

# NEW YORK CITY LAW DEPARTMENT

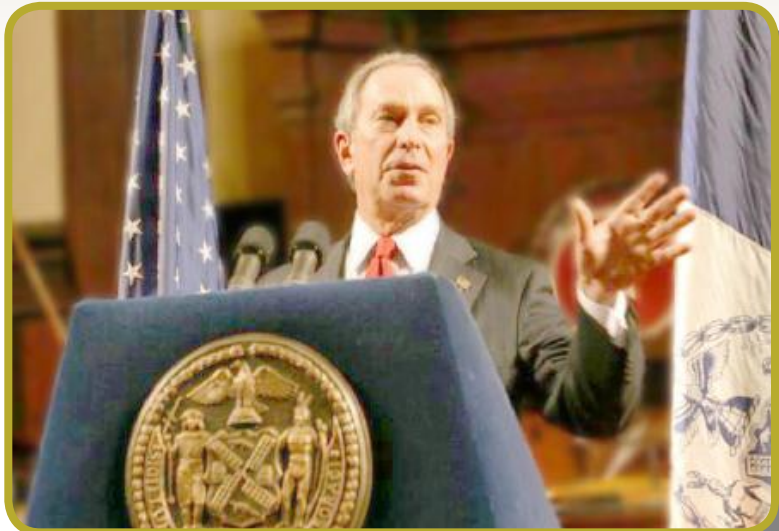
Annual Report 2004-2005

Michael A. Cardozo, *Corporation Counsel*



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## **Welcome from Mayor Michael R. Bloomberg**

As Mayor, I rely heavily on the attorneys who advise and represent the City. These attorneys — Corporation Counsel

Michael A. Cardozo and the 650 Assistant Corporation Counsels under his direction at the New York City Law Department — ably advise the City on a vast array of legal matters and cases. I rely on their guidance in helping manage this great City, including issues that affect, among others, the City's quality of life, the budget, City revenue, personnel, social services, the Fire and Police Departments, environmental matters, security issues and the like.

The reader of this 2004-2005 Annual Report cannot help but be impressed with the broad scope of the Law Department's duties and the good sense the Law Department brings to the legal aspects of the City's business.

I commend the Law Department — both the attorneys and support staff — for a job well-done.

Michael R. Bloomberg  
Mayor



*City Hall Capital Dome*





## 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.

## Vision

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



## **Introduction From Corporation Counsel Michael A. Cardozo**

I am pleased to present you with the New York City Law Department's 2004-2005 Annual Report. The Law Department, also called the Office of the Corporation Counsel, is the third-largest law firm in New York City and I feel privileged, as its Corporation Counsel, to have the best legal job this City offers. With 650 attorneys, the

Law Department represents the City and its numerous agencies in a wide variety of matters, ranging from the routine negligence cases to the most difficult, cutting-edge City Charter and Constitutional challenges.

I believe the lawyers in our office experience far more job satisfaction than do many of their counterparts at private firms. They gain hands-on knowledge and experience fast, they handle exciting and challenging legal issues, and they help the City and its citizens. The rewards realized from serving the public good offer a powerful incentive to seek both professional and altruistic fulfillment in the municipal and public affairs sector.

I'm proud of the work done by the Law Department during my first three years as Corporation Counsel. I am also very proud to work under Mayor Bloomberg, who has brought a refreshing balance of business and public service philosophies to New York City. I look forward to continuing this tradition of public service and working to ensure that the Law Department remains one of this country's great legal offices.

This Annual Report provides you with information on what we do here at the Law Department and what our recent priorities and accomplishments have been. You'll also find information on employment opportunities. Please feel free to contact us, so that we may continue serving you in the best way possible.

# EXECUTIVE STAFF



**Michael A. Cardozo**  
Corporation Counsel



**Jeffrey D. Friedlander**  
First Assistant  
Corporation Counsel



**Lawrence S. Kahn**  
Chief Litigating Assistant  
Corporation Counsel



**Leonard Koerner**  
Chief Assistant  
Corporation Counsel



**G. Foster Mills**

Managing Attorney



**Gail Donoghue**

Special Counsel



**Muriel Goode-Trufant**

Equal Employment  
Opportunity Officer



**Paul T. Rephen**

Executive Assistant  
Corporation Counsel







# LAW DEPARTMENT OVERVIEW



New York City is organized as a municipal corporation under the laws of New York State and, as such, the City Charter provides that a Corporation Counsel shall head the Law Department. The Corporation Counsel acts as the attorney for the Mayor and other elected officials, and has responsibility for all the law business of the City and its agencies. To that end, the Law Department's attorneys represent New York in all affirmative and defensive civil litigation as well as in the juvenile delinquency proceedings brought in the Family Court and certain code enforcement proceedings in the New York City Criminal Court.

In addition to litigation, attorneys write local and State legislation; approve leases, contracts, and financial instruments for the sale of bonds and notes; serve as counsel on sales and leases of City-owned property; and provide legal counsel on pensions, the restructuring of City government, and on social and environmental policies.

The Law Department is divided into 20 divisions (a full list is provided later in this report). It has 650 lawyers and 850 full-time and part-time support staff located in 10 offices in all five boroughs of New York City as well as in Kingston, N.Y. Together, this team of legal professionals handles more than 90,000 suits and matters each year. Because of this tremendous caseload, new lawyers in the office assume far greater responsibilities both in and out of the courtroom on more important cases and matters far sooner than their classmates at private law firms. The richness and diversity of expertise among Law Department attorneys, along with the scope and complexity of their caseloads, provide for a challenging, stimulating legal environment that is second to none.

# CAREER OPPORTUNITIES

Recently called the “hot career spot for the civic-minded” by the New York Law Journal, the New York City Law Department hires attorneys under a merit-based hiring system similar to that used by private law firms. Consideration is given to a candidate’s academic record, including journal and moot court experience, as well as writing samples, references, interviews and, in cases of lateral hires, legal experience.

## **Visiting the Law Department’s Web Site**

The Law Department’s web site provides additional information on our office, our public service mission, our history, our legal and non-legal divisions, our recent legal wins and highlights, and our media accomplishments and mentions. It also includes information on our recruiting efforts as well as how to apply for positions and what positions are available. For students interested in speaking with someone from their law school, the web site has an “Online Alumni Network” on which many of our attorneys have volunteered to receive calls from law students interested in finding out more about the Law Department.

*You can view our web site at the City government home page: [www.nyc.gov](http://www.nyc.gov) (select: City Agency: Law Department) or via direct link at [www.nyc.gov/html/law/home.html](http://www.nyc.gov/html/law/home.html).*

## **Summer Honors Program**

Many of our attorneys come to the Law Department by first participating in our Summer Honors Program. This salaried, nine-week internship for outstanding first and second year law students offers participants the opportunity to accompany attorneys to court, take depositions, participate in strategy meetings, assist attorneys in preparing for trial, interview witnesses, draft motions and briefs, and conduct legal research. Interns enjoy a weekly lunch seminar series where they meet with judges, high-level City officials and other prominent legal personalities. Speakers from the 2004 Summer Honors Program included Deputy Mayor Dennis M. Walcott, who is overseeing the Mayor’s reform of the City’s education system; former Mayor David N. Dinkins; United States District Court Judge Denny Chin; and former United States Attorney Mary Jo White. Interns also take field trips to various City facilities,

including the police training center at Rodman’s Neck; Grand Central Station; the City jail at Riker’s Island; and the Mayor’s ceremonial residence, Gracie Mansion, for a barbecue. The Law Department has also been able to offer housing to eligible out-of-town summer interns. The program is competitive — we receive about 3,500 applications each year — but it is an excellent way for students to gain experience and prepare themselves for potential employment with the Law Department.

Students should visit the Law Department’s web site or contact their law school career services office for information on applying to the Summer Honors Program.

## **Attorney Positions for Graduating Law Students**

The Law Department participates in the fall on-campus interviewing process at more than 40 law schools and job fairs. We seek candidates in the top third of their class who have demonstrated achievement in moot court and/or journal work, as well those with a demonstrated commitment to public sector work. The Department generally hires about 50 entry-level attorneys each year. Most openings are in our larger litigating divisions – Tort and Family Court – although hires are made in most other divisions as well. Members of the 2005 entry class include graduates from a wide variety of schools including: American, Boalt Hall, Brooklyn, Boston College, SUNY Buffalo, Cardozo, Columbia, Cornell, CUNY, Emory, Fordham, George Washington, Georgetown, Hofstra, Maryland, Miami, New York Law School, New York University, Northwestern, Pace, Richmond, Rutgers-Newark, St. John’s, Temple, Touro, Washington University in St. Louis, and the University of Virginia. The Law Department offers graduating students a particularly unique opportunity to obtain early responsibility and experience. Under practice orders authorized by State statute, we can send students awaiting admission to the bar to court. As a result, first-year lawyers get to argue motions, appear at court conferences and, in the Family Court division, even conduct trials.

*Resumes and cover letters for those graduating law students interested in attorney positions can be sent to: Director of Legal Recruitment and Development, New York City Law Department, 100 Church St., 6th Floor, New York, N.Y. 10007.*



### **Attorney Positions for Experienced Lawyers**

Experienced attorneys may apply for positions by submitting a cover letter and resume to the Recruitment Office. Applicants are considered for vacancies which may occur in the various divisions. Division assignments are based on the candidate's background and experience and the Law Department's staffing needs. Attorneys must be admitted to practice law in New York State or eligible for admission to the bar without examination at the time they are hired.

*A review of our web site will indicate the positions for which we are currently seeking experienced attorneys. Resumes and cover letters can be sent to: Director of Legal Recruitment and Development, New York City Law Department, 100 Church St., 6th Floor, New York, N.Y. 10007.*

### **Legal Externships, Internships and Clinical Programs**

The Law Department also welcomes legal externs and interns as well as clinical students during the academic year and in the summer months. These students perform a variety of legal tasks, typically supporting litigation teams. Students may also participate as interns with the support of fellowships or grants from their law schools and other organizations.

