



New York City Law Department YEAR IN REVIEW 2015

New York City
Law Department
100 Church Street
New York, NY 10007

Zachary W. Carter
Corporation Counsel

GEORGIA PESTANA
First Assistant
Corporation Counsel

MURIEL GOODE-TRUFANT
Managing Attorney

STEVEN STEIN CUSHMAN
Executive Assistant Corporation
Counsel for Commercial Law

RICHARD DEARING
Executive Assistant Corporation
Counsel & Chief of Appeals

THOMAS GIOVANNI
Executive Assistant Corporation
Counsel for Government Policy
and Chief of Staff

CELESTE KOELEVELD
Executive Assistant Corporation
Counsel for Defensive Litigation

STEPHEN LOUIS
Executive Assistant Corporation
Counsel & Chief of Legal Counsel

STUART SMITH
Director, Legal Recruitment
& Development

SOSIMO FABIAN
Equal Employment
Opportunity Officer

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

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 2015.

LEGAL DIVISIONS

ADMINISTRATIVE LAW **Division Chief:** Sheryl Neufeld | **Deputy Chief:** Michelle Goldberg-Cahn

- **Taxis:** Encouraged broader taxi access by winning dismissal of cases challenging app-based car services. The Court recognized that medallion taxis cannot be used as a shield against technological developments.
- **Times Square:** Promoted enhanced Times Square safety by participating with executives and Legal Counsel attorneys on a task force to create comprehensive recommendations to regulate street performance activities.
- **Pet Shops:** Promoted animal welfare by successfully defending several City Council laws enacted to limit the sources from which pet stores can obtain dogs and cats and also required that dogs or cats be fixed before sale.
- **TWU Settlement:** Preserved important legislation protecting pedestrians in crosswalks under "Right-of-Way" Law (part of Vision Zero) by settling litigation brought by the Transit Workers Union.

AFFIRMATIVE LITIGATION **Division Chief:** Gail Rubin | **Deputy Chief:** Eric Proshansky

- **Illegal Cigarettes:** Continued public health promotion and tax enforcement by litigating against those who sell untaxed cigarettes. Obtained a \$5-million settlement and favorable federal decisions against FedEx and UPS.
- **Trademarks:** Protected the City's trademarks and took enforcement action against those selling unlicensed merchandise.
- **Damages Recovered:** Netted over \$40 million for FY ending June 30th; have claims pending that could bring in substantial additional monies.
- **Insurance Payouts:** Won payouts from insurance companies of over \$100 million in settlements and judgments covering damages that arose out of the work of contractors and permittees.
- **Pharmaceutical Win:** Received last payment of City's \$67million recovery in a case brought by multiple governments against 40 pharmaceuticals alleging that prices underlying Medicaid reimbursements were inflated.

APPEALS **Division Chief:** Richard Dearing | **Deputy Chiefs:** Devin Slack & Claude Platten

- **Amicus Briefs:** Filed U.S. Supreme Court amicus briefs in cases seeking to: 1) preserve public-sector unions' ability to use agency shop fees to promote effective collective bargaining, 2) hold that state and local governments may draw legislative districts based on total population, and 3) overturn lower court orders enjoining the President's immigration executive action.
- **Debt Collectors:** Protected consumers by obtaining a N.Y. Court of Appeals opinion ensuring that debt collectors cannot evade local regulation and licensing simply by organizing as a law firm.
- **Occupy Wall Street:** Obtained a rare U.S. Second Circuit reversal on rehearing in a case challenging individuals arrested for blocking Brooklyn Bridge vehicular traffic during the "Occupy" protests.
- **NYU Expansion:** Encouraged development by obtaining a N.Y. Court of Appeals win involving a major NYU expansion project; Environmental Law prevailed in lower court.

