New York City Law Department
Office of the Corporation Counsel

2006 ANNUAL REPORT

NEW YORK CITY LAW DEPARTMENT

PUBLIC SERVICE THROUGH

VALUES

Integrity
Dedication
Respect
Professional Development
Supportive Work Environment
Teamwork
Excellence
Diversity

Vision

To be the finest public law office providing the highest quality representation.

Mission

To provide legal representation to the City of New York in the tradition of excellence and dedication, in furtherance of the operation of its government.

Message from Mayor Michael R. Bloomberg

In a democratic society, we rely on the rule of law as our guiding principle. Every day, the City of New York encounters a wide range of complex legal issues; a skilled and forceful application of the law is critical to our ability to manage our day-to-day affairs and meet our long term policy objectives. To do this, we turn to the City's Law Department for the highest quality of legal representation and guidance.

Over the past year, the Law Department has played a vital role in many of New York City's most ground-breaking and successful initiatives. From leading the fight to keep illegal guns off our streets, to securing vital funds for our public schools, to working to reform judicial selection and voting procedures, the attorneys and support staff at the Law Department work tirelessly to protect the best interests of the City and its residents.

In reviewing the 2006 Annual Report, you will see that the Law Department team's energy and expertise are invaluable assets in the City's efforts to improve the quality of life and foster opportunity throughout the five boroughs. On behalf of more than eight million New Yorkers, I thank the attorneys and support staff for their dedicated service to our great city.

Michael R. Bloomberg
Mayor

Introduction from Corporation Counsel Michael A. Cardozo

I am pleased to present the New York City Law Department's 2006 Annual Report. The 650 attorneys and 850 support staff work diligently to provide city officials with appropriate legal guidance and representation.

The 2006 Annual Report summarizes the Law Department's major cases and accomplishments from the previous year. These accomplishments include scores of petitions to the U. S. Supreme Court, a successful defense of the New York City Police Department's subway bag search program to counteract terrorism, support for the Campaign for Fiscal Equity's lawsuit to increase aid for the City's public schools, and successful contract negotiations to help build new stadiums for the Yankees and Mets.

I hope this report provides the reader with a better sense of the diverse issues that face the City on a daily basis. I am proud of our accomplishments, and am honored to work with the Department's dedicated team.

Michael A. Cardozo
Corporation Counsel

EXECUTIVE COUNSEL

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 all 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, N.Y., the Law Department has an active caseload of 90,000 lawsuits and legal matters. New York City is involved in over 20 percent of all civil litigation in the state courts, and approximately 25 percent of all civil cases in the Southern District.

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 negotiates and structures 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.

Standing from left to right: Paul Rephen, Leonard Koerner, G. Foster Mills and Lawrence Kahn
Seated from left to right: Muriel Goode-Trufant, Jeffrey Friedlander, Michael Cardozo and Gail Donoghue

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. Below are some headlines from 2006:

Affirmative Litigation assisted – and continues to assist – the Mayor in his efforts to eliminate illegal guns on City's streets by bringing lawsuits against rogue, out-of-state gun dealers.

"109 Gun-Ho Mayors - More leaders join Mike's fight against illegal guns"
New York Post 10/6/06

"Nice Shot, Mike"
Daily News 9/25/06

Legal Counsel attorneys advised the Mayor's Office on the implementation of the federal Help America Vote Act laws requiring new voting machines.

"Voting Devices for Disabled Draw Praise from All Sides"
The New York Times 9/14/06

"Sip and Puff' Machines Give Disabled Voters Privacy"
The Sun 9/13/06

Labor & Employment attorneys ensured the fines that the Transport Workers Union was orderer to pay for engaging in an illegal strike were paid to the city

"New York's Transit Union Must Pay Strike Fines, Court Rules"
Bloomberg 10/6/06

"Fines Upheld Against Unions"
The New York Times 10/6/06

Tort attorneys in the World Trade Center Unit continue to handle numerous claims relating to the 9/11 tragedy.

"Ruling Opens A Door for Thousands of Ground Zero Lawsuits"
The New York Times 10/18/06

"9/11-Related Claims Allowed to Go Forward"
New York Law Journal 10/18/06

Affirmative Litigation and Appeals attorneys provided crucial support to the Campaign for Fiscal Equity's efforts to enforce an order of the State's highest court ordering additional State aid for the City's public schools.

"School Financing Case Argued Before State's Highest Court"
The New York Times 10/11/06

The Corporation Counsel and Legal Counsel attorneys advocated for reforms in judicial selection.

"Breaking Down the Clubhouse"
The New York Times 9/9/06

"Rethinking Judicial Elections"
The New York Times 10/22/06

The Law Department submitted an amicus brief in support of the right of municipalities to obtain property for economic development through eminent domain in Kelo v. City of New London, which will be heard by the U.S. Supreme Court in 2007.

"Bloomberg Says Power to Seize Private Land is Vital to Cities"
The New York Times 5/3/06

In City of New York v. United States, attorneys in our Tax & Bankruptcy and Appeals divisions recovered $240 million for the City and uniformed service members in an action brought against the Internal Revenue Service for wrongfully imposing Social Security contributions on certain members of the City's uniformed services.

"IRS to Refund $280M to City, Injured Workers"
Associated Press 11/9/06

"Social' Justice for '90s City Workers"
New York Post 11/9/06

Attorneys in the Special Federal Litigation and Appeals Divisions successfully defended the City's subway package inspection program as a lawful counter-terrorism measure in MacWade v. Kelly.

"Court Says Random NYC Subway Searches OK"
Associated Press 8/11/06

"Appeals Court Upholds Random Police Searches of Passengers' Bags on Subways"
The New York Times 8/12/06

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

Gabriel Taussig
Division Chief

The Administrative Law Division litigates on behalf of the City on issues relating to laws and regulations that were adopted to protect consumers, promote public health, and enhance the quality of life in New York City. Recent lawsuits have challenged the laws regarding billboards, cabarets, tow trucks and sidewalk newsstand vendors.

Clear Channel v. City of New York; Atlantic Outdoor v. City of New York

In this consolidated federal action, the plaintiffs challenged the constitutionality of provisions of the City's Zoning Resolution, which regulate the size and location of advertising signs in proximity to the City's arterial highways and large public parks. In each case, the plaintiffs contended that the regulations are unconstitutional because they do not advance the City's interest in promoting traffic safety and aesthetics. These zoning regulations are also the subject of a similar challenge under the state constitution in OTR Media Group v. City of New York.

Uhlfelder v. Weinshall

In this action, a number of newsstand operators challenged a local law which was adopted to facilitate the implementation of the Street Furniture Franchise. The local law essentially provides sidewalk newsstand licensees to operate out of structures to be built and maintained by the City's sidewalk street furniture franchisee. The City was granted summary judgment on all but one of plaintiffs' claims – a decision that is on appeal.

Coastal Communications v. City of New York

In this federal action, two public pay phone franchisees sought declaratory and injunctive relief, and damages in excess of $25 million, based on allegations that the Department of Information Technology and Telecommunications violated their constitutional rights and the federal Telecommunications Act of 1996, by failing to, in part, make determinations on 8,200 applications to install public pay telephones at various sidewalk locations that have been pending since 1996 or 1997, and also erroneously denying another 1,728 applications in Community Board 8. After years of voluminous discovery, each side has moved for summary judgment.

Ten's Cabaret v. City of New York; For the People Theatre of NY v. City of New York

The plaintiffs in these related cases challenged the constitutionality of amendments to the City's zoning regulations governing topless bars, and adult video stores and theaters. Adopted in 2001, the amendments clarify zoning provisions adopted in 1995 to close certain loopholes that have allowed establishments with a predominant ongoing focus on adult entertainment to avoid being characterized as adult establishments. Having been remitted by the Court of Appeals for trial on a narrow factual question, these cases are now in discovery.