*Clinical and extern placements are usually made through the clinic office at the student's law school. For internships, please send a resume and cover letter to: Director of Legal Recruitment and Development, New York City Law Department, 100 Church St., 6th Floor, New York, N.Y. 10007.*

### **Professional Development and Training**

The Law Department's attorneys have a wide variety of legal expertise and backgrounds. As a result, the Law Department offers its attorneys high-quality training and continuing legal education programs tailored to meet their ongoing professional development needs. The office has been certified by the New York State Continuing Legal Education Board as an Accredited



Approved Provider of Continuing Legal Education. It offers continuing training in areas including legal skills, law practice management, professional practice and ethics. The office's training program also includes an annual, one-week intensive Civil Trial Advocacy Program modeled after the program of the National Institute for Trial Advocacy.

*For information on ongoing legal training opportunities, please contact: Director of Professional Development, New York City Law Department, 100 Church St., 6th Floor, New York, N.Y. 10007.*

### **Support Staff Positions**

More than 850 full-time and part-time personnel are employed by the Law Department. The Law Department is always seeking qualified support staff for its agency divisions. Positions offered include (but are not limited to): Paralegals, Claims Specialists, Medical Legal Analysts, and Hardware, Software and Network Specialists.

*Resumes and cover letters for staff support positions can be sent to: Director of Human Resources, New York City Law Department, 100 Church St., 5th Floor, New York, N.Y. 10007. Our web site also offers a list of current openings.*

### **Support Internships**

Internships are occasionally available during the school year and in the summer months in a variety of support positions. Internships are usually volunteer or done for school credit.

*Resumes and cover letters for staff support internships can be sent to: Director of Human Resources, New York City Law Department, 100 Church St., 5th Floor, New York, N.Y. 10007.*



# CLASS OF 2003

The lawyers of the entry class of 2003 already have exciting careers. Below are short descriptions of the work of our 2003 “rookies of the year.”

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**Michael Burger**  
Environmental Law  
Columbia University

A graduate of Columbia Law School, Mike joined the Law Department’s Environmental Law Division bringing with him a long-standing interest in environmental issues.

In the Crossroads Development Issues Conference matter, Mike is working to protect the City’s water supply by challenging the development of two private golf courses to be located in the City’s watershed region.

In the Landmark West case, Mike took the lead in preparing the City’s papers in response to a challenge to the redevelopment plans for 2 Columbus Circle. This case raised important issues concerning historical preservation and the arguments developed by Mike were adopted by the Court so that this part of the Columbus Circle redevelopment plan can now move forward.



**Michael Chestnov**  
Special Federal Litigation Unit  
New York University

In his first year at the Law Department Michael Chestnov, has handled over fifty cases in federal district court.

Michael has drafted and argued many substantive motions and negotiated numerous settlements on highly favorable terms for the City. Recently, Michael obtained summary judgment in favor of the City in two highly publicized cases stemming from the assault of innocent bystanders during the June 2000 Puerto Rican Day Parade. He drafted a considerable portion of the City’s motion for summary judgment, as well as compiling detailed factual notes, summaries, and briefing materials. His efforts were instrumental in securing the dismissal of both cases.



**Daniel Greene**  
Environmental Law  
Vermont Law School

In his first year, Dan has worked on numerous high profile cases, including the City’s response to a series of federal criminal subpoenas seeking information about the operation of two City wastewater treatment plants during the August 2003 blackout. Additionally, Dan has played an active role in the City’s MTBE litigation, a multi-district litigation involving more than 40 defendant petroleum refiners.



**John Hewson**  
General Litigation  
Fordham University

As a first-year lawyer in General Litigation, John was assigned primary responsibility for negotiations in two class actions involving the Human Resources Administration. In *Piron v. Wing*, John counseled the agency in connection with a consent decree governing HRA's compliance with State fair hearing decisions. In *Rivera v. Bane*, John negotiated the vacatur of an onerous permanent injunction regarding the production of documents in administrative law proceedings. John also received first page mention in the *New York Law Journal* when he won an important victory for the Department of Correction as the lead attorney in *Investigative Technologies, LLC v. Martin F. Horn*. In this case, the state court upheld the Department's decision to withhold from a web-based background check company certain individual private information regarding detainees in City custody.



**Christina Hoggan**  
Administrative Law  
New York Law School

Christina Hoggan's caseload includes the defense of state court Article 78 proceedings challenging agency determinations made pursuant to local law and the prosecution of criminal cases brought against violators of New York City local law. Christina has been the primary attorney on a complex criminal prosecution against a landlord for an egregious unlawful eviction. She successfully prevailed at a pretrial suppression hearing, and the case is about to go to trial.



**Jessica Latour**  
Family Court  
University of Maryland

Jessica Latour is assigned to the Brooklyn office of our Family Court division where she prosecutes juveniles under the age of 16 years. Jessica has prosecuted numerous types of cases, including, robberies, assaults, drug offenses, weapons possession, burglaries, and crimes against property. During her first year, she handled approximately 150 prosecutions, conducting 20 trials and 50 sentencings.



**Nicole Ludwig**  
Tort Division- Queens Office  
Catholic University

Nicole joined the Law Department as a pre-trial attorney in the Tort Division's Queens Office. In her first year, Nicole handled over 100 motions, which included over 60 responsive motions and 40 affirmative motions. In a typical case, *Marcy Carroll v. City of New York*, Nicole reviewed numerous deposition transcripts and agency records and persuaded the Court that the City was not responsible for plaintiffs' injuries arising from a sidewalk defect.

Within her first four months at the office, Nicole second seated the damages phase of a high exposure personal injury case. Her efforts locating necessary witnesses and analyzing legal issues contributed to a successful settlement on the City's behalf. Nicole has since tried a sidewalk case to a defendant's verdict.



**Michael Shender**  
Tort Division- Brooklyn Office  
City University of New York

In his first year with the Law Department's Brooklyn Tort office, Mike has drafted more than 50 affirmative motions. Michael has worked on cases raising questions such as whether a bystander injured by a marathon runner can sue the City for negligence or whether the non-viable fetus of a City employee has a cause of action separate and apart from that of the employee.



**Brett Theis**  
Commercial and Real Estate Litigation  
Villanova University

Brett has handled a variety of complex commercial matters in his first year at the Law Department. In *Americare v. HRA*, Brett defeated an application for a preliminary injunction both at the trial and appellate levels thereby permitting HRA to transfer a home attendant services contract to the provider of its choosing. Brett has more than twenty other active cases including disputes involving school and hospital construction projects, in rem tax foreclosures, and underground utility interference work. .

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## Class of 2004





# **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**

**Tort**

**Workers' Compensation**

# ADMINISTRATIVE LAW

New York City has adopted numerous laws and regulations to enhance the quality of life for its citizens and visitors. For example, the use and development of private property is governed by code requirements addressed to building construction, fire prevention, housing maintenance, zoning and landmark preservation. For purposes of protecting consumers and promoting the public health and safety, the City regulates the conduct of many types of businesses; examples include restaurants and cabarets, taxicab and car services, plumbing and electrical companies, parking lots and garages, and commercial carters, to name just a few. The City also regulates the use of the public streets and sidewalks with provisions of law addressed to various activities including vehicular traffic and parking, food and general vending, parades and assemblies, street fairs, newsstands, sidewalk cafes and pay telephones.

The Administrative Law Division handles court proceedings brought by and against the numerous city agencies that are responsible for administering and enforcing these laws and regulations. Some of these actions include challenges to the provisions of law themselves, while most dispute the application of a particular legal requirement in a specific context. In addition, the Division brings some civil actions to obtain compliance with regulatory requirements, and prosecutes code violators in Criminal Court to punish their non-compliance and ultimately bring about code adherence.

In 2004, Administrative Law Division attorneys litigated matters arising from a variety of regulatory activities conducted by city agencies. For example, in the area of land use and development, the Division successfully defended a developer's challenge to the constitutionality of a zoning amendment which "downzoned" most of the South Street Seaport Historic District so as to preserve the neighborhood's existing scale and historical context. The Division also won dismissal of several constitutional claims in a federal

case challenging a Landmarks Preservation Commission decision denying permission to a condominium board to remove a work of art attached to the façade of the condominium building located in a landmark district. Division attorneys also succeeded in obtaining injunctive relief against the owner of the Skidmore House, a Greek Revival structure which was built in 1845, designated a landmark in 1970, and subsequently allowed to fall into disrepair by its owners. In the first ruling of its kind, the Court ruled after trial that the building owners were required to take immediate remedial measures to restore the Skidmore House to "good repair."

As to the regulation of businesses, in 2004 Division attorneys successfully defended a constitutional challenge to the Smoke Free Air Act, which prohibits smoking in nearly every indoor area in the City where people work. The Division also succeeded in defeating a challenge to a Taxi and Limousine Commission rule requiring all for hire vehicle base stations to provide wheelchair accessible transportation on demand to any person requesting such service.

Division attorneys handled many cases in 2004 regarding the use of the streets. These include a challenge by the Learning Annex to the requirement that news boxes be kept clean and graffiti free; a challenge by newsstand operators to a new law limiting their operation to structures which are built and maintained by street furniture franchisees subject to strict design and placement regulations; a federal case contending that graffiti-laden hats are works of art and that their sale on public streets is protected by the First Amendment and thus not subject to the vendor licensing requirement; a claim by Critical Mass bicycle riders that their bikes were illegally seized and the City's counterclaim to enjoin the Critical Mass rides as unlawful in the absence of a parade permit; and a number of actions brought by pay telephone service providers challenging the denial of pay phone franchises and permits to them as a violation of federal law.



# AFFIRMATIVE LITIGATION

The Affirmative Litigation Division represents the City as plaintiff. The Division litigates a wide range of issues in federal and state court and before administrative agencies, and advises City agencies on a wide range of topics. Subject areas include commercial disputes; hazardous products claims; civil racketeering and fraud claims; nuisance and restitution claims; antitrust claims; and challenges against the State and federal governments on matters such as funding for public benefits programs and education. Cases handled by the Division this year concerned health care, education, foster care, transportation, property damage, cigarette taxes, water rates, public utilities, telecommunications, state funding and trademark infringement, among countless other issues affecting the everyday lives of City residents.

