Deputy Chief:** Jennifer Gilroy Ruiz

- **Juvenile Delinquency Prosecution:** Continued balancing juveniles' needs and best interests with protecting the community to promote juvenile rehabilitation with diversion of low-level offenders to diversion programs and crime victims assessed for services with local service providers. Enhanced prosecution of serious felony cases by appointing a Director of Trials and Advanced Litigation Strategies, a new position.
- **Raise the Age Implementation:** Enhanced recruitment and training efforts to prepare for the incorporation of sixteen and seventeen year old youth into the juvenile justice practice. Continue to prepare internally for the legal and legislative changes as well as the practical and logistical implications of an expanded juvenile delinquency population. Collaborated with agencies both borough based and citywide to ensure a smooth transition within the agencies and the court system.
- **Special Victims Unit:** Strengthened coordination with the multi-disciplinary team at the Queens Child Advocacy Center to reduce trauma to child victims of sexual abuse by adding an on-site ACC. Expanded key program pairing junior attorneys with senior unit members citywide.
- **Interstate Child Support:** Establish orders of parentage and child support, pursue modification and enforcement of existing child support orders on behalf of NYC residents and out-of-state families; seeking to ensure economic well-being of children and families. Began de-centralization of case processing on outgoing matters, enabling local parents to be seen in Brooklyn and Queens in addition to Manhattan.
- **Community Outreach:** Continue to enhance community outreach initiative working with schools, community members and the police department to reduce juvenile crime and recidivism, to better understand the communities we serve and to inform the public about what our office does.

GENERAL LITIGATION

Division Chief: Thomas Crane | **Deputy Chiefs:** Marilyn Richter & Jonathan Pines

- **People with Disabilities & Homeless Shelters:** Entered into a major settlement agreement whereby people with disabilities will have appropriate access to homeless shelters.
- **"Selfie" Photos in Polling Places:** Successfully defended both the election law that prohibits the display of a marked ballot to others and the Board of Election's internal policy prohibiting pollsite photography.
- **Car Wash Licensing:** Also defended the vast majority of the Carwash Accountability Law, which mandates that car washes be licensed, thus protecting employees, consumers, and the environment.

LABOR & EMPLOYMENT LAW

Division Chief: Eric Eichenholtz | **Deputy Chiefs:** Paul Marks & Andrea O'Connor

- **Religious Discrimination:** Resolved a religious discrimination class action brought by officers challenging the NYPD's "no beard policy"; worked with PD on a revised policy that balances operational needs and religious beliefs.
- **Bloomberg v. City:** Prevailed in a preliminary injunction motion brought by a DOE principal seeking to enjoin an internal investigation into, amongst other things, the principal's alleged political activity at school; the principal claimed the investigation was in retaliation for her complaints about racial disparities in funding for DOE athletic programs.

LEGAL COUNSEL

Division Chief: Stephen Louis | **Deputy Chief:** Martha Mann Alfaro

- **Criminal Justice Reform Act:** Helped implement an initiative to keep low-level non-violent offenders out of the criminal justice system by overhauling Parks Dept. rules; worked with PD and OATH.
- **State Legislation for Minority and Women-Owned Business Enterprises:** Worked with the Mayor's Office of MWBEs and State Legislative Affairs to get a bill passed that authorizes the City to promulgate a rule allowing agencies to award contracts for up to \$150,000 to MWBEs without formal competition.
- **Fair Work Week:** Worked with City Hall and the Department of Consumer Affairs on a package of bills to prevent abusive scheduling practices for fast food and retail employees.
- **Housing Discrimination:** Negotiated a number of bills designed to ease tenants' legal burdens when they bring discrimination cases (often pro se) to housing court.
- **Legal Assistance in Housing Court:** Worked on a bill to provide legal assistance to low-income tenants who are facing eviction proceedings.
- **Tobacco Legislation:** Worked on a package of bills designed to discourage tobacco use by taxing tobacco products, other than cigarettes, which had previously not been taxed.

MUNICIPAL FINANCE

Division Chief: Albert Rodriguez | **Deputy Chief:** Michael Moore

- **Bond Transactions:** Provided legal services on 38 discrete City bond transactions totaling approximately \$17.8 billion to fund City capital projects.
- **Bond Refinancing:** Of the 38 bond transactions, five transactions refunded bonds previously issued resulting in savings of approximately \$657.4 million over the City's Four-Year Financial Plan.
- **Hudson Yards:** Hudson Yards Infrastructure Corp. issued \$2.2 billion of bonds and the net proceeds of the bonds were used to refund \$2.4 billion of the \$3 billion of bonds previously issued.
- **TSASC, Inc.:** TSASC, Inc. issued \$1.024 billion of Tobacco Settlement Bonds to refund most of its outstanding bonds resulting in approximately \$45 million of net present value savings.