Festa v. Department of Consumer Affairs

In this lawsuit, individuals who engage in social dancing (as opposed to performance dancing) challenged zoning and licensing restrictions on cabarets, insofar as they allegedly regulate expressive activity protected by the state constitution. The Court granted summary judgment to the City, rejecting the plaintiffs' constitutional claims, and upholding as rational the challenged provisions of the City's Cabaret Law (defining establishments with social dancing as cabarets and requiring their licensure) and Zoning Resolution (limiting cabarets to certain high-density commercial zones).

Gail Rubin
Division Chief

AFFIRMATIVE LITIGATION

The Affirmative Litigation Division represents the City as plaintiff on a wide range of issues, including claims concerning civil racketeering and fraud, nuisance and restitution, antitrust violations, hazardous products, insurance, and state and federal funding. One of the division's major initiatives has been to assist in the Mayor's efforts to eliminate illegal guns on the City's streets by commencing lawsuits against rogue, out-of-state gun dealers.

Illegal Guns

The Division continued its efforts in furtherance of the Mayor's commitment to eliminate illegal guns on the City's streets by commencing two suits against approximately 30 gun dealers located in the South and Midwest, whose sales practices contribute to the proliferation of illegally possessed handguns in the City. By analyzing law enforcement records, the Division identified dealers that appear to be the most significant source of illegal guns and brought claims alleging creation of a public nuisance. Nearly one-third of the dealers have already reached settlements with the City, in which a City appointed monitor will oversee the dealers' sales practices.

Campaign for Fiscal Equity v. State of New York

After 13 years of litigation, the Court of Appeals issued what is likely the final ruling in the school funding case, Campaign for Fiscal Equity v. State of New York. The Division participated in the case in the trial court as an amicus, and partnered with the Law Department's Appeals Division in the appellate courts. The Court of Appeals declared that an additional $1.93 billion in annual operating aid is needed to ensure that the City's students receive a sound, basic education – over $2.1 million per year with inflation – and over $11 billion in capital funds. The decision vindicates the City's position that school aid must be based on the actual needs of the City's schoolchildren, and that education funding to the City's schools must be adjusted upwards to account for the significant numbers of City students who are economically disadvantaged, have disabilities or come to school with limited English proficiency.

City of New York v. Deborah Pollock

The City scored a series of victories in this RICO (Racketeer Influenced and Corrupt Organizations) and fraud suit against various co-conspirators who stole hundreds of thousands of dollars in housing welfare funds from the City's Human Resources Administration by submitting false applications for rental assistance on behalf of tenants who resided in buildings owned by defendants. In March of 2006, the City won summary judgment on its civil RICO claim based on, among other things, the collateral estoppel effect of guilty pleas in prior criminal actions. In October 2006, the City was awarded the full amount of its application for attorneys' fees, costs and disbursements. Finally, although various defendants attempted to transfer or otherwise encumber real property that was subject to the judgment, the City obtained collection in full on both judgments immediately following a flurry of subpoenas issued to various landlords, title companies and banks.

Amtrak

The City has sued Amtrak to recover millions of dollars paid to relocate Amtrak's electrical facilities during the City's rehabilitation of bridges over the Sunnyside Railroad Yards in Queens. Amtrak's obligation arises from the terms of a 1907 agreement between the City and Amtrak's predecessors in title as incorporated in the 1910 deed conveying the bridges to the City; in well-established New York common law rules requiring railroads to bear the cost of interference with public use of the streets; and in common law principles of restitution. The case is in discovery, with cross-motions for summary judgment expected in the next few months.

APPEALS

Leonard Koerner
Division Chief

The Appeals Division is responsible for nearly all appeals and files 700 appellate briefs annually. Pending U.S. Supreme Court cases include a lawsuit against India for $16 million in property tax arrears and a case addressing education reimbursement for special needs children; the Division also submitted an amicus brief regarding how home health care aids are treated under the Fair Labor Standards Act. Our Appeals Division wins 84 percent of its cases.

Public Displays of Holiday Symbols - Skoros v. City of New York

A parent sued the City for prohibiting the display of nativity scenes while allowing menorahs and the star and crescent to be displayed. In a 2-1 decision, the Second Circuit Court of Appeals upheld the City's policy. The Court found that the holiday displays were intended for a secular educational purpose and that any reasonable person would perceive the displays' mix of religious and secular symbols as secular. It upheld the policy not to allow crèches, reasoning that a crèche directly depicts a deity, and a child could more readily interpret it as endorsing a particular religion. It also ruled that the City had not excessively entangled government with religion, because the City was regulating only its own speech.

Same-Sex Marriage - Hernandez v. Robles

The Law Department and the state Attorney General's Office argued cases in which plaintiffs claimed it was unconstitutional to prohibit same-sex marriage in New York State. The Court of Appeals ruled, 4-2, that the Equal Protection and Due Process clauses of the New York State Constitution are not violated by New York's statute permitting marriage only by heterosexual couples. With this decision, provision for same-sex marriage in New York State will be a matter for legislative resolution.

Random Bag Searches in Subways - MacWade v. Kelly

Two weeks after the terrorist attack on the London Underground, the NYPD began a program of floating checkpoints in subway stations where randomly selected passengers were required to allow their bags to be inspected to gain entrance to the subway. After weighing factors such as the degree of danger, riders' expectations of privacy, and intrusiveness and efficacy of the searches, the Second Circuit Court of Appeals upheld the program unanimously and dismissed the suit brought by the New York Civil Liberties Union.

Taxation of Foreign Missions - City of New York v. Permanent Missions of India and Mongolia

For many years, the City has levied property taxes on portions of foreign missions to the U.N. that are used as residential quarters for embassy personnel. The City is seeking over $16 million in property tax arrears from India and $2 million from Mongolia for floors of their buildings used as residences. The Second Circuit rejected India's claim that it cannot be sued in U.S. courts. The Foreign Sovereign Immunity Act generally precludes lawsuits against foreign governments, but an exception allows suits involving "immovable property." The matter will be argued before the U.S. Supreme Court in 2007.

Limits on Municipal Legislative Power - Council of the City of New York v. Bloomberg

Attorneys successfully defended the Mayor's refusal to enforce a local law, adopted by the City Council over his veto, because the local law was inconsistent with state law and pre-empted by federal statute. In a 4-3 ruling, the Court of Appeals determined that the Mayor has a "duty to implement valid legislation," but "[w]here a local law seems to the Mayor to conflict with a state or federal one, the Mayor's obligation is to obey the latter, as the Mayor has done here."

COMMERCIAL & REAL ESTATE LITIGATION

Eric Rundbaken
Division Chief

The Commercial & Real Estate Litigation Division defends the City's interests in diverse contract and real estate cases, and initiates lawsuits to recover funds for the City in real estate matters. In the past year, attorneys successfully defended a $10 million school construction case, a challenge to a more than $1 billion Street Furniture initiative, and an attempt to prevent the City from leasing valuable real estate in the Hunts Point Food Distribution Center. It also brought suit on behalf of the Department of Education to reclaim a building formerly used as a school in order to decrease classroom overcrowding.

Calcedo Construction Corp. v. NYC School Construction Authority

After a month-long jury trial involving extensive fact and expert testimony and masses of documents, our attorneys obtained a unanimous defendant's verdict in this $10 million school construction case. The contractor, Calcedo, sought recovery of alleged acceleration costs and back charges arising out of subsurface conditions encountered after excavation began, change order work, and bad weather conditions. The School Construction Authority had denied Calcedo's requests for time extensions, because the contract required timely completion despite such occurrences. In addition, the SCA had back charged Calcedo for the expense of a supplemental contractor brought in to ensure that the school would open in time for the fall semester.