The Division handled many significant matters in 2004. For example, it advanced the City's nuisance suit against a large number of firearms manufacturers and distributors whose sales and marketing practices harm City residents by contributing to an underground market for guns used to commit crimes within the City. That case is currently scheduled for trial in the Eastern District of New York in September 2005. In addition, the Division commenced several lawsuits against pharmaceutical companies alleging antitrust violations and Medicaid fraud in connection with overcharges to the Medicaid program for various drugs.

The Division successfully litigated a critical challenge by the Governor to state legislation, passed over the Governor's veto, allowing the City to balance its budget by replacing \$2.5 billion in City debt payments with State payments, a case that was successfully defended by the Appeals Division before the Appellate Division and the Court of Appeals. There were also several successful challenges to arbitrary State funding decisions, resulting in the recovery of tens of millions of dollars in State funding for various benefits programs. After a four-day trial, the New York State Court of Claims awarded almost \$16 million in damages plus substantial interest dating to 1992 against the State due to the failure of the New York State Office of Mental



Retardation and Developmental Disabilities (OMRDD) to honor a 1991 agreement and court order to place at least 200 mentally retarded children – in foster care or in New York City Health and Hospitals Corporation facilities – in state-operated or licensed facilities for each year from 1992 through 1995.

The Division also continued its efforts to secure insurance coverage in cases of wrongful disclaimer by insurers. By 2004, the Division had saved the City tens of millions of dollars in tort judgments by forcing recalcitrant insurance companies to provide contracted-for coverage.



# APPEALS

The Appeals Division is responsible for handling appeals from virtually all the Law Department's litigating divisions (except for tax certiorari, bankruptcy and excise tax appeals). It files about 700 appellate briefs annually. Lawyers in this Division represent the City before State and Federal appellate courts in matters that involve both routine litigation and unique disputes involving public policy. Appeals Division attorneys have an unparalleled variety of substantive matters making up their caseload. The number and variety of appellate issues generated by New York City give the Division a unique opportunity to seek changes and developments in the law that can be particularly beneficial for the City's residents and its elected government. The New York Court of Appeals heard a total of 19 of the City's appeals in its 2003-2004 term, about 14% of its total civil docket. The City prevailed in 13 of those cases.

The Appeals Division secured victories in several major cases in 2004, some of which were controversial and received extensive press coverage. A division attorney assisted the Corporation Counsel, Michael Cardozo, in the successful defense of the constitutionality of the Payment Act, which was enacted to replace the scheduled \$2.5 billion in MAC payments over five years with 30 years of payments in the amount of \$170 million per year. A matter of great notoriety involved the illegal conditional release of Guy Velella, a former public official, by a little-known mayoral agency.

Upon recognizing that the statutory procedures had not been followed, the agency declared its earlier action to be void and ordered Velella back to jail. His lawsuit to overturn this determination was quickly rejected by all courts, right up to the Court of Appeals.

The Appeals Division obtained rulings that police department disciplinary issues are prohibited subjects in collective bargaining, including the previously negotiated and controversial "48 hour" rule that had in the past delayed interrogations of police officers; that the Human Rights Law did not waive the City's immunity from punitive damages; that juvenile delinquents can be retained in placement beyond their 18th birthday; and that there was statutory authority to prosecute juveniles for the crime of prostitution despite the juvenile's legal incapacity to consent to sexual acts. The Appeals Division also had success in a number of cases raising significant constitutional issues, among them, a case where, in the context of an attempt by the KKK to demonstrate in Foley Square, the Court of Appeals for the Second Circuit upheld the New York "anti-mask" statute, which prohibits people from demonstrating while wearing masks in a public forum. The Appeals Division additionally upheld the constitutionality of New York's "Kendra's Law", a statute providing assisted outpatient treatment for psychiatric patients.

As in the past few years, the single largest category of our appellate cases originated in the Tort Division.

Appeals Division attorneys won two cases which will help limit the circumstances under which a police officer can sue the City for line-of-duty injuries under the cause of action provided to them by General Municipal Law Section 205-e. And in a case where the Department of Health inspected and ordered abatement of lead-paint violations in private apartments, a victory in the Court of Appeals further limited the City's exposure to claims of this nature, which allege the City failed to protect individuals, but did no harm itself. This precedent has already saved millions of dollars by virtue of dismissed lawsuits and favorable settlements.



# COMMERCIAL & REAL ESTATE LITIGATION

Every year, the City and its agencies enter into an exceptionally broad array of contracts touching upon virtually every function of City government – ranging from contracts with private companies to build or repair bridges, roads, schools and other parts of the City’s infrastructure; to leases of important public properties, such as Shea or Yankee Stadium or the City airports; to contracts for goods and services, such as copier machines, school bus transportation and housing for people with AIDS. Whenever litigation arises under one of these contracts, Commercial & Real Estate Litigation attorneys represent the public agencies involved. Such litigation may take the form of proceedings before the Contract Dispute Resolution Board, Article 78 proceedings in State Court, or actions in State or Federal Court raising complex contractual, statutory and/or Constitutional issues, often with many millions of dollars at stake. Division attorneys are frequently confronted with analytical, investigative and strategic challenges, novel legal questions, sophisticated accounting issues and intriguing facts.

The diversity of contract disputes that comes to the Division is a product of the City government’s wide-ranging activities, both in the procurement of all types of goods and services and in the fast-paced world of real estate development in all five boroughs. City agencies also lease millions of square feet of commercial real estate, both as landlord and tenant, and assist community groups in managing and purchasing housing.

In addition to defending the City’s interests, the Division also recovers millions of dollars for the City through the work of its Affirmative Real Estate Unit, which enforces the City’s contractual rights to rental and other real estate-related payments. Through “targeted” in rem tax foreclosure actions, tax-delinquent properties identified by the City’s Department of Housing Preservation and Development (HPD) are acquired and developed as affordable housing for City residents.

Among the many high-profile, interesting legal matters handled by the Division this year are the multiple lawsuits (in Federal and State Court) challenging the City’s decision to have the MTA provide bus service in areas currently serviced by a group of private companies



whose franchises are expiring. Division attorneys have also worked on a fascinating set of cases – involving a complex web of documents and maps, some dating back more than 70 years – in which the City contends that the owners of luxury cooperative buildings on Sutton Place South must pay for repairs to their buildings’ understructures, which rest directly above the FDR Drive (the roadway of which is currently being rehabilitated by the New York State Department of Transportation).

Important victories obtained by the Division this year include the successful defense of the City’s new marketing initiative with Snapple Beverage Corp., which is expected to provide cash and other benefits to the City aggregating \$126 million over a five-year term; and a series of winning court decisions in the hotly contested litigation arising out of the City’s determination not to extend Stapleton Studios’ occupancy permit for the Homeport property on the Staten Island waterfront, culminating in Stapleton’s July 2004 surrender of the property to the City. Another significant Division achievement this year was the favorable resolution – which included a payment to the City of \$500 million – of the long, hard-fought arbitration against the Port Authority of New York and New Jersey for back rent under the lease for the John F. Kennedy International and LaGuardia airports.

The unusually diverse caseload, the chance to both protect and augment the public fisc, and the highly visible and sensitive nature of many of the disputes handled in the Division, make this a particularly rewarding and exciting place to practice law.



# CONTRACTS & REAL ESTATE



The Contracts & Real Estate Division provides counseling services to City agencies and officials on transactional matters. Division attorneys evaluate and approve City agreements, leases, business documents and contracts totaling over \$9 billion annually. They also structure, negotiate and draft complex agreements entered into by City agencies. Business and land use restrictions and considerations that do not apply to the private sector can make their work even more complex – for example, the need to award, within certain limits, contracts to the lowest bidder to protect the public interest. Division lawyers are highly trained in regulations and statutes applicable to municipal contracts and real property transactions as well as administration, budget and public policy concerns, and general commercial law.

The Division has taken a leading role in the transfer of bus service to the Metropolitan Transportation Authority (“MTA”) for the areas currently served by seven private subsidized bus lines. The private bus companies operate a total of 1200 buses and, taken together, would be the country’s seventh largest bus company. The transaction has required division attorneys to address complex issues in the areas of real estate, pensions, labor law, and public transportation. The Division also assisted in the creation of the New York City Marketing Development Corporation. Division attorneys created various

processes to govern MDC’s internal actions, established policies to govern MDC’s procurements and the choice of its marketing partners.

Since September 2001, the Division has been heavily involved in the efforts to react to and address the aftermath of the World Trade Center tragedy. The Division continues to remain involved as the City rebuilds lower Manhattan. Significant accomplishments in this area include the drafting of the Coordinated Construction Act, which will streamline construction in lower Manhattan, and the negotiation of a model funding agreement for the City to receive federal funds through the Lower Manhattan Development Corporation.

In other areas, the Division assisted in the release of the long anticipated request for proposals for a new street furniture franchise, which will ultimately result in new public toilets, bus shelters, and newsstands. Other recent significant work included assisting the Department of Education in major initiatives related to the restructuring of food and custodial services; advising the Department of Sanitation on various procurements for its long-term solid waste plan; and negotiating agreements on behalf of the City’s Host Committee for the Republican National Convention. Finally, Division attorneys are helping in the ongoing effort to convert the High Line (the abandoned elevated rail track on Manhattan’s west side) into public recreational space.



# ECONOMIC DEVELOPMENT

The Economic Development Division acts as the City's business and transactional counsel for a wide range of challenging and complex projects that are intended to enhance the City's economic base either by generating direct revenue for the City treasury or by strengthening the City's tax base and general economic health. Division attorneys work on all aspects of the transaction, helping to structure it at the very beginning, then negotiating and drafting the documentation and finally following through to closing and afterwards in the administration of the agreements. The Division's work is diverse and can run the gamut from the sale of an individual parcel of City owned land to the comprehensive redefinition of midtown Manhattan's Far West Side, one of the most wide-ranging redevelopment initiatives ever undertaken by a municipality. The Division works closely with the Office of the Deputy Mayor for Economic Development and Rebuilding, the New York City Economic Development Corporation, and many other City and State agencies.

