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New York City Law Department YEAR IN REVIEW 2013

With offices in all five boroughs and Kingston, New York, the Law Department handles an active caseload of over 80,000 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; negotiate and structure business transactions; and provide legal counsel to City officials on a wide range of issues, such as immigration, education, judicial selection reform and environmental policy. Listed below are some of the major issues and matters handled by the various divisions of the Law Department in 2013.

LEGAL DIVISIONS

ADMINISTRATIVE LAW

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

- **Bike Share:** Defeated three challenges to the siting of Citi Bike Share stations.
- **Borough Taxi:** Helped win a lawsuit contesting the City's "green taxi" initiative and secured the City's right to auction up to 2,000 more wheelchair-accessible yellow taxi medallions.
- **Health:** Protected newborns from communicable diseases transmitted during circumcision rituals by successfully defending a health code provision.
- **Housing:** Allowed efficient and cost-effective off-site modular housing construction to proceed by winning a lawsuit brought by trade associations against the Department of Buildings.

AFFIRMATIVE LITIGATION

Division Chief: Gail Rubin | Deputy Chief: Eric Proshansky

- **Cigarettes:** Reached a \$2.5 million settlement with FedEx Ground for shipping untaxed cigarettes into the City; Stopped an internet cigarette seller and Indian smoke shops from selling untaxed cigarettes in the City.
- **Anti-Corruption:** Secured a \$1.4 million settlement of a civil suit against corrupt school custodians who defrauded the DOE.
- **Insurance:** Demanded that insurers of contractors performing work for the City defend and indemnify the City, an effort, which to date, has saved the City over \$550 million.
- **Sandy Recovery:** Auctioned a 185-foot tanker that washed onto the Staten Island shore during the hurricane; Worked with OMB to obtain waivers of the City's obligation to obtain insurance for FEMA-reimbursed damage caused by Sandy.

APPEALS

Division Chief: Richard Dearing | Deputy Chief: Francis Caputo

- **Transportation:** Enabled the City to issue livery licenses in northern Manhattan and the four other boroughs, and auction up to 2,000 medallions for wheelchair accessible yellow taxis by upholding the constitutionality of the Hail Act in the New York Court of Appeals; Also upheld a test program to allow taxi-passenger pickups via smart phone.
- **Public Trust Doctrine:** Secured the Parks Commissioner's discretion to choose among alternative valid park purposes, such as eateries, by winning a challenge to a planned restaurant in Union Square Park.
- **Health:** Helped ensure that pregnant women are able to make informed health care choices by reversing parts of a District Court order that prevented the City from requiring pregnancy centers to disclose whether they have licensed medical personnel on staff.

COMMERCIAL & REAL ESTATE LITIGATION

Division Chief: Nancy Brodie

Deputy Chiefs: Richard Schulsohn & Lawrence Spielberg (Acting)

- **Buses:** Defeated challenges to new school bus contracts, allowing a procurement to be implemented that will save about \$100 million over five years.
- **Homeowners:** Successfully challenged a Comptroller's determination that residential property owners' water and sewer repairs pursuant to a service line protection plan are a "public work" subject to prevailing wage laws.
- **Construction:** Won dismissal of a \$4 million construction delay claim because damages were not itemized, as required by the contract.
- **Homeless Shelter:** Successfully fought claims for \$225 million arising out of the City's decision to not proceed with a negotiated (but unregistered) contract to build a homeless shelter.

CONTRACTS & REAL ESTATE

Division Chief: Steven Stein Cushman | **Deputy Chief:** Howard Friedman

- **HHS Accelerator:** Helped develop the City's Health and Human Service Accelerator, a centralized, online vehicle for social service procurements.
 - **Sandy Recovery:** Helped ensure the City's housing recovery program complied with federal requirements.
 - **Contracts:** Further protected the City's interests in agreements with contractors by issuing an improved standard construction contract to agencies.
 - **Jamaica Bay:** Helped negotiate an agreement to establish a major science center near Jamaica Bay to promote the understanding of the surrounding urban ecosystem.
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ECONOMIC DEVELOPMENT

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

- **Roosevelt Island:** Executed a lease for a 12-acre applied science and engineering campus.
 - **Seward Park:** Executed contracts of sale for land parcels in connection with a 1.65 million square foot redevelopment project.
 - **Hallet's Point:** Advanced the development of affordable housing at the Astoria Houses site.
 - **Lower Manhattan:** Sold two City buildings for \$250 million.
 - **Flushing Commons:** Sold a former municipal parking lot for \$20 million for mixed use development.
 - **Airports:** Amended lease to allow a runway extension at JFK.
 - **High Line:** Modified an easement to allow for more public space and a \$29 million upgrade to the High Line.
 - **Telecommunications:** Helped execute agreements to install free Wi-Fi in Harlem at no cost to the City.
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ENVIRONMENTAL LAW