COMMERCIAL & REAL ESTATE LITIGATION **Division Chief:** Nancy Brodie **Deputy Chiefs:** Richard Schulsohn & Lawrence Spielberg

- **Vendor Inquiries:** Protected a City agency's ability to make inquiries as part of its vendor responsibility assessment, defeating a disgruntled provider's suit.
- **Child Care Transition:** Provided an orderly transition for a long-time pre-school child care services provider whose City contract had expired to vacate its City-leased premises.
- **Water Pollution Settlements:** Saved millions by settling several large construction claims based on water pollution control plant upgrade delays, including a \$12.8 million resolution.
- **Major Case Dismissal:** Won dismissal of a \$3.7 million case concerning the construction of a gas collection and flaring system by relying on the plaintiff's failure to comply with contract provisions.
- **Property Sale Payment:** Obtained a commitment to provide additional affordable housing units and a \$2.6 million payment by negotiating an advantageous settlement regarding a Manhattan property sale.

CONTRACTS & REAL ESTATE

Division Chief: Amrita Prabhakar Barth

- **Wage Adjustment for Workers at Human Service Providers:** Provided wage adjustments to over 50,000 workers of human service agencies under City contract.
- **Pre-K for All:** Continued implementing this important Mayoral program, in particular by overseeing a range of procurements seeking additional providers.
- **First Look:** Promoted job growth by working with City Hall and other agencies to create First Look, whereby City contractors interview people referred to them for open jobs created by City contracts.
- **Correctional Health:** Helped streamline health services at Rikers by working with the Mayor’s Office and several agencies to transfer responsibility for these services from Health to HHC.
- **Homelessness Issues:** Assisted NYC’s homeless by addressing housing issues, including increasing capacity in shelters, reviewing shelter conditions, and helping homeless veterans.

ECONOMIC DEVELOPMENT

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

- **Coney Island:** Encouraged City development by leasing of Coney Island parcels for construction of amphitheater and renovation of the landmarked Childs Restaurant building for restaurant use.
- **No. 7 Train:** Promoted transportation initiatives, having worked on the No. 7 subway extension opening.
- **Affordable Housing:** Helped preserve affordable housing by advising on the Stuyvesant Town and Peter Cooper Village agreement.

ENVIRONMENTAL LAW

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

- **Air Pollution Control:** Supported EPA’s efforts to reduce harmful air emissions and protect public health by participating in related litigation.
- **Issuance of Stormwater Permit:** Improved City’s separate storm sewer systems by coordinating with City agencies and negotiating a Citywide permit; developed a coordinated approach to compliance.
- **Croton Water Treatment Plant:** Helped City to open and launch the largest U.S. subsurface water treatment plant, Croton, in May 2015 by negotiating a series of federal and State consent decrees since 1997 to site, construct, and begin plant operation.

FAMILY COURT

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

- **Interstate Child Support:** Continued to establish paternity, obtain child support orders, and modify/enforce existing child support orders on behalf of NYC residents and out-of-state families.
- **Juvenile Delinquency Prosecution:** Continued balancing juveniles’ needs and best interests with protecting the community to promote juvenile rehabilitation.
- **Community Outreach:** Established greater neighborhood presence by conducting presentations to students and attending community events
- **SVU:** Strengthened coordination with the multi-disciplinary team at the newly opened Bronx Child Advocacy Center to reduce trauma to child victims of sexual abuse.
- **Low-Level Offenders, Crime Victims:** Continued to divert low-level offenders to diversion programs and assess crime victims for services with local service providers.

GENERAL LITIGATION

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

- **Hart Island Gravesites:** Enabled people to visit the Hart Island gravesites of NYC’s unidentified deceased by settling related litigation and providing a ferry service.
- **Public Assistance Settlement:** Enhanced the City’s handling of its various public assistance programs and addressed ADA claims by settling a large HRA case and agreeing to adopt certain procedures and practices.
- **Psych Confinements:** Sought to improve Kings County Hospital Center’s Psychiatric confinements. The City entered into a settlement and a consent decree. DOJ issued a report finding tangible compliance. Should this be maintained, the decree will end in 2016.