Division attorneys helped to negotiate and document the extension of the Port Authority's lease of the City's two airports. With a payment at closing of close to \$800 million and an increase in the guaranteed annual minimum rent from \$3.5 to \$93.5 million, the lease will generate \$4.5 billion in direct rental revenues for the City; the lease also established an Airport Board to resolve and coordinate future issues at the airports. Division Attorneys also played an important role in the proposed conversion of the High line Rail Viaduct to public space under a federal "rails-to-trails" program and the rezoning that will accompany it; after nearly three years of discussions, railroad and property owners that had originally wanted to demolish the High line reached an agreement to support conversion of the structure to a public use.

Division attorneys are working closely with the Municipal Finance Division and the Office of the Deputy Mayor for Economic Development and Rebuilding to implement the large and complex Hudson Yards Far West Side redevelopment project. This project would convert an underutilized swath of prime real estate in midtown into an economically vibrant urban area with mixed residential, commercial and office uses, open spaces, a domed sports arena and an expanded Javits Convention Center. Division attorneys are also working on several different fronts to revitalize Lower Manhattan and facilitate the rebuilding of the World Trade Center site. Other continuing Division projects

are the creation of a new cultural center in downtown Brooklyn anchored by the Brooklyn Academy of Music, the redevelopment of Lincoln Center, the preservation of the Audubon Ballroom in upper Manhattan as the Malcolm X Memorial and a comprehensive project calling for the construction of a public school and 400,000 square feet of office space on the site of the Queensboro Hall garage.

In 2004, Division attorneys negotiated a lease from the Health and Hospitals Corporation to Albert Einstein College of Medicine for the establishment of genetic research laboratories. Also in the Bronx, attorneys from the Division have finalized a deal to convert the underutilized Bronx Terminal Market into a retail shopping complex that will contain up to 1 million square feet. On Staten Island, Division attorneys completed a project that will bring a 412,000 square foot retail center to Charleston, Staten Island and have also been instrumental in negotiating for the rehabilitation and reactivation of the Staten Island Railroad which will provide a rail connection to a new waste transfer station, rail access for other recycling users and a link to a national freight line, thereby alleviating truck congestion and pollution in the borough.

In 2004, Division staff drafted an RFP for, and then drafted and negotiated franchise contracts with six wireless telecommunications companies for placement of antennas on City light poles, generating immediate new revenue to the City of \$400,000 with expected future revenue to the City of several million dollars annually. These franchises are also expected to result in improved mobile phone and wireless communications service throughout the City.



# ENVIRONMENTAL LAW

Environmental Law Division attorneys represent the City and its agencies in an extensive range of environmental matters, including land-use review of City projects and private development; Clean Air Act compliance and enforcement; wastewater treatment and compliance; solid and hazardous waste management; energy development and policy issues; harbor navigation and dredging; parks and natural resources preservation (including wetlands protection and remediation); and Safe Drinking Water Act compliance. The Division also works on numerous matters concerning the City's water supply system, including affirmative litigation to protect water quality; defending claims against the City based on water protection enforcement efforts; and counseling about implementation of the historic City Watershed Memorandum of Agreement. Division attorneys litigate in State and Federal courts, represent the City in administrative and legislative hearings, and counsel agencies on their environmental programs, policies and compliance with environmental laws and regulations.

During 2004, the Division's caseload continued to reflect the complex environmental challenges faced by New York City. In one nationally significant case, *State of Connecticut v. AEP*, the City joined the State of New York and other states and municipalities in filing a federal nuisance action in the Southern District of New York against the six largest emitters of carbon dioxide in the United States. The action seeks to enjoin these energy companies from continuing their operations without employing technology standards to reduce greenhouse gas emissions that cause global warming.

The Division has been representing the Department of Environmental Protection in litigation brought by the Department of Justice and the State of New York to require the City to construct a water treatment plant for the City's Croton water supply and defending the City in several challenges to the Department's decision to locate the plant underground in Van Cortlandt Park in the Bronx. The Division has also been representing the Department of Environmental Protection in negotiations and litigation over the Department's

efforts to implement programs to reduce nitrogen levels in wastewater discharged from City water pollution control plants and to control discharges from the City's combined sewage and storm water sewer system during and after rain or snowmelts.

The Division is representing the City in litigation challenging several key land use initiatives by the City, including the Hudson Yards Rezoning and Redevelopment Program, the Bricktown Retail Center, and the Landmark West litigation brought to challenge the sale of 2 Columbus Circle to the Museum of Arts and Design. In the watershed, the Division challenged the State's issuance of draft permits for an unusually large project involving two golf resorts along with a coalition of environmental advocacy organizations and several local governments. The Division urged the administrative law judge to order a full adjudicatory hearing on the permits as well as on the adequacy of the environmental review. The Division worked intensively with several other City agencies to develop the City's proposed Solid Waste Management Plan, which the Mayor announced in the fall of 2004. The Division will represent the City in the permit proceedings for construction of the marine transfer facilities that are part of the Plan. The Division is also representing the City in a challenge to the construction of a power plant on the Brooklyn waterfront area slated for rezoning and redevelopment.



# FAMILY COURT

The Family Court Division plays a critical role in promoting the well-being of the City's children and protecting the general public's safety. In prosecuting juvenile crime, the Family Court Division seeks to ensure that those who commit delinquent acts will be held accountable for their misconduct and afforded an opportunity for rehabilitation. The Division's work also encompasses drafting legislation to address some of the unique issues facing New York City's youth. For example, Family Court lawyers worked alongside Legal Counsel attorneys on drafting proposed loitering legislation to close a gap in the Family Court's ability to mandate services for these troubled teens. At subsequent hearings held by the City Council (and covered in the local press), teenage prostitutes testified that contact with law enforcement authorities and the court system promoted a positive change in their lives.

As the second-largest division at the Law Department, Family Court attorneys are responsible for handling some 15,000 cases annually. The division's 90-plus attorneys, aided by 50-plus support personnel, are positioned in offices across the five boroughs. Division attorneys litigate their own cases, from initial referral through discovery, settlement or trial, to final disposition. This vertical prosecution system ensures that attorneys develop a broad range of skills encompassing legal writing, research and trial techniques. Division attorneys are exposed to criminal and civil law, and have the opportunity to transfer between the delinquency and child support practices.

Attorneys in the Division's Child Support Collection Unit tackle a variety of civil procedure issues, including long-arm jurisdiction in which staff work to close the loopholes protecting many of America's "deadbeat" parents. The majority of Family Court lawyers, however, are assigned to the Juvenile Crimes Unit and are responsible for prosecuting minors under 16 years of age charged with violations of the New York State penal law. The crimes run the gamut from shoplifting to intentional murder, with the majority of the cases stemming from robbery, felony assault and narcotics sales. The experience of attorneys assigned to the juvenile delinquency cases is similar to that of assistant district attorneys. Their courtroom skills are honed right from the start, with rookies appearing in court under direct supervision soon after appointment.



One high-profile Family Court case in 2004 involved the prosecution of 13-year-old cousins for igniting a blaze in an apartment complex that resulted in the death of the building's security guard. The case raised the issue of whether teenagers should be tried as adults. In another case, a 15-year-old shot and killed his best friend while the teens were playing with a 9 mm semi-automatic handgun. The case illustrates the dangers of firearms in the hands of young people and highlights the need for stricter gun control laws. In a third press case, a dispute among rival gang members resulted in the filing of 1st degree assault charges against a reputed member of the Bloods for shooting the 12-year-old sister of his rival.

The Division continues to focus on developing policies which address the challenges society faces in confronting the complex issues raised by juvenile crime. Division attorneys also provide counsel to agencies regarding protocols that affect and shape the City's juvenile justice policy.



# GENERAL LITIGATION

General Litigation Division attorneys defend the City and its agencies in major cases challenging important City programs and policies. This caseload offers Division lawyers unparalleled opportunities to litigate vital, and often controversial, public policy issues that affect the lives of all New Yorkers. General Litigation attorneys practice in both Federal and State courts and their varied practice enables them to develop and exercise the full range of litigation skills — from drafting pleadings, motions and other litigation papers to conducting discovery, arguing motions, negotiating settlements and trying cases. Further, in the course of defending the City, Division lawyers provide important counsel to City agencies and policymakers thereby assisting them in strengthening and improving their programs, practices and initiatives.

General Litigation attorneys are primarily responsible for handling their own caseloads subject to supervision by senior attorneys. They argue motions early in their careers and actively participate in court conferences on a regular basis. They also take and defend depositions and try cases regularly. Cases handled by Division attorneys affect the manner in which legal mandates are met and determinations are made in the City's everyday governance. The cases present an array of legal issues in areas such as constitutional rights, education, health care, food stamps, prison conditions, welfare, foster care, homelessness, day care, election law and freedom of information law. Many of these cases are brought by the City's active advocacy community and present issues which are in the forefront of developing legal theory.

In 2004, General Litigation Division attorneys defended numerous lawsuits, many of which were class actions, challenging programs and policies of the City's recently reorganized Department of Education. For example, attorneys successfully handled a claim that the Department of Education was improperly denying school transfers as mandated by the Federal No Child Left Behind law. Attorneys were also heavily involved in providing counseling to the Department in anticipation of litigation challenging the introduction of testing for third graders as a prerequisite for promotion. A challenge to that initiative was successfully defended. Division lawyers also prevailed in a lawsuit seeking to enjoin on First Amendment grounds the Department's policy of forbidding the display of Nativity scenes in schools. Another recent lawsuit defended by the Division challenged the Department's operation of a high school

alleged to be open only to homosexual students.

In addition to lawsuits concerning educational issues, the Division also handled numerous lawsuits challenging programs of the City's Administration for Children's Services. One such case that was successfully resolved involved a claim that the City's practice of removing children from mothers involved in domestic violence was unlawful. Another major case defended by Division lawyers involved the controversial issue of same-sex marriage. Plaintiffs sued the City Clerk, who issues marriage licenses, claiming that the State's Domestic Relations Law requirements that only opposite sex couples could be married violated the Constitution. Attorneys also brought to a successful conclusion a lawsuit which had challenged the manner in which the City's Human Resources Administration provides services to persons with HIV-illness.