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

- **Environmental Reviews:** Advised agencies on numerous environmental reviews, including reviews of post-Sandy beach reconstruction and the redevelopment plan for Willets Point; Defeated challenges to several environmental reviews, including the NYPD's WTC security plan and the proposed Bronx Fresh Direct facility.
 - **Exxon Mobil:** Helped secure a \$105 million judgment against Exxon Mobil for its improper use of a banned gasoline additive found in groundwater in Jamaica, Queens.
 - **Solid Waste:** Successfully fought challenges to two Marine Transfer Stations at the core of the City's Solid Waste Management Plan.
 - **Parks:** Reaffirmed the discretion of the Parks Commissioner to determine appropriate uses of City parkland by defeating a challenge to the construction of a restaurant in Union Square Park.
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FAMILY COURT

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

- **Training:** Enhanced training programs and presented courses on the Close to Home initiative, interviewing teenage sexual assault victims, "The Evolving Family" and its impact on child support cases; and presented on juvenile delinquency trial practice at a statewide conference.
 - **Communities:** Continued to conduct outreach to NYPD, local schools and community groups to reduce juvenile crime and better understand community concerns.
 - **Diversions:** Continued to divert cases involving low-level offenses to community programs, including to youth court.
 - **Interstate Child Support:** Handled 5,420 new cases from other states, Puerto Rico and foreign countries; Exceeded citywide performance goals by achieving 1,205 final support orders.
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GENERAL LITIGATION

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

- **Charter Schools:** Defeated challenges to DOE's decision-making process for approving co-location of public charter schools in public school buildings.
 - **FOIL:** Successfully defended Freedom of Information Law determinations. One case prevented a website from obtaining booking photos, which would have been posted and removed only after payment by inmates. Another suit protected the City from a significant security risk by preventing the release of the City's detailed internet conduit maps.
 - **ADA:** Engaged in mediation to improve plans and services to people with disabilities during emergencies, as a result of a federal class action under the Americans with Disabilities Act.
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LABOR & EMPLOYMENT LAW

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

- **First Amendment:** Won a First Amendment lawsuit brought by a police officer who claimed superiors retaliated against him for reporting a quota system.
- **Joint Employer:** Protected the City from being liable for the actions of a private vendor by winning a lawsuit that claimed the City was a "joint employer" of home health attendants employed by an outside vendor.
- **Trial Verdicts:** Won an Equal Pay Act case involving female NYPD managers who claimed they were being paid less than their male counterparts; Won a case brought by a City Marshal applicant who claimed his First Amendment rights were violated because he endorsed a particular political candidate.

LEGAL COUNSEL

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

- **Tobacco:** Worked with agencies to enact a number of new tobacco control initiatives, including tougher laws against bootleg cigarettes, tobacco price discounts and a law to raise the minimum sales age to 21 for tobacco products and e-cigarettes.
- **City Codes:** Revised the City's Construction and Fire codes, aligning the City's unique infrastructure needs with the latest standards; Worked with the City Council and agencies to better protect City buildings and residents from future extreme weather events.
- **Styrofoam:** Helped pass legislation, starting in 2015, to ban businesses from selling or providing Styrofoam containers or packaging.
- **Grants & Compliance:** Helped HRA obtain \$50 million in Medicaid reimbursements by challenging a longstanding state reimbursement policy.

MUNICIPAL FINANCE

Division Chief: Albert Rodriguez | **Deputy Chief:** Olivia O'Neill

- **Bonds:** Oversaw the issuance of more than \$14.7 billion of bonds, including City general obligation, Transitional Finance Authority and Municipal Water Finance Authority bonds and commercial paper.
- **Direct Bond Placements:** Saved significant amounts in interest and transaction costs by placing \$100 million of bonds directly with a buyer, without an intermediary or broker.
- **Variable Rate Debt:** Worked to ensure that over \$1 billion in City bond transactions met specifications that didn't require extensive liquidity backing or changing banks.

PENSIONS

Division Chief: Inga Van Eysden

- **Litigation:** Continued fighting on behalf of pension funds to recover losses, resulting from fraud, in securities holdings traded on foreign exchanges.
- **British Petroleum:** Pursued claims of fraud against BP in Texas federal court, based on English common law.
- **Disability Benefits:** Secured a rare Court of Appeals decision affirming the Police Pension Fund's denial of accident disability benefits to a police officer.

SPECIAL FEDERAL LITIGATION

Division Chief: Muriel Goode-Trufant | **Deputy Chiefs:** Frances Sands, Heidi Grossman & Patricia Miller

- **Frivolous Lawsuits:** Continued to discourage frivolous lawsuits by tripling the number of cases brought to trial, winning nearly 70% percent of all trials.
- **Verdict Set-Aside:** Persuaded a court to set aside a plaintiff's jury verdict, after learning he had a written contract with his star witness to share the proceeds of any verdict.
- **Policy:** Positioned several large policy-related cases for resolution, including the Republican National Convention demonstration case and the Stop, Question and Frisk lawsuits.