Hunts Point Terminal Produce Cooperative Ass'n, Inc. v. Environmental Development Corporation

In this Article 78 proceeding, the produce wholesaler cooperative occupying the Hunts Point Food Distribution Center on the Hunts Point peninsula in the Bronx, challenged EDC's choice of Baldor Specialty Foods, Inc., as the proposed lessee for a City-owned warehouse located near the Center. The Co-op claimed, in part, that EDC had engaged in a "sham" selection process to effectuate a "hidden agenda" concerning relocation of merchants displaced by the redevelopment of the Bronx Terminal Market. Although the Supreme Court found in favor of the plaintiffs, the Appellate Division reversed the ruling and found nothing improper about EDC's selection process, and ample evidence from which EDC could have concluded that Baldor submitted the superior proposal. The Court of Appeals denied leave to appeal, permitting development of the property in accordance with EDC's selection criteria.

NBC DeCaux, LLC v. City of New York; Clear Channel, Adshel v. City of New York

The Division successfully defeated challenges to the City's award of its largest franchise ever – for the installation and maintenance of attractive, modern bus shelters, self-cleaning automatic public toilets, newsstands and additional public service structures (referred to as "street furniture") – allowing the City to receive $999 million in cash and over $396 million in free advertising space to promote the City in other markets, plus advertising panels within the City to promote the City and to use for public service messages. The Supreme Court ruled not only that the City had not acted arbitrarily or capriciously in selecting Cemusa, Inc., as the franchisee, but stated that the "hallmark of the process was its fairness and its devotion to obtaining the best possible terms for the city."

Board of Education v. 163rd Street Improvement Council, et al.

For the past 20 years, a City owned building formerly used as a school had been licensed by the Human Resources Administration to a non-profit organization for use as a multi-service center, and its occupants have been providing social services to the community. However, the Department of Education needed to use the building as a school again, and requested possession in order to begin renovations on the structure and to relocate students, who are presently in mobile trailers outside the building. Before resorting to litigation, DOE tried for over a year to find alternative space for the occupants; however, after such efforts proved unavailing, the City brought eight landlord-tenant proceedings to evict the occupants, all of whom have refused to vacate the premises.

CONTRACTS & REAL ESTATE

Steven Stein Cushman
Division Chief

The Contracts & Real Estate Division counsels city agencies on transactional matters such as leases and contracts. Attorneys not only negotiate and draft contracts, but also advise on processes required to be followed to enter into such agreements. In 2006, attorneys revised the City's construction contracts; helped implement the new Minority and Women-Owned Businesses Program; and drafted and negotiated contracts for a Taxicab Enhancement Program.

Street Furniture Franchise Agreement

Our attorneys played an integral part, along with the Economic Development Division, in the drafting and negotiating of the street furniture franchise agreement. The 20-year, billion-dollar agreement governs newsstands and bus stop shelters, and, at long last, also provides for a limited number of public toilets in the City. The franchise agreement was extremely complicated due to its length, the capital commitments required of the franchisee, and the possibility for changing economic circumstances.

Standard Construction Contract

The Division issued a revised Standard Construction Contract to be used in all City construction contracts. The revised contract involved a comprehensive rewrite of the insurance provisions as well as significant changes to sections dealing with change orders, compliance with prevailing wage obligations, environmental procurement laws, and indemnification. Division attorneys were also responsible for drafting the changes and coordinating the views of the City's construction and oversight agencies.

Minority and Women-Owned Businesses Program

The City recently adopted a local law establishing a comprehensive program designed to increase the participation of Minority and Women-Owned Businesses (M/WBEs) in City contracts. Attorneys have been advising the Department of Small Business Services and the Mayor's Office of Contract Services on implementation of the new program. The Division has also worked with Department of Small Business Services, the Mayor's Office, and the Legal Counsel Division to draft standard contract language as well as new rules and various forms to be used by agencies and prospective contractors.

Taxicab Enhancement Program

The Taxi and Limousine Commission is implementing a program that will lead to the installation of vehicle locator, message transmission and credit/debit card equipment in all New York City taxicabs. Our attorneys drafted and negotiated the contracts with the vendors who will supply the enhancements to the taxicab owners. After registering contracts with four vendors for technology enhancements, division attorneys have provided ongoing advice to TLC relating to contract interpretation and implementation as the development of taxicab equipment moves forward.

Environmental Procurement Laws

Division attorneys assisted in the implementation of several local laws imposing environmental standards on local procurements. For example, the Green Buildings Law requires that certain construction projects meet Leadership in Energy and Environmental Design certification levels. Other laws establish a citywide office of environmental purchasing, govern the use of fuels to be used in various in vehicles, and restrict the use of pesticides on City properties. Our attorneys worked with the Mayor's Office to draft rules, directives, and standard contract language to implement the various local laws.

Leonard M. Wasserman
Division Chief

ECONOMIC DEVELOPMENT

The Economic Development Division serves as business counsel on projects that enhance the City's economy by structuring deals, negotiating, and drafting documents. The division works closely with City Hall and the Economic Development Corporation. Recently, attorneys helped to establish the legal framework for reconstructing the World Trade Center, negotiated the lease and bond documents to build new stadiums for the Yankees and the Mets, and developed a contract for an improved 911 system.

Street Furniture Franchise

In collaboration with the Department of Transportation and the Contracts and Real Estate Division, attorneys completed negotiations of an unprecedented franchise agreement for installation of new, coordinated street furniture to be installed over the next several years throughout the City. This 20-year agreement will provide the City, at no cost to taxpayers, with user-friendly new bus shelters and newsstands as well as long-awaited, automated, self-cleaning public toilet facilities.

World Trade Center Reconstruction

In partnership with City Hall officials, several City agencies and other divisions within the Law Department, our attorneys achieved several significant milestones in establishing the legal framework for the reconstruction of the World Trade Center Site, culminating in the closing of new agreements permitting redevelopment of the site substantially in accordance with a Conceptual Framework that was executed in the Spring of 2006: Towers 2, 3 and 4 will be developed and managed by Silverstein entities on the "East Bathtub" and Towers 1 and 5, on the western and southern ends of the Site, respectively, will be controlled by the Port Authority.

Yankee and Mets Stadium Projects

The Division, working with attorneys from New York City Industrial Development Agency (IDA) and IDA bond counsel, took a leading role in bringing to closure the construction of both a new Yankee Stadium and a new Mets Stadium, both of which are scheduled to open for the 2009 Major League Baseball season. The Division was responsible for the drafting and negotiation of the 99-year ground leases for each of these projects, the funding agreements for public monies to be provided for infrastructure improvements and maintenance reserve, as well as other documents. The Division also assisted in the negotiation and preparation of bond documents for these innovative tax-exempt PILOT bond financings. Both the Mets and Yankee bond financings received The Bond Buyer's 2006 "Deal of the Year" award.

Bronx Terminal Market

The City closed on a 99-year ground lease for the development of an approximately 960,000-square-foot shopping center at the Bronx Terminal Market. The development brings to the Bronx a much-needed major retail shopping center. Retail tenants which have already signed leases with the Market for space at the project site include Home Depot, Staples, Target, Best Buy, Marshall's, Applebee's and HSBC. The project, having an estimated construction cost of about $500 million, will result in ground rent to the City of about $340,000 per year.

New 911 System

In partnership with the Department of Information Technology and Telecommunications, attorneys helped complete contract negotiations with Verizon for the provision of a new, state-of-the-art 911 emergency response system for the City. The new system will, for the first time, serve police, fire and EMS emergency response operators with a consolidated, highly resilient series of fiber optic telecommunications links and upgraded switch equipment reserved solely for 911 use.