The rich variety of the Division's caseload is illustrated by another matter handled by the Division involving the issue of whether it is legal for the City's Chief Medical Examiner to maintain a DNA data bank to assist law enforcement agencies in identifying and exonerating persons suspected of crimes. Another recent lawsuit handled by Division attorneys was a claim that the City's refusal to grant a permit for the use of Central Park as a site for a protest demonstration during last summer's Republican National Convention violated the Constitution. The Court denied the relief.

The foregoing summary not only highlights the General Litigation Division's diverse caseload, but demonstrates the fact that Division attorneys are engaged on a daily basis in defending highly significant challenges to City programs and policies which present intellectually challenging legal issues.



# LABOR & EMPLOYMENT LAW



In April 2002, the Corporation Counsel created the Labor & Employment Law Division to address the increasing number of cases brought by City employees and their unions. This Division represents the City in litigation arising out of the City's role as the employer of more than a quarter-million workers. In representing the City in State and Federal courts and before several administrative agencies, the Division's attorneys encounter a wide range of employment issues in both individual cases and class actions.

The claims raised in federal cases litigated by the Division's attorneys include First Amendment free speech rights of municipal employees; claims of discrimination and retaliation under Title VII, the Americans with Disabilities Act and the Age Discrimination in Employment Act; claims under the

Equal Pay Act; and claims brought under City and State law. In state court, Division attorneys litigate discrimination claims brought under the State and City Human Rights Laws, and claims by both individual City employees and unions based on collective bargaining agreements and civil service law.

Division attorneys handle every phase of their cases in Federal and State court from commencement to conclusion. Consequently, the attorneys use and develop every type of litigation skill, including research and writing, conducting discovery, arguing motions, negotiation of settlements and trying cases. Most trials handled by the Division are in federal court. With an active and successful trial practice, the Division has tried 64 cases in the two and half years since its inception.



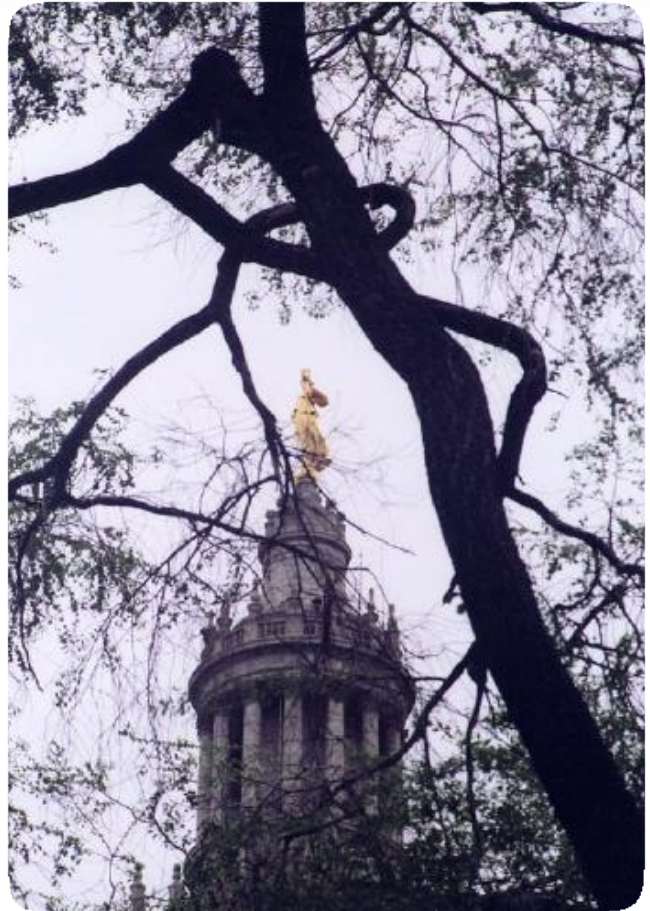
# LEGAL COUNSEL

The Legal Counsel Division is a counseling unit that advises the Mayor, other elected officials and City agencies on issues concerning virtually every area of municipal law. The Division provides the legal advice and crafts the legislative changes necessary to shape and implement policy initiatives. The Division is responsible for drafting State and local legislation proposed by the Mayor and City agencies, and for assisting in the drafting of administrative rules. On a daily basis, Division attorneys field questions from City Hall and City agencies on issues of overriding importance to the City as well as those regarding day-to-day administration. Division attorneys often represent the Law Department on interagency task forces considering policy initiatives and work closely with the Mayor's Offices of Intergovernmental Affairs to assist in the passage or defeat of legislation.

The Division has recently counseled a variety of City agencies on a wide range of topics. For example, Division attorneys assisted the Mayor's Office and NYC2012 in drafting important documents included in the City's official submission to the International Olympic Committee in connection with the City's bid to host the 2012 Olympic Games. It also prepared two memoranda regarding same sex marriage: one advising that state law does not permit issuance of marriage licenses to same sex couples, and the other advising that couples with valid same sex marriages or civil unions from other jurisdictions are eligible for benefits under the City's pension systems.

Division attorneys assisted in drafting a trespass policy that would permit the Housing Authority and Police Department to protect residents by excluding drug dealers from public housing property. They also reviewed the procedures of the Local Conditional Release Commission, and worked with the new Commission and the Department of Investigation to ensure that applications for conditional release from Department of Corrections facilities are properly reviewed. The Division has provided ongoing advice to the NYC Marketing Development Corporation, the City's agent for corporate sponsorships and intellectual property licensing, and has also continued to advise the Department of Education on issues relating to implementation of school governance reform legislation.

Some of the more notable legislative initiatives that the Division has recently drafted include



a proposal to restrict the ability of candidates participating in the City's campaign finance program to accept contributions from those doing business with the City. The Division also worked on a local legislative package intended to strengthen the City's firearms regulations, including a bill to specify the liability of firearms manufacturers and dealers when injuries or deaths in the City result from the use of firearms. Division attorneys drafted a proposed local law to substantially revise the Noise Control Code to reduce noise in the City. They were also involved in the enactment of both state and local laws providing tax credits to encourage film production in the City. Finally, the Division drafted state and local legislation to implement property tax rebates of \$400 for those who own and whose primary residence is a single-family house, co-op, or condominium.



# MUNICIPAL FINANCE

To perform its many functions without interruption, the City needs periodically to borrow money in the bond market. The Municipal Finance Division is the City's in house counsel on all its general obligation bond transactions. The Division advises City related entities that are authorized to issue debt, such as the New York City Transitional Finance Authority and New York City Water Finance Authority.

During 2004, the Municipal Finance Division represented the City as in-house bond counsel in connection with the issuance and sale of \$7.3 billion general obligation bonds and notes. The Division also served as in-house bond counsel to the New York City Municipal Water Finance Authority in connection with the issuance of \$2.9 billion General Resolution and Second General Resolution Water and Sewer System Revenue Bonds.

The Division also represented the City in connection with financings by special purpose entities such as STAR Corp's refinancing of \$2.5 billion Municipal Assistance Corporation For the City of New York ("MAC") debt and Hudson Yards Infrastructure Corporation's proposed financing of the redevelopment of Manhattan's far west side.

## ***MAC Refinancing***

On November 4, 2004, the Sales Tax Asset Receivable Corporation ("STAR Corp") issued \$2.6 billion Sales Tax Asset Revenue Bonds. STAR Corp. is a local development corporation created to issue bonds to refinance the cost of debt service on MAC bonds otherwise payable from City sales tax revenues. The economic impact on the City's budget of the STAR Corp. financing is to make available to the City approximately \$1.0 billion in fiscal year 2005 and \$500 million annually in fiscal years 2006 through 2008 by eliminating future retention of City revenues by MAC for its debt service and reimbursing the City for revenues already retained in the 2004 and 2005 fiscal years.

## ***Hudson Yards Project***

On January 19, 2005, the City Council approved the planned rezoning of an area of the west side of Manhattan known as the Hudson Yards District. This rezoning is part of the Bloomberg Administration's proposed redevelopment of this area. Projected developments include a new park and street system, the extension of the No. 7 subway line along

41st street and down 11th Avenue to a new terminus at 34th street and a platform over the eastern rail yards of the Long Island Rail Road allowing the development of new office towers, residences and a cultural facility. Also in the works are a convention corridor between 11th and 12th Avenues with an expanded Javits Convention Center and the New York Sports and Convention Center. All this new development means bonds which means the Municipal Finance Division.

Division attorneys working with the Legal Counsel and Economic Development Divisions have worked with the Mayor's office, the City Planning Department and other agencies in formulating new and complex financing plans to provide the billions of dollars which must be raised to implement this important economic development project. Division attorneys worked on an innovative new financing strategy to capture incremental taxes and dedicate them to repay bonds issued to fund the projects. Credit worries were met with a proposed innovative use of the New York City Transitional Finance Authority credit enhancement to allow access to the public debt markets. Division attorneys made presentations at public meetings and to elected officials and community leaders. Finally, working with the administration, division attorneys negotiated the final deal with Council leaders to allow the historic vote on January 19, 2005.



# PENSIONS

One of the most valuable benefits of City employment is membership in one of the City's five retirement systems: the New York City Employees' Retirement System, the Police Pension Fund, the Fire Department Pension Fund, the Teachers' Retirement System and the Board of Education Retirement System. Together, these systems manage more than \$85 billion in assets and cover more than 600,000 active and retired City employees.

Division attorneys assist the systems in interpreting the complex web of statutes and regulations (local, state and federal) governing retirement rights, benefits and obligations, and its lawyers attend all meetings of the systems' Boards of Trustees. Notably, this year, working with this office's Legal Counsel Division, Division attorneys responded to a request from the Mayor's Office asking whether City pension benefits payable under state law to spouses could be paid to partners in same-sex marriages entered into in other states. As a result, the City's retirement systems now recognize the spouses of same-sex marriages and civil unions as spouses under state law.