SPECIAL FEDERAL LITIGATION

Division Chief: Patricia Miller | **Deputy Chiefs:** Frances Sands, Peter Farrell, & Elizabeth Dollin

- **Trial Success:** Continued our Trial Initiative's success -- tried 43 cases and received complete defense verdicts in over 70 percent of cases. (Was 80 percent when including minor awards, like \$1.)
- **Filings Down:** Since launching the Initiative, with more aggressive litigation and settlement approaches, new filings dropped over 50 percent.
- **Arrestee Transport:** Worked with PD to address issues regarding transportation of arrestees using wheelchairs. Resolution received positive attention and highlighted the PD's proactive efforts.
- **Summons Resolution:** Resolved a class action challenging the issuance of facially insufficient summonses. Created a \$75 million fund. Unclaimed monies revert to NYC.

TAX & BANKRUPTCY LITIGATION

Division Chief: Rita Dumain | **Deputy Chiefs:** Vincent D'Orazio & Rochelle Cohen

- **Bronx Development:** Changed the City Map in an area of the Shorehaven section of the Bronx to facilitate a large –scale residential development which will include public amenities such as Pugsley Creek Park and a waterfront esplanade.
- **New Park:** Won in the Appellate Division, First Department and this decision paves the way for the City to acquire property for the Lower Concourse Harlem River Park in the Bronx, a park that will create an easily accessible central open space and provide much needed recreational opportunities for residents of the area.
- **Tax Win:** In a case of first impression the Appellate Division, First Department affirmed the power of the New York City Tax Appeals Tribunal, and hence the power of the Commissioner of the New York City Department of Finance to invoke the step transaction doctrine (a judicial doctrine that under certain circumstances combines a series of formally separate steps, resulting in tax treatment as a single integrated event) in the context of real property transfer tax cases.
- **Tax Assessment:** The New York County Supreme Court upheld the City's policy of separately identifying and assessing tenant owned private back-up generators because such installations are uniquely different in terms of function and size from the typical power, lighting, heating and plumbing systems provided to tenants by building owners.
- **Preserving a Piece of Old New York in Brooklyn:** Worked with Debtor in efforts to avoid an immediate sale to a developer of the Kensington Stables, just off Prospect Park in Brooklyn, and as a result a potential investor was found who will improve and continue to operate the stables.

TORT

Division Chief: Fay Leoussis | **Deputy Chiefs:** Ellen Lombardi, Nina Jody, Jenny Montana O'Connor, Lavanya Pisupati, & Nancy Savasta

- **Motion Practice Success:** Achieved another successful year for Tort's motion practice in FY 2017. With almost 7,000 new cases commenced, it's critical that dispositive motions to dismiss are pursued. Over 1,575 affirmative dispositive motions were made and, of those decided, the division secured an 81-percent win rate.
- **Medicare Reporting:** Continued a "platinum standard of practice" via the Medicare Compliance and Recovery Unit regarding Medicare reporting and reimbursement. MCRU has collected more than \$1.85 million in Medicare reimbursements in 2017 for a grand total of \$13.5 million collected since 2011, with no judgments entered against the City for non-payment of Medicare settlements.
- **Deposition increase success:** Infusion of new staff for the vertical handling of cases in Brooklyn and the Bronx enabled those boroughs to increase by 42% the number of depositions held from August to November of this year (1,352) over the same four month period last year (949). This correspondingly reduced by 26% percent the number of discovery motions brought by other parties from August to November of this year (350) compared to the same period as last year (474) in these two enhanced-staff boroughs, thus averting potential orders granting costly sanctions against the City.

WORKERS' COMPENSATION

Division Chief: John Sweeney | **Deputy Chief:** Mindy Roller

- **Revenue Achievements:** Recovered revenue of \$ 11.2 million this year, accomplished through third-party lines, arbitration, and reimbursement through the State Second Injury Fund.
- **Electronic claims system:** Continued development of upgrade to our current system which will result in web-based access. Tracking and reporting of claims information will be simplified and streamlined.
- **Agency outreach:** Organized a series of meetings and training sessions with our client agencies in order to maintain compliance with the filing requirements of the Workers' Compensation Board.



SUPPORT DIVISIONS & UNITS

ADMINISTRATION

Division Chief: Malachy Higgins | **Deputy Chief:** Kenneth Majerus

- **Encumbrance Control Unit:** Recorded nearly 17,553 expense records for budget purposes, which were later uploaded to LawManager, representing nearly \$55M in spending. These activities represent a 21% increase over FY16.
- **Fiscal Unit:** Processed nearly \$89.5M in vouchered payments for the Department to thousands of vendors, an 18% increase over the previous year.
- **New Space Acquisition:** Completed pre-leasing and design work on three new sites for Law Department expansion, partly in support of the Tort Verticalization initiative, and representing an increase in office space of 90,800 sq. ft.
- **Renovation:** Designed and managed an increase in seating capacity at the Bronx Supreme Court courthouse and the Bronx Family Court courthouse to incorporate new space recently made available to the Law Department. Implemented redesign projects to increase seating capacity in the CLU Police room, the IT Division and in Personnel and Timekeeping.
- **Technology:** Launched the roll-out of iPhones to Legal staff, deploying over 730 new phones with Law Department email and calendar and fully compliant with DoITT installation standards.
- **Temporary Leased Space:** Installed Brooklyn Tort Verticalization teams (80 staff) into temporary office space at 1 MetroTech Center.