ENVIRONMENTAL LAW

Susan Kath
Division Chief

The Environmental Law Division represents and advises the City in environmental and land use matters involving drinking water supply, wastewater treatment, solid waste management, energy sources, natural resources, and environmental review of development projects. Division attorneys are leading a nationwide suit against gasoline refiners and have joined other governments and not-for-profit organizations in several lawsuits seeking relief from the adverse effects of global climate change. The Division also regularly defends challenges to City initiatives, such as a rezoning in Brooklyn to develop a 28-acre waterfront park and space to build affordable housing.

Association for Community Reform Now ("Acorn"), et al. v. Bloomberg

The Division successfully defended in state court the City's determination to reopen the East 91st Street Marine Transfer Station, an integral part of the Solid Waste Management Plan for New York City. The Waste Management Plan, approved in 2006 by the City Council and State Department of Environmental Conservation, will govern how the City manages its solid waste for the next 20 years. The Court found that the City's decision to use the East 91st Street site was rational, that the facility would advance the City's important goal of reducing truck traffic and promoting equity among each of the City's boroughs in managing solid waste, and that the environmental review thoroughly addressed all environmental issues of concern.

City of New York v. Amerada Hess Corporation, et al.

The Division continued its representation of the City in this case brought in federal court against numerous gasoline refiners and methyl tertiary butyl ether (MTBE) producers. The case seeks recovery of multi-million dollar damages from the defendants based on multiple claims, including design defect, nuisance, negligence and NYS Navigation Law violations that are causing contamination of the groundwater aquifer that provides drinking water in an area of the City.

Connecticut, et al. v. AEP, et al. and Massachusetts, et al. v. US Environmental Protection Agency

In these two nationally significant cases, New York City and other municipalities, Attorneys General from twelve states, and several environmental organizations, are seeking relief from the adverse effects of global climate change. In the Connecticut case, the City and the other plaintiffs brought a nuisance action against the six largest emitters of carbon dioxide in the U.S. to enjoin these energy companies from continuing their operations without employing technology standards to reduce greenhouse gas emissions. As of December 2006, the case is pending in the Second Circuit Court of Appeals. In the Massachusetts case, the parties are challenging a determination by U.S. EPA that it does not have the statutory authority to regulate greenhouse gas emissions under the Clean Air Act. Based on an unfavorable decision in the D.C. Circuit, the parties appealed to the U.S. Supreme Court and, in late fall 2006, the Supreme Court heard arguments in the case.

Nash MetalWare Co./TransGas Energy Systems v. City of New York

The Division prevailed in this joint challenge in state court to a comprehensive rezoning and land use plan for a large section of Greenpoint and Williamsburg in Brooklyn that includes a 28-acre waterfront park on the East River. The rezoning, which was developed over several years by the Department of City Planning and approved by the City Council, removed the former heavy industrial designation that had been in place for decades and allowed for residential, commercial and light industrial development in portions of the two communities. In addition to the waterfront park, the plan includes the development of affordable housing. The Court found that the environmental review for the project complied with all legal requirements and that the rezoning should stand.

Laurence Busching
Division Chief

FAMILY COURT

The Family Court Division is divided into two subunits – the Juvenile Prosecution Unit and the Child Support Unit. The Juvenile Prosecution Unit prosecutes youths under the age of 16 who are accused of committing crimes in New York City. Attorneys investigate cases and conduct suppression hearings and trials before Family Court judges. In cases where the courts find guilt, they then seek case dispositions that appropriately balance the needs and best interests of the juveniles with the need for protection of the community. Attorneys handle a wide variety of cases, including assaults, robberies, weapons possession, drug offenses, sex offenses and homicides. The Child Support Unit represents out-of-state petitioners seeking child support from New York City residents pursuant to federal statutes and guidelines. Attorneys in the Child Support Unit have been able to obtain child support payments and arrears for thousands of children living in the United States and abroad.

NYU Student Killed After Robbery

On the evening of April 1, 2006, a twenty-year-old NYU student, who had just emerged from the subway en route to visiting a friend, was attacked in Harlem by a group of teenagers who were attempting to steal his cell phone. After the victim managed to break free and escape, he was chased into the street and was struck by an oncoming car. The victim suffered massive head injuries and was transported to Harlem Hospital, where he died a few days later. All four perpetrators pled guilty to homicide charges.

Community-Based Services for Juveniles

In situations where a delinquent youth does not present a risk to public safety, the Division strives to help juveniles receive rehabilitative services from local community-based organizations rather than upstate residential facilities. The following case is an example of efforts to refer a low-level offender to a local service provider.

In April 2006, 15 year-old Sammy B. was arrested for trespassing, marijuana possession, and resisting arrest. Court-ordered pre-sentence and mental health reports indicated Sammy B. had a long history of drug use and mental health issues. Although the reports recommended he receive residential services, none of the state's privately contracted agencies were capable of offering treatment for his complex situation. Rather than place him in a state-run facility with juveniles who have committed more serious crimes, the Division's social worker referred him to a community-based program that serves adolescents with both mental health and substance abuse issues, as well as their families. In December 2006, after spending seven months in detention, Sammy B. returned home on a trial basis to enroll in the program with his family. His mother reported he was doing well, his mental health and behavior have improved greatly, and she is ready to have him home permanently. The Family Court judge, satisfied that he could remain safely at home, placed him on a 12-month term of Probation with the condition that he continue the program.

Three-fold Increase in Child Support Payment Obtained for Custodial Parent

As an example of our child support work, attorneys in the Child Support Unit assisted a custodial mother obtain a three-fold increase in child support – from $393.00 per month to $1,366.00 per month. In February 2006, attorneys assisted the mother in presenting a petition for an increase in child support to which she was entitled due to the terms of her divorce decree. The father claimed that a business he had once owned was no longer his. After a hearing, the court found the father's statements to be non-credible, and upwardly modified the order based on the children's needs.

$45,000 in Child Support Arrears Secured

Child Support Unit attorneys also successfully obtained child support back payments covering a 12-year period of nearly $45,000. Attorneys assisted the mother present a petition for modification and enforcement of an order of support, change of payee and collection of arrears. The father requested temporary relief from paying child support when he became unemployed, but failed to inform the court, as ordered, that he was again employed. The court found he failed to comply with the original order, and reinstated the order as of the date he became employed – requiring payment of back child support.

GENERAL LITIGATION

Thomas Crane
Division Chief

The General Litigation Division defends the City and its agencies in lawsuits challenging important programs and policies that involve issues such as constitutional rights, education, health care, public benefits, prison conditions, foster care and election law. In a recent litigation, attorneys defended the Department of Education's regulation prohibiting the after-school use of school facilities by church groups for religious worship, which had been challenged on First Amendment grounds.

McCain v. Bloomberg

This lawsuit challenges the adequacy of the City's emergency temporary shelter program for homeless families. Over the years, the Court has issued over 50 orders on virtually every aspect of the program. In recent years, however, the City has made great strides in improving all aspects of its program and has moved thousands of families from shelters to permanent housing. As a result, in 2006, the City moved to dismiss all the cases, and vacate all Court orders, on the ground that the deficiencies alleged in these cases and addressed in the orders have now been remedied. This motion, which was still being litigated in December 2006, is part of the City's effort to restore decision-making authority to elected officials.

New York Times v. City of New York Fire Department

In this Freedom of Information Law litigation, the New York Times sought the public release of all FDNY records concerning September 11, 2001, without any redactions, and for the NYPD's recordings of calls to 911 that were made from within the Twin Towers. The case created new law; for example, a right of privacy which continues after a person's death was established in this case. In accordance with a judicial ruling, there were several public releases of September 11th records during 2006. Understandably, there was great public interest in the released recordings; both releases were covered by the local, national and international media.