Working closely with the Mayor's Office of Legislative Affairs and the Office of the Actuary, the Division also analyzes and drafts proposed legislation relating to municipal retirement. In the past year, lawyers assisted in analyzing and commenting on proposed legislation designed to provide accidental disability benefits for City employees and retirees who claim in the future to have contracted disabilities from work performed at the World Trade Center in 2001. Legislation was also drafted that provides full firefighter line-of-duty death benefits to the family of a New York City firefighter who died in combat in Iraq as a member of the Army National Guard. In the tax area, the Division drafted a law establishing qualified governmental excess benefit arrangements for the City's retirement systems. As a result, retirees who may have had their pensions reduced because of benefit limitations in the Internal Revenue Code will now receive the full pension amounts payable to them under state law.

Much of the work of the Division is in the area of litigation, where Division lawyers represent the retirement systems in both state and federal court in cases ranging from challenges to individual retirement awards to class-action suits challenging the constitutionality of statutes

relating to municipal retirement. Division lawyers, with the assistance of outside counsel, also investigate and prosecute securities fraud actions to recover investment losses sustained by the retirement systems.

In 2004, the Division added two more wins to its record of success over the past two decades in more than two dozen cases involving the variable supplements funds established for uniformed City employees. The most recent cases challenged an agreement that the City entered into with the IRS in January 2003 that recognized the legitimacy of the transfers of funds from certain of the City's retirement systems to variable supplements funds. The Division also worked on a case in which successful litigants in several prior federal actions involving payment for overtime under the Fair Labor Standards Act had their retirement allowances revised to include their overtime payments. Currently, the Division is working on a class action involving the revision of retirement allowances for thousands of retirees of the Teachers' Retirement System to include payments for per session activities in their final salary bases. In the area of securities litigation, Division attorneys have been actively litigating federal and state fraud claims brought on behalf of the retirement systems relating to or against a number of companies, including WorldCom, Adelphia, Bristol-Myers Squibb Company, Qwest Communications, Bank One, N.A. and Prudential. The efforts of Division lawyers have resulted in substantial recoveries by the systems, including a partial settlement payment of \$15 million from Citibank, N.A. this past year.



# SPECIAL FEDERAL LITIGATION

Established in September of 1998, Special Federal Litigation was created as a specialized division to defend the City and its officials in civil rights cases brought in federal court in which police, district attorney or correction officer misconduct is claimed. The cases on which division attorneys work grow out of contact between citizens and law enforcement officers in three distinct contexts: police operations; criminal prosecutions; and detention of arrestees in the City's detention facilities. The facts on which the claims rest are frequently intricate, calling into play the fundamental problems faced by law enforcement officers in the field and society's perception of how those problems ought to be addressed. The law governing the resolution of these cases is the Constitution of the United States and the vastly complex area of federal law specific to 42 U.S.C. Section 1983, the post-Civil War statute which authorizes suit for violation of constitutional rights. The Division defends against individual damages actions and class actions seeking institutional reform.

The Division faces a substantial volume of cases, in a complex, ever-changing area of law. The federal courts in which the Division attorneys exclusively practice maintain stringent standards and enforce strict deadlines. Division attorneys maintain active caseloads and are responsible for all aspects of litigation, from initial interviews of named defendants to investigation, depositions, paper discovery, negotiation of settlements, motions, court conferences, arguments and trials by jury. Due to the high-profile nature of their work, many Division attorneys litigate actions that garner press coverage or are the subject of public debate. For example, the division is handling the civil rights cases growing out of the Central Park Jogger offenses.

In the past year, the Division has experienced an increase in new actions filed as well as in litigation activity, particularly in matters concerning demonstrations throughout the City. Based largely on claims that arrestees' rights pursuant to the First and Fourth Amendments to the U. S. Constitution were violated, actions concerning a wide array of demonstrations, including anti-war rallies are pending currently in the division. Added to this existing body of demonstration cases are large cases concerning arrests of demonstrators and regulation of demonstrations during the August 2004 Republican National Convention.

Among the many victories in the Division in 2004 were defense verdicts in the Nimely and Boyd



cases. In Nimely, the plaintiff's gun was used to shoot a patron at a nightclub. As the victim lay wounded, plaintiff picked up his gun from the floor and ran down the street with the gun in his hand. A police officer gave chase. Refusing orders to stop, the plaintiff continued to run and started to turn toward the officer with the gun in hand. The officer shot once, paralyzing the plaintiff. Critical to the defense victory was evidence that the plaintiff was in the midst of turning, when he was shot.

In Boyd, the plaintiff alleged that he made a lawful and legitimate purchase of an automobile in the parking lot of JFK Airport for \$75.00. After a stolen car report and an investigation, plaintiff was questioned at the doorway of his home regarding the ownership of the car in question. Plaintiff was tried and convicted for possession of stolen property. After serving two years in prison, plaintiff's conviction was overturned due to an error by the criminal trial court, unrelated to the facts of the arrest. In the subsequent civil rights action, defendants moved for and were granted summary judgment in the District Court. An appeal by the plaintiff resulted in a remand by the Second Circuit Court of Appeals to the District Court on the question of whether plaintiff was in custody and entitled to Miranda warnings at the time he stated that he purchased the car for \$75.00. At the trial in the District Court, after brief deliberations, the jury returned a defense verdict.

During 2004, Special Federal Litigation attorneys won 100% of all cases tried to verdict.



# TAX & BANKRUPTCY

The Tax and Bankruptcy Litigation Division represents the City on a wide array of subjects and issues. Daily, the Division's attorneys work on matters such as acquiring property by eminent domain to keep pace with the City's infrastructure needs, litigating issues regarding tax matters in court and before administrative tribunals, and protecting the City's interests in bankruptcy courts in New York City and across the nation.

Real property tax assessments on New York City property are at the heart of the work that Division attorneys do in certiorari cases. This past year our attorneys worked on thousands of cases where challenges to the assessed value of property were made. Defending tax assessments is of critical importance to the City's fiscal health as the real property tax provides a substantial source of revenue for vital City services. Included in these litigated matters was a victory establishing the proper valuation methodology for cooperative properties. *2375 Ocean Owners Corp. v. Tax Commission and Commissioner of Finance of the City of New York* represented the first time in which tax assessments for a cooperative property were litigated in the City of New York following the passage of section 581 of the Real Property Tax Law in the early 1980's. The City's victory in this case in Supreme Court, Kings County established the method by which cooperatively-owned properties should be valued pursuant to the statute in Article 7 tax assessment proceedings.

Division attorneys also litigate issues regarding the City's other tax revenue. In *New York State Association of Tobacco and Candy Distributors, Inc. v. City of New York*, plaintiffs challenged the constitutionality of the City's 1775% increase to its cigarette tax on due process grounds, and sought a preliminary injunction enjoining the enforcement of the tax. The tax was estimated to bring in approximately \$115 million in sorely-needed annual revenue to the City. Division attorneys moved to dismiss, arguing that the tax was a legitimate revenue measure and that settled precedent holds that neither the Federal nor the State Due Process Clauses imposed any limit on the amount of the tax rate, even where it can be shown that the tax can destroy an entire industry. The Supreme Court, New York County, denied the preliminary injunction, granted the City's motion to dismiss and upheld the constitutionality of the tax increase.

Most significantly, the City acquired title to numerous properties for the New Creek Bluebelt

System and the Staten Island Bluebelt. The Bluebelt is an ecologically sensitive natural drainage system that relies on wetlands, open space, culverts and creeks instead of storm sewers to divert rainwater and reduce flooding. The Bluebelt saves the City significant amounts of money by rendering storm sewers obsolete.

Division attorneys, working closely with real estate experts, engage in both negotiation and litigation to establish the value of property acquired by the City to meet its present and future needs.

The Division's bankruptcy attorneys litigate a variety of matters where the City's interests are implicated in bankruptcy proceedings. Principally, these cases are filed in New York City but in the past year, Division attorneys handled matters pending in bankruptcy courts in Connecticut, Pennsylvania, Texas, Michigan and Puerto Rico.

In *Re Theatre Row Phase II Associates*, Division attorneys represented the City in a case where the major redevelopment of a parcel of land in the City's west side area was involved. The Division facilitated a resolution wherein the Debtor, with the City's agreement, assigned its interest, including a purchase option, in a ground lease held by the City, to an assignee. The assignee granted the City and the Metropolitan Transit Authority a valuable easement for the extension of the number 7 subway line at no extra charge. This resolution puts an end to more than five (5) years of litigation between the Debtor and the City while paving the way for an important redevelopment of the property and the west side of Manhattan, without the need for expensive and time consuming condemnation proceedings.



# TORT

The City government participates extensively in New Yorkers' daily lives. It has built and maintains a vast network of roads, bridges, parks, public buildings, and other public facilities. The City and its agencies provide essential urban services, such as police protection, firefighting, sanitation operations, education through public schools and colleges, and health care through public hospitals. The City also employs about 200,000 people. This provision of facilities, services, and employment (far beyond what any private entity would undertake) exposes the City to wide tort liability. The Tort Division is the Law Department's largest. It employs over 200 lawyers and almost as many support staff. The Division represents the City, its Department of Education, and its Health and Hospitals Corporation in all tort claims. It handles an enormous caseload — over 7,000 new suits each year, with another 37,000 pending — through vigorous investigation, zealous defense before State and Federal courts, and, when appropriate, settlement.

The Division maintains local offices in all five boroughs. It also has special units, such as the Early Intervention Unit, which seeks to resolve meritorious cases as quickly and economically as possible; the Special Litigation Unit, which handles high-exposure cases and unusually controversial matters; the Medical Malpractice Unit, which oversees malpractice cases; the World Trade Center Unit, which handles cases arising from the Sept. 11th terrorist attacks and; the Risk Management Unit, which identifies risks and tries to eliminate accidents before they happen. In a year, each pre-trial lawyer will conduct about 150 depositions, argue hundreds of motions, and appear at hundreds of conferences. Each trial lawyer will select dozens of juries and may try as many as 10 cases to verdict.

Since January of 2004, the Division's trial lawyers have defended 143 cases to verdict. In Bronx

County, the Division achieved victories in an impressive 62% of the cases that proceeded to verdict.