TAX & BANKRUPTCY LITIGATION

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

- **Property Taxes:** Preserved over \$222 million dollars in demanded refunds by defeating challenges to City property tax assessments.
- **Condemnation:** Saved the City millions of dollars in acquisition costs by winning a lawsuit over the value of a Brooklyn property.
- **Hotels:** Enabled the City to capture millions of dollars in lost tax revenue by winning a Court of Appeals case upholding the constitutionality of the Hotel Room Occupancy Tax.
- **School Buses:** Helped ensure bus services would continue while the City's largest single provider of student bus services filed for bankruptcy.

TORT

Division Chief: Fay Leoussis | **Deputy Chiefs:** Ellen Lombardi, Steven Levi & Jenny Montana O'Connor

- **Defending the City at Trial:** Saved the City millions of dollars in damage payouts during fiscal year 2013 by winning 46 of 79 cases brought against the City. Trial victories included persuading a jury to reject a plaintiff's claim that he was pushed off a fence by a police officer, and convincing a court to reject an 8th grader's claim of negligent supervision by the DOE during a field trip.
- **Pre-trial Dismissals:** Secured the dismissal of 75% of 2,217 actions that claimed hundreds of millions of dollars against the City.

WORKERS' COMPENSATION

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

- **Claims:** Indexed nearly 15,000 new claims.
- **Medical Bills:** Processed over 200,000 medical bills.
- **Hearings:** Appeared at 14,000 hearings before the Workers' Compensation Board.
- **Process Improvements:** Streamlined research and access to case-handling information by developing a comprehensive electronic database.



SUPPORT DIVISIONS & UNITS

ADMINISTRATION

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

- **Renovation:** Coordinated the initial phases of a major project to repaint and re-carpet over 300,000 square feet of office space.
- **Storage:** Provided additional case-file storage by organizing and cleaning nearly 15,000 square feet of basement space.
- **Division Initiatives:** Supported various division initiatives to streamline operations, upgrade equipment and improve the working environment.
- **Procurement:** Handled over 4,000 procurements and contracting events to support office functions.
- **Leadership:** Continued being a citywide agency leader in implementing new technology and efficiently and professionally managing services to ensure minimal disruption to office operations and staff.

INFORMATION TECHNOLOGY

Chief Information Officer: Joseph Mercas | **Director of Network Services:** Amit Sharma

- **Applications:** Consolidated and migrated all of the Law Department's mission critical business applications to DoITT for hosting.
- **VoIP:** Facilitated the rollout of new phone systems to all users at 100 Church Street.
- **Renovations:** Supported office renovation projects by removing and then reinstalling staff computers and phones.

OPERATIONS

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

- **Communications & Docketing:** Handled about 400,000 individual items, initiated nearly 20,000 new matters in the LawManager database.
- **Computer Training:** Trained 454 employees in 169 in-house computer software courses.
- **Document & Data Processing:** Handled 6,100 requests for data entry, typing and proofreading assistance.
- **Duplication & Finishing:** Produced over 7 million pages, created 4,000 copies of CDs and DVDs and resolved more than 800 help desk calls.
- **Electronic Information:** Handled over 65,000 e-mails, processed 6,500 Tort Answers and nearly 5,000 requests for legal representation.
- **HotDocs:** Streamlined document creation and assisted staff in 675 help desk calls.
- **Process & Courier:** Served papers resulting in 3,000 affidavits and facilitated over 8,000 requests to serve papers.

LITIGATION SUPPORT

Chief, Litigation Support & Information Management: John Hupper

- **E-discovery:** Handled over 100 new cases assisting with everything from data collection to document production; Created and managed over 70 litigation databases containing more than 10 million e-mails; Saved the City significant resources by using a City-owned e-discovery system.
- **Agency Support:** Continued to help agencies streamline their procedures to improve the discovery process.
- **Practice Management:** Created and/or ran over 1,000 reports analyzing Law Department matters.

LAW LIBRARY

Chief Librarian: Catherine FitzGerald | **Deputy:** James Meece

- **Research:** Conducted a high volume of research for all legal divisions, including research for several high profile matters for the Appeals, Legal Counsel and Special Federal Litigation divisions. Daily requests included compiling legislative histories, performing complex case research and obtaining litigant and witness profile information for trial.
- **Information Resources:** Continued to coordinate online legal research sources with library print collection, resulting in significant savings for the Law Department.

PROFESSIONAL DEVELOPMENT

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

- **CLE:** Rolled out new software to allow for online registration of CLE classes, CLE compliance monitoring and e-learning.
- **Training:** Expanded skills training for litigators on mediation, negotiation and depositions.
- **Leadership:** Coordinated a leadership program for the Deputy Division Chiefs.

RECRUITMENT

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

- **Legal Team:** Hired 105 new Assistant Corporation Counsels including 42 recent law school graduates and 63 more experienced attorneys; Hosted 42 law students in the Corporation Counsel Summer Honors Program.
- **Post-Graduate Fellowship Program:** Recruited 34 full-time and 6 part-time volunteer attorneys, providing them with hands-on legal experience.