Benjamin v. Horn

Reputedly the longest running case in the Southern District, this lawsuit commenced in 1975. A class of pre-trial detainees incarcerated by the City challenged their confinement conditions. In 1979, the City entered into a 52-page consent decree covering 30 areas of the City's jail system. Following the passage of the Prison Litigation Reform Act in 1995, the City filed motions to vacate the consent decree, which were granted in substantial part, with some areas of oversight to be continued pursuant to judicial findings of continuing constitutional violations. In 2006, several additional significant and continuing court orders were largely vacated. The Division continues its efforts to eliminate the few remaining orders.

M.K.B. v. Eggleston

In December 2005, plaintiffs brought a class action against the Human Resources Administration and two State agencies on behalf of immigrants claiming they were improperly denied public benefits. In August 2006, the District Court issued a preliminary injunction and certified the class, following a nine-day hearing which was held in March 2006. After protracted negotiations, in late 2006 the City reached a settlement subject to the Court's review and approval.

Pena v. Robles

Plaintiffs sought to overturn the City Clerk's certification, invalidating a petition seeking to amend the Charter to reduce the size of the public school classes that petitioners hoped to put on the ballot in the 2006 general election. Division attorneys made a cross-motion to dismiss, which was granted in May 2006. The Judge found that the State retained exclusive authority for education, and the proposed referendum seeking to achieve smaller class size was unauthorized. The petitioners' appeal to the First Department, argued September 2006, is awaiting decision in 2007.

Georgia Pestana
Division Chief

LABOR & EMPLOYMENT LAW

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. Most trials are conducted in Federal Court, and attorneys are responsible for their cases from commencement to resolution. The division has successfully litigated cases brought against large City agencies, such as the Department of Education and the NYPD, as well as lawsuits brought by former high-ranking City officials.

Ruotolo v. City of New York

Shortly after the U.S. Supreme Court ruled in Garcetti v. Ceballos that the First Amendment does not protect government employees from disciplinary action taken in response to "speech made pursuant to an employee's official duties," division attorneys moved to dismiss the complaint in Ruotolo v. City of New York. Ruotolo, a police sergeant, identified alleged environmental risks at his precinct and requested an environmental evaluation. He claims that, thereafter, he was reassigned and suffered other retaliatory actions. In the first decision in New York following Garcetti, the federal court dismissed Ruotolo's action, finding that Ruotolo's speech was not protected by the First Amendment because it was part of his official duties.

Gansas v. City of New York

The captain of the Staten Island Ferry involved in the October 2003 accident claimed that his due process rights had been violated when he was terminated as a result of disciplinary charges arising from his failure to cooperate with the crash investigation. In dismissing the complaint, the federal court found that due process does not require a full adversarial hearing prior to termination, as long as the employee is afforded the opportunity for such a hearing after his termination. The fact that Gansas, or his union, waived that opportunity, did not result in a due process violation.

City of New York v. O'Brien

The division was involved in several matters relating to the December 2005 transit strike. Division attorneys brought an action against TWU Local 100, the TWU International and their officers, to restrain them from engaging in an illegal transit strike and sought to recover damages the City suffered as a result of the strike. The City later discontinued its action after the State and Local 100 agreed that a payment plan for $2.5 million dollars in fines imposed by the Court for Taylor Law violations would be paid to the City.

Isaac v. City of New York

Steven Isaac, an African-American former Assistant Commissioner at the Department of Probation, was terminated from DOP due to his lackluster performance. Following his termination, Isaac brought a federal action alleging that he was terminated due to his race and in retaliation for allegedly speaking out concerning employee raises. Isaac also claims he was subject to a hostile work environment. The Division obtained summary judgment with respect to all of Isaac's claims, except his First Amendment retaliation claims. Ultimately, the First Amendment claims were tried to a jury which found that Isaac had not been retaliated against.

Carmellino v. Department of Education

Nineteen former teachers claimed they had been discriminated against by a superintendent because of their age, and that he had also retaliated against them for complaining about discrimination. The court dismissed five claims, and after two years of discovery, the court dismissed 13 of 14 additional claims on summary judgment.

LEGAL COUNSEL

Stephen Louis
Division Chief

The Legal Counsel Division advises the Mayor, other elected officials and City agencies on a wide range of municipal law issues, and drafts City and State legislation. Recent efforts have resulted in the adoption of several gun-related laws; tough new regulations of lobbyists; and a "Green Buildings" law to create more environmentally sensitive and energy efficient buildings. The division also assisted in the implementation of the Minority and Women-Owned Business Enterprises Program.

Gun-Related Local Laws

In conjunction with the Criminal Justice Coordinator's Office and the Police Department, attorneys drafted a number of gun-related local laws. The local laws include limits on deceptively colored firearms, limitations on acquisitions of handguns in the City to no more than one every three months, new inventory requirements for dealers, and the creation of a gun offender registry.

Regulation of Lobbyists

Division attorneys worked with the Mayor's Office, the City Clerk's Office and the City Council to prepare local laws that strengthen the regulation of lobbyists. Amendments to the City's lobbying law prohibit lobbyists from giving gifts to public servants, require lobbyists to report on their fundraising and political consulting activities and provide more detailed reporting of their lobbying activities, and to require lobbyists to report their activities through electronic filings. In addition, amendments to the Campaign Finance Law limit lobbyists' contributions and provide that lobbyists' contributions to participating candidates will not be matched by public funds.

Green Buildings Law

In collaboration with the Mayor's Office and the City Council, attorneys assisted in the enactment of the Green Buildings Law, and worked with the Mayor's Office of Environmental Coordination to prepare rules and begin administering the law, which will result in environmentally sensitive and energy efficient buildings.

Eminent Domain

Our attorneys partnered with the Mayor's Office to respond to efforts at the federal, state and local level to restrict the City's and State's authority to use the power of eminent domain for critical economic development projects.

Minority and Women-Owned Business Enterprises Program

Division attorneys, working with the Division of Contracts and Real Estate, assisted the Department of Small Business Services in drafting rules to implement the Minority and Women-Owned Business Enterprises Program, ensuring the participation of such businesses in the City's procurement process.

Albert Moncure
Division Chief

MUNICIPAL FINANCE

The Municipal Finance Division serves as counsel to the City on all bond transactions. The division negotiated the issuance of $12 million in bonds to finance a health facility in one of the City's most impoverished areas. The new facility will provide services ranging from cardiology to primary care in addition to mobile health services for the homeless. Attorneys also structured the first $650 million installment of a planned $9.4 billion bond issuance for the capital investment in the City's public schools, and $2 billion in bonds to extend the No. 7 train and help spur economic development. Bond financing for new stadiums for the Yankees and the Mets set up by the division was named "Deal of the Year" by The Bond Buyer.

TSASC Refunding

TSASC, a special purpose local development corporation, issues bonds on behalf of the City which are secured from tobacco settlement revenues. The City sold its interest in the judgment to TSASC in return for the proceeds of TSASC's bond issuances and residual cash flow under the judgment after provision is made to pay TSASC's debt. Attorneys represented the City in connection with the issuance by TSASC, Inc. of $1.35 billion Tobacco Settlement Asset Backed Bonds.

Bedford-Stuyvesant Health Facility Financing

The Division represented the City in connection with the issuance by the Dormitory Authority of the State of New York of its $12 million Municipal Health Facilities Improvement Program Lease Revenue Bonds to finance a Health Facility to be constructed in the Bedford-Stuyvesant Section of Brooklyn and to be operated by The Bedford-Stuyvesant Family Health Center Inc. Services at the Center will include: audiology, cardiology, dental, family planning, prenatal care, respiratory therapy, pediatrics, social work service, Women Infants & Children Nutrition Counseling (WIC), primary medical care and Mobile Health Services for the Homeless.