The following two defense verdicts illustrate the accomplishments of the Division's Bronx County trial attorneys: In *Bents v. City of New York*, plaintiff, a passenger in a vehicle fleeing from police, was injured when the car crashed following a high-speed chase. Following the crash, plaintiff resisted arrest. At trial, he denied that he resisted arrest and instead claimed that the police used excessive force and beat him, without just cause. After hearing all of the testimony and the closing arguments, the jury found that the officers used reasonable force to subdue the plaintiff. In *Garricks v. City of New York*, plaintiff slipped and fell on a snowy sidewalk just forty hours after the cessation of a major blizzard. Plaintiff sustained an elbow and arm injury. In an earlier trial, ultimately reversed by the Court of Appeals, plaintiff was awarded \$500,000 by a jury in compensation for her alleged injuries. The second trial, which the Court of Appeals ordered because the jury in the first trial was not charged that the City could rely on landowners' obligations to shovel sidewalks when prioritizing its storm response, resulted in a defense verdict for the City.

The challenge of defending the City against the myriad personal injury and property damage cases brought against it makes the Tort Division an extraordinarily exciting and interesting place to work.





# WORKERS' COMPENSATION

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 their loss of earning capacity and are entitled to have all related and necessary medical costs paid. In exchange, employees are prohibited from bringing a lawsuit for personal injuries against their employer.

The City of New York is a self-insurer of its workers' compensation obligations pertaining to all covered City employees. City employees are covered for workers' compensation (with the exception of uniformed police officers, firefighters and uniformed sanitation workers). Also covered are all non-pedagogical employees of the Department of Education and all employees of the Health and Hospitals Corporation and the City University. The Workers' Compensation Division administers the claims of all covered employees who are injured on the job or incur an occupational disease. The Division strives to provide employees with all medical and wage replacement benefits to which they are entitled, while objecting to and litigating any unwarranted claims.

In the past fiscal year the Division received over 16,000 new claims, paid over \$93 million in wage replacement benefits to injured employees, and processed some 165,000 medical bills. The Division also obtained revenue recoveries in excess of \$11.5 million from various sources, including State funds, lien satisfaction and insurance arbitration.

The Division represented the City and related entities at more than 19,000 hearings, trials and appeals before the State Workers' Compensation Board in the past year. Division attorneys assume substantial responsibility from the day they are employed. They acquire a broad range of medical knowledge and obtain excellent

experience by regularly cross-examining medical and lay witnesses. The Division's trials involve nearly every conceivable medical condition, including work-related psychiatric diagnoses, respiratory ailments, heart conditions and orthopedic conditions. In handling these cases the Division's attorneys have the opportunity to learn about a wide variety of medical issues as well as developing their trial skills.





# **NON-LEGAL DIVISIONS**

**Administration**

**Information Technology**

**Operations**

# ADMINISTRATION

The Law Department's Administration Division provides a level of professional support comparable to that of any large company. The Division's components – Personnel, Payroll and Timekeeping, Facilities & Maintenance, Supplies, Fiscal Management, Internal Control, the Cashier's Office, the Encumbrance Control Unit, The Procurement Unit and the Budget Section – are responsible for all expenditures of funds, collections of revenue and fees, procurement rules compliance and personnel processing. They provide general administrative oversight and development of internal policy rules and regulations.

Each year, Administration handles over 35,000 paychecks, personnel actions, payments for expert witnesses, requests for court reporters and/or depositions, deposits of money recovered in lawsuits on behalf of the City, hundreds of individual procurements and enrolling employees in the health benefits/managerial benefits program. Administration is also responsible for ensuring the physical maintenance of all nine citywide offices in addition to our Kingston, New York office. The Division's activities endeavor to save time and money for the Law Department and the City while ensuring first-rate service. The Division's efforts continue to focus on expansion and renovation for the agency's facilities, speedy responses to staff changes, and automation of systems and processes. The Division also provides oversight and advice to other Agency missions such as litigation support, IT initiatives, equipment upgrades, and management evaluations.

Prior to 2004 our agency's capacity to store inactive case files was limited to 23,000 square feet, a size we quickly outgrew. With assistance from DCAS we were able to relocate to a new storage facility in Bush Terminal in Brooklyn in 2004. This space gave us a total of 47,300 square feet with storage capacity for over 74,000 boxes of inactive case files. During the relocation period of 4 months we vacated the former space and moved all the existing records out of the prior storage facilities. This move not only gave our agency an increase in storage capacity but a better organized layout for quick record retrieval when required.

Since 1990, our Staten Island Tort and Family Court offices occupied approximately 4,700 square feet of office space on the 8th and 9th floors at 60 Bay Street. This older space was inadequate for our needs so with the assistance of DCAS we were able to expand our space



within the same facility. We moved to a newly renovated floor in October 2004, and combined two divisions on one floor. Thus, resources and equipment can be shared between divisions.

In 2005 we will launch our agency's web based office manual on our intranet, complete with links to NYCERS and OLR as well as a Legal Assistant's Resource web page to ensure a higher quality of employee relations and increase our support staff's access to resources. The Law Department's Administration Division continues to be a leader Citywide, in the planning and implementation of new technology that improves the support of the Department's mandate, thereby making it stand out for its ability to provide enhanced service yet remain quite functional and user-friendly to its constituents.

# INFORMATION TECHNOLOGY



The Information Technology Division (IT) works in four major areas.

**Infrastructure:** IT's Infrastructure team continues to provide attorneys and other Law Department staff with ways to get their work done at times and in places convenient for them. They provide remote, Internet-based access to major Law Department applications, which now include Worksite and Summation, in addition to the Microsoft Office suite and NYCLIS; future applications will include LawManager. This Internet based access enables Law Department staff to check their email, review a brief, and look up a case without having to be at their desks at work. Blackberries allow even more mobile ways to stay in touch.

**Knowledge Development and User Applications:** IT continued the rollout of the Law Department's document management system, Interwoven's (formerly iManage's) Worksite 8. Interwoven's document management system is in use in many of the very largest US law firms. It allows attorneys and other users to share documents, thus promoting collaboration; and it enables sophisticated full-text searches, thus reducing efforts to "reinvent the wheel". Another major project, to replace the Law Department's case management system with Thomson Elite's Law Manager, kicked off. With Thomson Elite, the division analyzed how to affect

the hugely complex migration of data from NYCLIS to LawManager; and worked on the design of the views various legal divisions will see.

**Litigation Support:** Litigation Support's success in rolling out Summation has resulted in about 150 cases on the system. (A new litigation support system designed to handle mega-cases with terabytes of documents – Ringtail – was also installed, configured, and readied for rollout.) Work for Litigation Support will continue to increase; one reason is the growing importance of electronic evidence in the wake of decisions such as *Zubulake v. UBS Warburg*.

**Library:** As always, the Library's reference librarians fielded an extensive range of subject assignments, providing caselaw, public records, medical and other research support to all legal divisions. The Library's paper collection of appellate briefs and records on appeal continued to be scanned to PDF and imported into Worksite, so that Worksite users can do Lexis-like searches on them. The Library also continued regular basic and subject-specific Lexis training for attorneys and support staff.



# OPERATIONS

Large law firms need substantial, dedicated staffs to support their day-to-day business processing. The Law Department's Operations Division comprises five document production and distribution units, along with a unit dedicated to operational analysis. Their respective talents are combined to provide support services for the Department's legal and administrative staff. Operations' mission is twofold. First, it provides centralized production support for Law Department employees, including receipt of legal process, case docketing, computerized document editing, courier services, collation and duplication of hundreds of documents daily, and servicing and filing of legal papers. Second, it seeks out methods to improve operational protocols and produce operational efficiencies through its Operations Analysis Unit. This Unit also plays a major role in producing specialized reports, including the Mayor's Management Report and governmental audits.

In 2004 Operations completed the transition from analog copiers to digital copiers by replacing most of the copiers in our 9 branch offices. These multi-function machines include the features of walk-up copying; network printing; scanning to email with access to a directory of email addresses for City employees; walk-up faxing and faxing from the desktop; and scanning to network drives. With the implementation of this system, the Division will now focus on optimizing utilization of the networked equipment to increase efficiency in the distribution of documents. We also improved our networked postage system by upgrading to digital postage meters at all of our locations, which will allow for centralized data collection and analysis, and possible cost savings through better utilization of its mail services.

The Division launched an improved Intranet web page that introduced many useful features intended to publicize our service offerings and provide a variety of useful information. Because most of our services are work request driven, the new site provides on-line Work Request and other forms in one easy to access location. We published most of our standard operating procedures as an effective means of informing our clients



about the procedures followed by our production staff in performing daily tasks. The site is rounded out by links to equipment resource manuals and guides, along with a Frequently Asked Questions page.

Fifteen managers and supervisors participated in the Division's continued efforts to develop and improve the performance of our Division management and supervisory staff by building on the nine supervisory training seminars provided in 2003. The 2004 Seminars, developed and led by a staff manager, presented skills and useful tools in interactive sessions using role-playing in real-life situations. Each of the five courses: Time Management; Routine Performance Feedback; Training New Recruits; Performance Management; and Delegation of Tasks and Projects, helped to improve each individual's understanding of their responsibility and performance expectations in supporting the important work of our legal clients.

The Division Analysts began working with the Tort Division to study the impact of electronic case filing on current manual procedures, and with the Information Technology Division to develop workflow analysis diagrams in preparation for a new Agency Information System. In meetings with client Divisions, specific documents that initiate the litigation process were researched and studied to determine the current processes that result in disposition of these matters. By identifying the existing data capture points in the lifecycle, we can begin to understand how these processes might change in a new information system with links to other data systems.