LABOR & EMPLOYMENT LAW

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

- **Labor Relations:** Achieved contracts with more than 75 percent of its workforce to date by advising OLR on multiple critical issues arising from collective bargaining agreement negotiations.
- **NYPD Counseling:** Affirmed that the NYPD could continue requiring counseling and rehabilitation instead of terminating officers who are diagnosed with alcohol dependence; won summary judgment in 11 consolidated cases.
- **FDNY Resolution:** Put into place future FDNY reforms and allowed back pay for some candidates in a long-standing class action alleging that the firefighter civil service exam had a disparate impact against Blacks and Hispanics.
- **Defending the City:** Prevailed in several important cases, including a DEP case against an employee who alleged a hostile work environment.

LEGAL COUNSEL

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

- **“Ban-the-Box” Legislation:** Worked to prohibit employment discrimination based on credit history and/or prior criminal records by drafting related local laws.
- **Synthetic Marijuana:** Responded aggressively with the Mayor and City agencies to limit dangerous synthetic marijuana sales in the City’s bodegas, again drafting City legislation.
- **Enhanced Supervision Housing at Rikers:** Ushered in new enhanced supervision housing with DOC and the Board of Correction to limit the use of punitive segregation; also ended the practice for minors.
- **Legionnaire’s Disease & Cooling Towers:** Helped shape the City’s directive – following a Legionnaire’s outbreak – to disinfect every City cooling tower, and drafted legislation to register/regulate their operation.

MUNICIPAL FINANCE

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

- **Bond Transactions:** Promoted City capital projects and other initiatives by providing legal services on 47 discrete City bond transactions worth about \$15.5 billion.
- **Bond Refinancing:** Refinanced 8 of the 47 bond transactions, saving about \$650 million of present value debt service over the City’s Four-Year Financial Plan.
- **Employee Benefits:** Served as lead counsel on first joint City-Union Volunteer Employee Benefit Association that provided 1,200-plus employees with child care, elder care, and educational benefits.
- **Tax Lien Program:** Provided legal guidance to amend tax lien program to facilitate transfers of lien assets back to the City.

SPECIAL FEDERAL LITIGATION

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

- **Trial Success:** Tried to verdict 27 federal cases this calendar year, with an 85-percent win rate.
- **School Safety:** Promoted school safety by settling a federal class action, Bruno, recognizing the City’s efforts in this area; established a Mayor’s Leadership Team on School Climate and Discipline.
- **Correction Settlement:** Solidified Correction improvements by setting another class action, Nunez; the consent decree includes DOC reform policies on using force against adults and adolescents, and for safety and programming for adolescent inmates.

TAX & BANKRUPTCY LITIGATION

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

- **Tax Exemptions:** Won in the Court of Appeals on issue of statewide importance concerning a mandatory real property tax exemption.
- **Tax Win:** Obtained a reversal at the Tax Appeals Tribunal in McGraw Hill involving a \$35 million refund of General Corporation Tax and preserved revenues in comparable amounts for future years.
- **Critical Easements:** Helped protect the City’s water supply by acquiring important easements in connection with the construction of Orange County’s Readout-West Branch Bypass Tunnel.
- **Urban Renewal:** Promoted urban renewal/affordable housing by defeating summary judgment motions seeking to dismiss the City’s petition to acquire properties in connection with the E. 125th St. Development Project.
- **Brooklyn Development:** Promoted Coney Island development by commencing the process to acquire property via eminent domain to be used for the construction of new streets and parkland.