Transitional Finance Authority Building Aid Revenue Bonds

In November 2006, the Division represented the City in connection with the issuance of $650 million Building Aid Revenue Bonds (BARBs) by the New York City Transitional Finance Authority. The BARBs, were issued to pay for capital investment in the City's public school facilities. This bond issuance was the first of $9.4 billion of BARBs, which the TFA is authorized to issue.

Hudson Yards

On December 21, 2006, the Hudson Yards Infrastructure Corporation (HYIC) closed on its initial issuance of $2 billion of its Hudson Yards Senior Revenue Bonds, Fiscal 2007 Series A. This closing capped almost five years of work by division attorneys --- work started in the initial days of the Bloomberg Administration in 2002 with meetings with the Administration's economic development team. Division attorneys also worked with lawyers from the Economic Development, Legal Counsel, and Environmental Law Divisions and the Condemnation Section of the Tax and Bankruptcy Division. Tasks included testifying at City Council hearings, negotiating with the MTA, advising decision makers at City Hall and, finally, working with bond counsel to close the deal.

New Stadiums

Division attorneys assisted in the financing of the new stadiums for the Yankees and the Mets. Working primarily with attorneys from the Economic Development Division, our attorneys advised administration officials and the New York City Industrial Development Agency on the structuring of a new PILOT (payments in lieu of taxes) backed tax exempt bonds. The two separate issues were jointly recognized as the "Deal of the Year" by The Bond Buyer at it its annual dinner.

PENSIONS LAW

Inga Van Eysden
Division Chief

The Pensions Law Division defends the City's five pension funds (with over 600,000 active and retired members) in litigation challenging individual and class-wide benefit determinations, and provides pension-related counseling and advice to a number of City agencies, including the retirement systems, the Mayor's Office, the Office of Management and Budget, and the Office of Labor Relations. Division attorneys draft and comment on proposed legislation, and assist in the implementation of new laws. In the past two years, the attorneys have provided extensive assistance in the implementation of several laws designed to provide accident retirement benefits and death benefits to City employees who worked at the World Trade Center site. With outside counsels' assistance, attorneys investigate and prosecute securities fraud action, seeking to recover losses that the funds have sustained. Pension fund assets exceed $85 billion, making the City funds one of the largest public pension funds in the country. In 2006, the division recovered over $30 million in securities fraud actions.

Nager v. New York City Teachers' Retirement System

Following a bench trial in the fall of 2005, a N.Y. State Supreme Court judge dismissed a case brought by a retired principal and others challenging certain investment decisions made by the board of trustees of the Teachers' Retirement System. The plaintiffs sought over $2 billion in damages.

Take-Two Securities Litigation and Juniper Networks Litigation

Working with outside counsel, the Pensions Division initiated two new securities fraud actions in 2006 in which the City pension funds were granted lead plaintiff status. These actions were brought against the companies Take-Two and Juniper, and were brought to recover losses resulting from alleged fraudulent conduct.

WorldCom Litigation and Bank One Litigation

In partial settlements, the City pension funds recovered over $30 million this year in two securities fraud actions being litigated by division attorneys through outside counsel.

World Trade Center Disability Issues

Pensions Division attorneys are also assisting the five City pension systems in the implementation of new laws relating to injuries sustained as a result of World Trade Center work, including the newly enacted death benefit law.

Weingarten v. New York City Teachers' Retirement System

With the assistance of outside counsel, the Pensions Division is defending claims brought by the United Federation of Teachers challenging the manner in which pensions have been calculated for Teachers' Retirement System members of the 20-year pension plan. The plaintiffs are seeking over $800 million in damages.

Muriel Goode-Trufant
Division Chief

SPECIAL FEDERAL LITIGATION

The Special Federal Litigation Division defends the City in civil rights cases brought in federal court against law enforcement officials, including police and correction officers, and prosecutors. Claims often challenge a judgment made by an individual police or correction officer in performing his or her duties; the policies of the Police Department as to how to best secure the public safety; or of the Department of Correction as to how to best provide for the care and custody of individuals detained by the criminal justice system. Pending cases implicate 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 the outcomes are part of a rapidly developing body of constitutional law set forth in the decisions of the U.S. Supreme Court. The Division won virtually all of the claims in the cases it took to trial in 2006.

Ingles v. City of New York

In this class action brought by 22 inmates, plaintiffs sought institutional reform of the Department of Correction's use of force practices. Division attorneys negotiated a settlement resolving the claims. Under the class Settlement Agreement, the City will implement several changes, including: installing cameras in certain locations in certain jails; adopting a training program for investigators; and creating a system to track uses of force. Additionally, the City agreed to pay $2.2 million to settle the named plaintiffs' claims for damages, and $1.45 million to settle all claims for attorneys' fees and costs.

Herrera/Pena v. City of New York

These actions arise out of an August 2001 incident in which former police officer, Joseph Gray, while driving under the influence of alcohol, struck and caused the deaths of a mother, her two children and her sister. The plaintiffs' claims against the City were settled for $1.5 million. Joseph Gray's insurer settled claims against Gray for $100,000, the full amount of insurance coverage. Claims against the Patrolmen's Benevolence Association, who is not represented by the City, are proceeding in 2007.

Zongo v. City of New York

This lawsuit arose from the tragic shooting death of Ousmane Zongo in a Chelsea storage facility in May 2003. Plaintiffs allege that Officer Bryan Conroy was guarding evidence concerning a counterfeit CD ring in the facility when he encountered Zongo. Zongo was shot four times and died. In October 2005, Bryan Conroy was found guilty of criminally negligent homicide in connection with the death of Mr. Zongo. The verdict came after a bench trial before Justice Robert Straus. Attorneys settled the case for $3 million dollars.

Demonstration Cases

Division attorneys are handling approximately 150 cases related to demonstrations, including three class action lawsuits. Approximately 100 of these cases relate to demonstrations that occurred during the 2004 Republican National Convention. Most of the remaining cases concern pre-RNC demonstrations, including demonstrations during the 2002 World Economic Forum and the 2003 U.S. Out of Iraq march. Three consolidated demonstration cases concerning the City's alleged policies concerning the issuance of desk appearance tickets to demonstrators were recently tried, and the City was largely victorious.

TAX & BANKRUPTCY LITIGATION

Rita D. Dumain
Division Chief

The Tax & Bankruptcy Litigation Division protects the City's fiscal health by defending property tax assessments, and improves the quality of life of the City's residents by acquiring property to create parks, building affordable housing and constructing libraries. Division attorneys litigate various tax issues and defend the City in bankruptcy proceedings and property acquisition matters. In 2006, attorneys defended the City's land acquisition to support the Third Water Tunnel Project, which will ensure a drinking water supply for the City into the next century.

SHAFT 30B of the Third Water Tunnel

In 2006, the Court of Appeals affirmed the City's acquisition by condemnation of property on Grand Street in Manhattan for construction of Shaft 30B of the Third Water Tunnel. The Court properly held that the former owner's challenge to the taking as constitutionally excessive was time-barred. Shaft 30B is an important component of the City's Third Water Tunnel project, the largest and one of the most important public works projects ever undertaken in the City's history. The Third Water Tunnel will permit the City to shut down the two existing water tunnels for necessary inspection and repairs, thereby averting the calamity that would be caused by the failure of either of the two existing water tunnels.

Corwood Enterprises

This real property transfer tax case presented an important constitutional issue, the loss of which could have had far-reaching consequences and substantial negative revenue implications. The case involves the indirect sales transfer of the Four Seasons Hotel by means of the sale of a controlling interest in the corporate entity that owns it, which in turn is owned by a chain of foreign "shell" corporations. Because the transfer took place in the Virgin Islands, the taxpayer argued that the City had no jurisdiction to tax it. The Tax Appeals Tribunal ruled on appeal that the Real Property Tax Transfer (RPTT) on transfers of controlling interests is, indeed, imposed on the transfer of New York City real property by indirect means, thus ensuring the continued vitality of the New York City RPTT in such a setting.