E-DISCOVERY GROUP

Director: Ken Becker | **Deputy Director:** Sandra Metallo-Barragan

- **E-Discovery Services:** Provided guidance, information, and technical services to assist in all aspects of the discovery of electronic evidence in litigation and in response to FOIL requests and governmental investigations.
- **Empowering Attorneys:** Enabled the City's litigators to meet their e-discovery obligations in more than 200 cases.

INFORMATION TECHNOLOGY

Chief Information Officer: Joseph Mercas | **Deputy Chief/Director of Network Services:** Keith Williams

- **HelpDesk, New Computers:** Answered more than 22,000 support calls and updated technology to 275-plus agency computers.
- **Offices:** Upgraded lines at agency offices providing vastly improved connectivity to CityNet.
- **Remote Connectivity:** Upgraded Citrix Netscalers and rolled out Citrix 2015, improving remote work experience.
- **Automation Software:** Automated Family Court and Tort Division processes through Instaknow software; also upgraded frequently used office-wide software applications.
- **Security:** Investigated and resolved a multitude of security issues; conducted computer forensics investigations.

LAW LIBRARY

Chief Librarian: Tracy Paler

- **Research:** Offers both traditional and non-traditional research for divisions and agencies, including compiling legislative histories and researching complex legal issues. With the inclusion of the social media and background check profiles, the Library continues its commitment
- **Information Resources:** Provides access to crucial online legal resources, as well as training on emerging online legal research tools for staff in all boroughs. Also works with Manhattan DA to assist with locating juveniles suspected of being human trafficking victims.

LEGAL RECRUITMENT

Director: Stuart Smith | **Deputy Director:** Lillian Evans

- **Summer Program:** Hosted 47 Summer Honors law student interns who gained hands-on legal experience in a variety of divisions
- **Legal Hires:** Hired 53 law school graduates from 23 law schools to work in 9 divisions.
- **Tort Expansion:** Recruited 104 experienced attorneys, including 63 for our expanded Tort Division.

LITIGATION SUPPORT

Division Chief: John Hupper | **Litigation Support Directors:** Beth Nedow & Patricia DeLisa

- **Medicare Reporting Overhaul:** Revamped our Medicare reporting processes to transition to new diagnosis and causation codes, thus complying with the City's reporting obligations.
- **On-Site, Agency-Based Discovery Staff:** Established temporary on-site staff at DEP, who are establishing processes to facilitate discovery & witness requests, in addition to staff permanently placed on-site at DOT and Parks.
- **Information Governance:** Advised on a wide variety of topics, including email retention policies, paper-to-digital, and e-signatures.

OPERATIONS

Division Chief: Jonathan Pinn | **Deputy Chief:** Omer Soykan

- **Communications & Docketing and Central Services:** Handled and processed 6% more mail than prior year at well over 350,000 pieces of mail.
- **Document & Data Processing:** Handled over 6,000 requests for data entry, typing, proofing, and language services and began facilitating video editing services.
- **Duplication & Finishing:** Responded to over 9,000 requests resulting in over 7 million pages and produced over 5,300 copies of CD and DVD ROMs.
- **Process & Couriers:** Responded to 28,000 requests to serve, file, deliver and pick-up.
- **Electronic Information Group:** Processed over 80,000 ECF e-mails; administered just shy of 7,000 tort answers.
- **HotDocs Support & Development:** During this period, the 1 millionth interview was requested on HotDocs Template Portal.
- **Training Unit:** Held 235 training sessions; 1,472 staff attended classes offered and facilitated by the Training Unit.

PRESS & INTERNAL COMMS

Public Affairs Director/Press Secy: Nicholas Paolucci & **Internal Comms/Special Projects Director:** Kate O'Brien Ahlers

- **Press:** Provide key updates to reporters on legal issues; work with City Hall to promote Mayoral initiatives.
- **Communications:** Enhance office communications through publications, special projects and/or pitches, and internal news updates.

PROFESSIONAL DEVELOPMENT

Director: June Witterschein | **Deputy Director:** John Campbell

- **Continuing Legal Education:** Expanded attorney knowledge by doubling lawyers citywide who took our online courses.
- **Coaching Collaborative:** Developed and delivered new programming for the Collaborative to empower Coaches to better serve their divisions.
- **City Agencies:** Counseled client agencies to create and implement their own in-house professional development programs for their legal staff.