TORT

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

- **Special Police Group:** Procured notable success with a pilot Bronx Police Group project created in FY 2015. New filings plummeted 30 percent over two years. The program has since expanded to all boroughs. Separately, the division’s Special Litigation Unit (SLU) handles major cases.
- **Motion Practice Success:** Achieved a banner year for Tort’s successful motion practice in FY 2015. With over 7,000 new cases commenced, it’s critical that dispositive motions to dismiss are pursued. Over 1,800 affirmative dispositive motions were made and, of those decided, the division secured an 81-percent win rate.
- **Medicare Reporting:** Created the “platinum standard of practice” via the Medicare Compliance and Recovery Unit regarding Medicare reporting and reimbursement. MCRU has collected more than \$7 million in Medicare reimbursements, with no judgments entered against the City for non-payment of Medicare settlements.

WORKERS’ COMPENSATION

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

- **Revenue Achievements:** Recovered revenue of more than \$9.9 million this year, accomplished through third-party liens, arbitration, and reimbursement through the State Second Injury Fund.
- **Electronic Claim Filing:** Streamlined workers’ comp processing by launching an electronic claim filing initiative with the NY State Workers’ Compensation Board; 15,000 claims are submitted per year. This facilitates claim monitoring while providing a record of payments.



SUPPORT DIVISIONS & UNITS

ADMINISTRATION

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

- **Auditors:** Provided financial reports to Citywide Auditors for inclusion in the Citywide Financial Statements; the Audit Unit reviews and verifies the reports. The Unit also liaises between the Citywide auditors and legal division attorneys to provide documentation for auditor tests. Statements and tests performed on FY 2015 Financial Statements included questions regarding GASB (Government Accounting Standards Board) 49 Reporting. Timely verification is essential in insuring that the numbers can be used in the City's Financial Statements.
- **Renovation:** Completed build-out and furnishing of basement and 2nd Floor expansion space, conversion of 3rd Floor conference rooms to 13 offices, and addition of nine-person build-out in the 6th Floor Library.
- **Procurement:** Increased the number of contracts, amendments, and renewals registered by the Comptroller by 32 percent; other Administration staff assisted.

E-DISCOVERY GROUP

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

- **E-Discovery Group Formation:** Launched this critical new group to assist in electronic evidence production 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 Merces | **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 processes through Instaknow software; also upgraded frequently used officewide software applications.
- **Security:** Investigated and resolved a multitude of security issues; conducted computer forensics investigations.

LAW LIBRARY

Chief Librarian: Tracy Paler | **Deputy Law Librarian:** James Meece

- **Research:** Conducted extensive research for divisions and agencies, including compiling legislative histories, researching complex legal issues, and providing litigant and witness profile info.
- **Information Resources:** Coordinated training on emerging online legal research tools for staff. Collaborated with legal divisions to provide effective online resources.

LEGAL RECRUITMENT

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

- **Legal Additions:** Hired 138 new Assistant Corp Counsels, including 56 recent law grads and 82 experienced attorneys; also hosted 49 Summer Honors Program students and 55 law student externs during the school year.
- **Post-Grad Fellowships:** Secured invaluable pro bono assistance by recruiting 12 full-time volunteer attorneys, while providing volunteers with hands-on experience

LITIGATION SUPPORT

Division Chief: John Hupper | **Litigation Support Directors:** Beth Nedow & Patty 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 nearly 750,000 pieces of mail.
- **Document & Data Processing:** Handled nearly 9,000 requests for data entry, typing, proofing, and language services while Duplication & Finishing responded to nearly 10,000 requests resulting in over 6 million pages.
- **Process & Couriers:** Responded to over 27,000 requests to serve, file, deliver and pick-up; team members facilitated well over 8,000 services of papers, nearly 2,500 of which came via the new eForms system.
- **Electronic Information Group:** Reviewed over 67,000 e-mails; processed 8,000 tort answers, and nearly 5,500 requests for legal representation.
- **HotDocs Support & Development:** Enabled the creation of nearly 250,000 legal documents, and 1,070 people attended classes offered by Training Unit.

PRESS OFFICE & COMMUNICATIONS

Press Secretary: Nicholas Paolucci & **Communications 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.