City of New York v. TransGas Energy Services Corporation

The Appellate Division, Second Department ruled in favor of the City in a land condemnation case involving TransGas Energy Services Corp. In 2002, TransGas applied to build a 1,100-megawatt electric and steam cogeneration plant in the Greenpoint and Williamsburg areas of Brooklyn. The company's application is still pending before the New York State Board on Electric Generation Siting and the Environment. However, in an attempt to secure local land, an affiliate of TransGas LLC published notice in August 2005, announcing its intention to commence a condemnation proceeding. The City argued against Transgas' authority to proceed with the property's condemnation, noting its desire to turn the land into a public park instead. The Appellate Division, Second Department, agreed with the City's arguments and voided a legal "determination and findings" that had allowed TransGas to condemn the property.

210 Roebling LLC

The City had a claim for unpaid real estate taxes and water claims totaling over $3 million in this case. Before the bankruptcy filing, the City obtained a foreclosure judgment against the Debtor's only property on June 14, 2005. The City filed a motion to dismiss the case based on, inter alia, bad faith filing and inability to effectuate a plan. The Court granted the City's motion to dismiss. This case is a classic example of a corporation formed soley by a real estate speculator, and the owner of a dilapidated real property filing for bankruptcy protection to circumvent the City's statutory schemes protecting its low income constituents. By obtaining this decision, the City successfully defended the aforementioned statutory and regulatory schemes; protected its unpaid real estate taxes and water charges; and prevented the misuse of bankruptcy law.

Fay Leoussis
Division Chief

TORT

This is the office's largest division, with over 200 attorneys and 200 support staff who handle 7,000 new suits annually. Recent cases involved successfully defending new laws which limit the City's liability in sidewalk trip-and-fall cases and arguing the dismissal of claims that challenge appropriate governmental discretionary decisions. The Division's subunits focus on special issues such as risk management, catastrophic injuries, and toxic torts.

Pritchett v. City of New York

Division lawyers obtained a favorable jury verdict in this case. Acting on a warrant for the plaintiff's arrest for murder, police entered an apartment when the plaintiff, hiding in a closet, shot at the officers. The officers returned fire, and the plaintiff's leg was amputated as a result. The plaintiff is currently in prison, and was found guilty of assault/attempted murder of the NYPD officers.

Gangemi v. City of New York

The City's motion to dismiss the plaintiff's action was granted in this trip-and-fall case. The plaintiff tripped and fell on a public sidewalk after the enactment of 2003 legislation which imposes liability upon adjacent landowners for injuries arising from their failure to properly maintain the sidewalk. The abutting landowner, a co-defendant, opposed the City's motion and argued that legislation was unconstitutional. The court rejected this challenge, thus upholding the City's law.

Matan v. City of New York

Our attorneys obtained a jury verdict in the City's favor in this NYPD-related case. Three police officers, responding to a domestic disturbance call, were forced to shoot a man who brandished a knife and did not respond to pepper spray. Unfortunately, the man was not deterred by the pepper spray and another officer was forced to fire his weapon, causing the man's death.

Lopez v. City

The City succeeded in overturning a plaintiff's favorable verdict and gained a dismissal of the plaintiff's action. The plaintiff testified that he lost control of his bike when it hit a pothole and then crashed into a car driving on the intersecting street. As a result of the accident, the plaintiff sustained a serious head injury. The plaintiff could not demonstrate that the City had prior written notice of the defect and instead relied upon a cause and create theory of notice based upon a prior repair made by the City. Although the jury found that the City was 65% at fault for the accident, the trial judge dismissed the case, because the plaintiff failed to show that the City's repair left the roadway in a worse condition than it had been prior to the repair.

World Trade Center Litigation

Following the September 11th terrorist attacks, a mammoth rescue, recovery and debris removal effort took place that included City, State and Federal agencies, and private contractors and their employees. Hundreds of WTC workers have commenced actions against the City, and thousands more against the private contractors, claiming they were injured due to the lack of proper respiratory protection. The City and the contractors moved to dismiss the cases on the pleadings, asserting both statutory and common law immunities. The motion presented novel issues as to the applicability of the immunities during the entire duration of the operation, the appropriate standard of good faith required for immunity to apply, and the extent to which immunity applied to private entities without whose help the WTC operations could not have been accomplished. The motion was denied by Southern District Court in October 2006, and the denial has been appealed. In addition to unique legal issues regarding immunity, the litigation required a massive effort to comply with the Federal Court's new electronic discovery rules.

WORKERS' COMPENSATION

John Sweeney
Division Chief

The Workers' Compensation Division represents the City and related entities at all hearings, trials and appeals before the N.Y. 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. Claims involve nearly every conceivable medical condition, including work-related psychiatric diagnoses, respiratory ailments, heart conditions, and orthopedic conditions. 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 all covered City employees. Employees not covered under this agreement, but by union contracts, include uniformed police officers, firefighters, and uniformed sanitation workers.

Significant matters from 2006 included:

- Receiving and indexing over 14,000 new claims.
- Representing the City at over 16,000 hearings, trials and appeals before the N.Y. State Workers' Compensation Board.
- Paying over $140 million in wage replacement benefits and medical costs to injured employees
- Processing over 190,000 medical bills.
- Obtaining revenue recoveries in excess of $11.5 million from various sources, including State funds, lien satisfaction, and insurance arbitration.
- Upgrading the internal computer system that is used to issue payments to employees and doctors. The new system is quicker, more user-friendly, and provides more practical information to both legal and support staff.

SUPPORT DIVISIONS

Administration

Information Technology

Media & Communications

Operations

ADMINISTRATION

Malachy Higgins
Division Chief

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 is responsible for ensuring the physical maintenance of eight citywide offices in addition to the Kingston, N.Y. office.

Each year, the Division handles over 35,000 paychecks; hundreds of personnel actions; thousands of payments for expert witnesses; 6,000 requests for court reporters and depositions; and hundreds of individual procurements. Moreover, it deposits money recovered in lawsuits on behalf of the City, and handles the enrollment of employees in the health benefits/managerial benefits program. The Division's efforts continue to focus on expansion and renovation of the agency's facilities, speedy responses to staff changes, and automation of systems and processes to increase the agency's efficiency. The Division also provides oversight and advice to other agency enterprises such as, information technology initiatives, equipment upgrades, and management evaluations.

Highlights of accomplishments from 2006 included:

- Implementing the new city-wide Personnel system (NYCAPS).
- Developing and implementing a supervisory training program for our Legal Assistant Supervisors.
- Implementing the citywide timekeeping program (CITYTIME) for our Legal & Managerial staff.
- Relocating 200 agency employees to accommodate changing space needs.
- Expanding storage capacity by 80,000 square feet at Bush Terminal, Brooklyn. This addition will increase offsite storage capacity by approximately 100,000 boxes for inactive case files.

Jim DiRobbio
Division Chief

INFORMATION TECHNOLOGY

The Information Technology (IT) Division strives to provide innovative, timely, cost-effective and user-friendly computer technology to the Law Department. The Division also provides strategic planning and technical direction in the integration of new and existing information technologies to enrich the Law Department's overall function. IT also provides leadership in the efficient and effective use of a vital City resource – information.

During the past year, a new Office of the Chief Information Officer (CIO) was created from the existing Information Technology Division. The Chief Information Officer will focus on technological solutions to litigation support and litigation readiness. With the growing importance of legal technology, litigation support, which makes it easier to file, organize, and search documents, has become increasingly significant. Electronic documents are also being used more frequently as evidence in trials. New federal requirements surrounding the transition from paper to electronic discovery are being implemented, and the CIO will oversee the Law Department's response to these new regulations. Jack Hupper was asked to lead the Office of the Chief Information Officer, and Jim DiRobbio was named the new Chief Technology Officer.