# CORPORATION COUNSELS SINCE 1683

## **City Recorder, Acted as Counsel & Attorney, 1683-1800**

James Graham 1683-1688, 1693-1701  
Vacant 1689-1690  
William Pinhorne 1691-1693  
Abraham Gouverneur 1701-1703  
Sampson Shelton Broughton 1703-1705  
John Tudor 1705-1709  
May Bickley 1709-1712  
David Jamison 1712-1725  
Francis Harison 1725-1735  
Daniel Horsmanden 1735-1747  
Simon Johnson 1747-1769  
Thomas Jones 1769-1773  
Robert R. Livingston 1773-1774  
John Watts, Jr. 1774-1776  
(British occupation during Revolutionary War)  
Richard Varick 1784-1789  
Samuel Jones 1789-1797  
James Kent 1797-1798  
Richard Harison 1798-1801

## **The Counsel to the Corporation, 1801-1849**

Richard Harison 1801-1807  
James Woods 1807-1809  
Vacant 1809-1811  
David S. Jones 1812-1816  
Ogden Edwards 1816-1823  
Michael Ulshoeffer 1823-1829  
Robert Emmet 1829-1837  
George F. Tallman 1837-1839  
Peter A. Cowdrey 1839-1842, 1843-1844  
David Graham, Jr. 1842-1843  
John Leveridge 1844-1845  
James T. Brady 1845-1847  
Willis Hall 1847-1849

## **Corporation Counsels (Before N.Y.C. Consolidation), 1849-1897**

Henry E. Davies 1849-1852  
Robert J. Dillon 1853-1855  
Lorenzo B. Shepard 1856  
Richard Busteed 1856-1859  
Greene C. Bronson 1860-1862  
John E. Develin 1863-1865

Richard O' Gorman 1866-1872  
E. Delafield Smith 1872-1875  
William C. Whitney 1875-1882  
George P. Andrews 1882-1884  
E. Henry Lacombe 1884-1887  
Morgan J. O'Brien 1887  
Henry R. Beekman 1888-1889  
William H. Clark 1889-1895  
Francis M. Scott 1895-1897

## **Corporation Counsels (After N.Y.C. Consolidation), 1898-Present**

John Whalen 1898-1901  
George L. Rives 1902-1903  
John J. Delany 1904-1906  
William B. Ellison 1906-1907  
Francis K. Pendleton 1907-1909  
Archibald R. Watson 1910-1914  
Frank L. Polk 1914-1915  
Lamar Hardy 1915-1917  
William P. Burr 1918-1920  
John P. O'Brien 1920-1922  
George P. Nicholson 1923-1929  
Arthur J. W. Hilly 1929-1934  
Paul Windels, Sr. 1934-1937  
William C. Chanler 1938-1942  
Thomas D. Thacher 1943  
Ignatius M. Wilkerson 1943-1945  
John J. Bennett 1946  
Hon. Charles Murphy 1947  
John P. McGrath 1947-1951  
Dennis M. Hurley 1951-1954  
Peter Campbell Brown 1955-1958  
Charles H. Tenney 1958-1961  
Leo A. Larkin 1961-1965  
J. Lee Rankin 1966-1972  
Norman Redlich 1972-1973  
Hon. Adrian P. D. Burke 1954, 1974-1975  
Bernard W. Richland 1975-1977  
Allen G. Schwartz 1978-1981  
Frederick A. Schwarz 1982-1986  
Peter L. Zimroth 1987-1989  
Victor A. Kovner 1990-1991  
O. Peter Sherwood 1991-1993  
Paul A. Crotty 1994-1997  
Michael D. Hess 1998-2002  
Michael A. Cardozo 2002-Present

# MEDIA HIGHLIGHTS

Since its creation in 2002, the Law Department's Media and Communications Office has sought to offer the public and the media improved access to significant information regarding judicial decisions and pertinent legal matters affecting New York City. The Media Office has streamlined the process for disseminating such information by developing protocols and procedures for handling media inquiries; it has also offered enhanced Internet access, maintained a media archive to assist staff and the press; and created Law Department media packets to offer a greater understanding of our legal outreach efforts.

The Law Department is highlighted on an almost daily basis in major publications such as *The New York Times*, *The Daily News* and *Newsday*, to name a few. National and international media outlets, including *The Economist*, *The Wall Street Journal* and *BusinessWeek*, have also cited our work, and leading industry publications like *The American Lawyer* have profiled Law Department projects, including our "Corporation Counsel Public Service Program," which allows lawyers from private firms to volunteer for the City. In 2004, the office's unique caseload and the work of the Corporation Counsel were featured in an Associated Press story that ran across the country. The official retirement of Edith Spivack, a 94-year-old emerita member of our Executive Staff, also received coverage in major local papers in December 2004 and featured Mayor Michael R. Bloomberg congratulating Ms. Spivack at a special City Hall ceremony. In an effort to inform the public about working for the City, our office also publishes a bi-monthly column in the *New York Law Journal* called "Municipal Affairs" that highlights the work of our various divisions.

The Law Department's exposure is not limited to print. Corporation Counsel Michael Cardozo has appeared on various television news shows, including MSNBC and New York 1 News, affording him the opportunity to discuss paramount issues relating to the Law Department and the City.

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

## **\$2.5 Billion Bond Victory**

In May 2004, the Law Department won an important bond case that will result in \$2.5 billion in additional funds to the City over the next 5 years. The unanimous win in the Court of Appeals – the State's highest – affirmed two lower court rulings, upheld the City's legal position and ruled that the Payment Act is constitutional. That statute directs the Local Government Assistance Corp. (LGAC) to make annual payments of \$170 million to the City. Corporation Counsel Michael Cardozo argued both the Court of Appeals and Appellate Division cases, with support from attorneys in Appeals and Affirmative Litigation.

## **City Partners with History Channel to Support Tourism**

In December 2004, the Law Department worked on a deal with The History Channel and NYC Marketing on a multi-year corporate marketing partnership to boost tourism, and preserve and promote the City's rich history and heritage. The innovative collaboration, valued by the City at \$19.5 million, consists of \$15 million in advertising of New York City, \$3.5 million for historic preservation, and \$1 million in programming. It includes the establishment of a New York City's Official History Center, owned and operated by the City and sponsored by The History Channel; the development by The History Channel of New York City historical tours; the creation of a package of advertising to air on The History Channel and affiliated networks to help attract targeted segments of potential tourists to the City; and the preservation of historic City landmarks and monuments.

## **Campaign for Fiscal Equity Education Efforts**

In 2004, the New York Court of Appeals directed the Governor and the State Legislature to develop a sound, basic education plan for New York City's schoolchildren. When a court-appointed deadline passed without resolution, Manhattan Supreme Court Justice Leland DeGrasse appointed three lawyers as Special Masters to resolve the issue. The Special Masters weighed in December 2004 with a recommendation that New York City receive billions more in aid. The Law Department submitted an amicus brief to the court, which played a pivotal role in this education funding dispute.



### **Election Reform Panel**

As we enter 2005, Corporation Counsel Michael Cardozo continues his ongoing commitment to election reform in New York. In November 2004, Mayor Michael Bloomberg appointed the Corporation Counsel to lead a newly formed task force to examine the election board and other related issues. The formation of the task force was prompted after various problems surfaced on Election Day 2004, such as computer and telephone systems malfunctions, voter complaints of long lines, broken voting machines and names missing from the voting rosters.

### **Environment Lawsuit Over Groundwater Contamination**

In October 2004, the City of New York's environmental action against the nation's largest petroleum refiners, including Exxon, Mobil, Shell Oil, Chevron and others, moved one step closer to trial when Judge Shira Scheindlin of the U.S. District Court for the Southern District of New York ordered that the case be designated as a leading case for the more-than 115 lawsuits that comprise this multi-district litigation action (MDL). This designation, called a "focus case," means that the City's suit will be fast-tracked and will serve as a model for other related lawsuits.

### **Tort Reform Advances**

The office's efforts to pass a critical Tort reform law in 2003 – as well as improved case management and risk management efforts – have kept Tort payouts from increasing in Financial Year 2004. Over the past year, there has also been a 10-percent drop in settlements over \$1 million. Finally, the City has been winning more than 50 percent of its Tort cases.

### **Great Lawn Rulings**

In August 2004, courts ruled that New York City had acted lawfully in not granting a protest permit for various groups seeking to use Central Park's Great Lawn during the Republican National Convention as a protest site. The groups had sought an injunction directing the City to issue a protest permit. The City countered that, in the absence of appropriate contingency plans like rain dates, additional security and a bond to cover damage, a demonstration of 75,000 people would cause significant damage, especially in light of the Great Lawn's \$18.2 million renovation.

### **Deceptive Medical Practices Suits**

In August 2004, our Affirmative Litigation Division filed suit against 44 pharmaceutical companies and their subsidiaries alleging that the defendants engaged in fraudulent and deceptive conduct resulting in millions of dollars of overcharges to the City's Medicaid budget. The complaint follows three other lawsuits brought this spring against Purdue Pharma as well as GlaxoSmithKline PLC and its affiliate, SmithKline Beecham Corp., alleging overpricing by abuse of patent laws. These combined initiatives represent part of an ongoing effort by the City to recoup money for taxpayers from drug overcharges as well as to prevent pharmaceutical fraud.

### **Global Warming Suit Filed With 8 States**

In July 2004, our office, joining with the Attorneys General of eight states – California, Connecticut, Iowa, New Jersey, New York, Rhode Island, Vermont and Wisconsin – filed suit against the five largest global warming polluters in the United States. This is the first time state and local governments have sued private companies to require reductions in carbon dioxide emissions that scientists say pose serious threats to our health, economy and environment. The action calls on the companies to reduce their pollution; it does not seek monetary damages.

### **Noise Code Regulations Proposed**

In June 2004, the Law Department assisted City Hall and the Department of Environmental Protection (DEP) in drafting possible revisions to the City's noise code. Legal Counsel and Administrative Law worked on these efforts, which were profiled in a front-cover New York Times story.

### **Sloan-Kettering Cancer Center Development Proceeds**

In April 2004, our Administrative Law Division won a case that will permit Memorial Sloan-Kettering Cancer Center to move forward with plans to construct a 23-story cancer medical research facility on Manhattan's East Side. The Court noted "that Memorial Sloan-Kettering is an international center for cancer research, and the world at large undoubtedly will also benefit from their research."



**2004 LEAGUE CHAMPIONS  
CORPORATION COUNSEL  
LAWYERS CO-ED SOFTBALL LEAGUE**

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[www.nyc.gov/html/law/home.html](http://www.nyc.gov/html/law/home.html)





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