The restructured Information Technology Division is comprised of three sub-units: Application Support, Infrastructure & Operations, and IT Administrations Group:

Application Support

The Application Support Group maintains the application infrastructure at the Law Department. Current computer applications require periodic maintenance, version upgrades, application of patches, customization, and a variety of other related tasks to ensure their uneventful operation.

Infrastructure & Operations

The Infrastructure and Operations Group includes Network Services, the Help Desk and Technical Support. We provide end-to-end computer services – from desktop to the network applications.

IT Administration Group

The IT Administration Group assists the Law Department in project management, IT purchasing system, IT budget preparation, human relations coordination, and vendor relationship management.

MEDIA & COMMUNICATIONS

Kate O'Brien Ahlers
Director

The Media & Communications Office provides timely updates to the public and press on legal matters impacting New York City. In addition, the office promotes internal Law Department accomplishments and endeavors; oversees the Law Department's web site and intranet; and works with City Hall and agency clients on press and community outreach.

Created in April 2002, the office patterns its initiatives after strategies embraced at major law firms. For example, the office maintains detailed lists for national, local, foreign, minority, business and legal media. It updates reporters on scoops, victories and breaking news through press releases and news advisories, written in easy-to-understand language. The office pitches proactive stories on Law Department accomplishments and innovations. Finally, it responds daily to dozens of reporter and public affairs queries, and endeavors to offer fair, accurate and prompt responses.

The Law Department and its staff are highlighted almost daily in major publications like the New York Post, Newsday, the Daily News, New York Magazine, Crain's New York Business and The Associated Press. For example, Crain's ran a comprehensive spread -- "City Gets Torts in Order" -- in April 2006, citing how the City is clearing backlogged cases while reducing payouts. In May 2006, New York Magazine selected Corporation Counsel Michael A. Cardozo as among the City's "most influential lawyers." And in September 2006, the New York Post named the Law Department's second-in-command, Jeffrey D. Friedlander, as a finalist for its prestigious Liberty Medals "Lifetime Achievement Award" competition.

National and international media outlets like The New York Times, The Economist and The Wall Street Journal also frequently cite our work, as do leading industry publications like The American Lawyer, the National Law Journal and the New York Law Journal. The NYLJ, for example, publishes a bimonthly column by Jeff Friedlander, "Municipal Law," which offers a glimpse of public service life at the City's third-largest law firm. In 2006, the paper also ran a bylined Law Department med-mal mediation column on which the American Arbitration Association later expanded in its Dispute Resolution Journal.

The Law Department's exposure is not limited to print. The Corporation Counsel, as well as other staff, have been featured on various local and national television news shows, including MSNBC, New York 1 News and CNN, as well as on radio shows and on web blogs, affording the opportunity to discuss paramount issues relating to the Law Department and the City.

The office works regularly with the Mayor, his staff and City agencies to answer legal questions on complex City issues and to promote new City ventures. The office helps draft and edit speeches, writes bylined articles, edits press releases, and formulates media primers. The office works occasionally with external officials, like former mayors, non-governmental organizationsor City activists, to promote the current Administration's priorities. The office has assisted on lobby campaigns; formulated information packets used by legislators, reporters and officials; worked with the Mayor's Washington and Albany offices on key agendas; and secured positive editorial mentions on important legislative initiatives, like Tort reform. Internally, it has enhanced Law Department communications -- and instilled greater institutional pride -- by sharing internal news cites and launching an online newsletter, "Hearsay," that keeps staff and alumni abreast of the latest Law Department developments. Finally, the Media Office offers tutorials on variety of topics including media training, pitching stories, writing bylined articles and honing communications skills.

The Media Office's ongoing efforts have better defined the Law Department's vital role in shaping the City's future, and have helped to educate the public and press on the Law Department's practice.

Kenneth Majerus
Division Chief

OPERATIONS

The Division's two-fold mission is to provide centralized production support and improve operational efficiencies for the Law Department. The Operations Division is comprised of five document production and distribution units, and an operational analysis unit. The document production and distribution units manage legal mail process, case docketing, electronic editing, courier services, composition and duplication of hundreds of documents daily, and servicing and filing of legal papers. 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.

Conversion from Analog to Digital Copiers

In 2006, the last analog copiers were retired, completing the conversion of our fleet to a completely digital environment. All networked devices are remotely monitored – enabling the Division to proactively resolve and/or investigate service issues. In addition to the usual walk-up features of copying and faxing, new offerings include scanning to e-mail, with access to a directory of e-mail addresses for agency employees; and printing and faxing directly from users' desktops.

Coaching and Training Seminars

The Division continued to facilitate coaching and training seminars to hone supervisors' managerial skills. The Division also provided an onsite Business Writing Seminar.

Document Tracking System

Division staff deployed a document-tracking system that enables supervisors to better monitor workflow. The application also automates reports as well as operator's production sheets.

Equipment Upgrade

The Operations Division rounded out its services by upgrading reprographic equipment – resulting in an 18-percent capacity increase for Black and White printing, a 67-percent increase for Color printing, and a 58-percent increase in scanning services.

Law Manager

The Department implemented a new case management system, Law Manager, and Division analysts continued working with the Law Manager development team to create workflow analysis diagrams, test protocols, and review documents. Division staff also assisted in the deployment of Law Manager by coordinating and managing twice-weekly meetings with agency personnel to discuss and resolve related procedural issues. Additionally, Operations developed data entry protocols and a "frequently asked questions" resource to assist department staff utilize the newly deployed software application.

Highlights of accomplishments from 2006 included:

- The Duplication and Finishing Services Unit produced over 12 million pages and 3 million digital images during calendar year 2006.
- The Document and Data Processing Services Unit responded to over 5,500 job requests, over 500 of which were submitted electronically via our intranet site.
- The Process and Courier Services Unit and Central Services Unit (Brooklyn) handled well over 13,000 services, filings, deliveries and pick-ups in 2006.
- The Communications and Docketing Services Unit continued to play a pivotal role in supporting Law Manager. Over 6,000 cases were initiated by members of the Unit during the 2006 calendar year.

CLASS OF 2006

Mayor Bloomberg and Corporation Counsel Michael A.Cardozo with the 2006 class of Assistant Corporation Counsels.

The Law Department, an equal opportunity employer, has long been committed to recruiting, retaining, and promoting a diverse community of professionals. The Law Department's Diversity Committee works to enhance the recruitment and retention of attorneys of all backgrounds. Our Women's Committee focuses on issues of particular importance to the 60% of our attorneys who are women. Each fall, the Law Department hosts a diversity reception for law students and attorneys to learn about our work and meet our attorneys

Today, 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 a majority of our attorneys work in a division led by a female division chief. More than 18% of the attorneys in the office self-identify as Black, Hispanic, or Asian. Moreover, the Law Department has the largest number of openly gay attorneys among the law offices reporting this information to the National Association of Law Placement.

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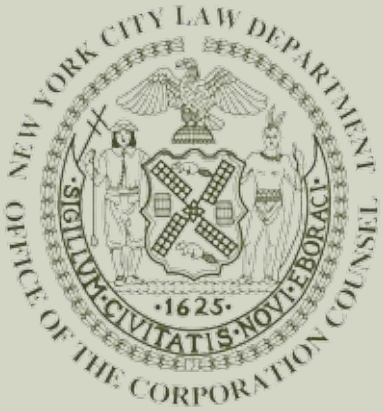

Michael R. Bloomberg
Mayor

Michael A. Cardozo
Corporation Counsel